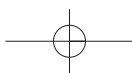
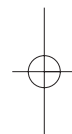
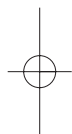
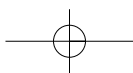
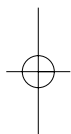
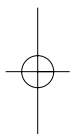
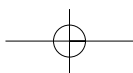
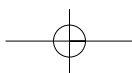


HUMAN RIGHTS DEFENDERS IN A «SECURITY FIRST» ENVIRONMENT





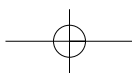
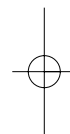
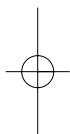


**Observatory for the Protection of Human Rights
Defenders / FIDH and OMCT**

**Human Rights Defenders
in a «Security First» Environment**

Annual Report 2003

Foreword by Shirin Ebadi
Nobel Peace Prize



Drafting, editing and co-ordination: Juliane Falloux, Catherine François and Antoine Bernard, with the collaboration of Julia Littman (FIDH).

Anne-Laurence Lacroix, Alexandra Kossin, Sylvain de Pury and Eric Sottas (OMCT).

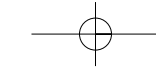
The Observatory thanks Marjane Satrapi, author of comics, for her collaboration to this report, as well as all the partner organisations of FIDH and OMCT, as well as the teams of these organisations.

Distribution: this report is published in English, Spanish and French versions. A German version is available on the Web sites of both organisations.

The World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH) authorise the free reproduction of extracts of this text on condition that the source is credited and that a copy of the publication containing the text is sent to the respective International Secretariats.

FIDH – International Federation for Human Rights
17, passage de la Main d'Or – 75 011 Paris – France
Tel.: + 33 (0) 1 43 55 25 18 – Fax: + 33 (0) 1 43 55 18 80
fidh@fidh.org/www.fidh.org

OMCT – World Organisation Against Torture
8, rue du Vieux-Billard – Case postale 21 – 1211 Geneva 8 – Switzerland
Tel.: + 41 22 809 49 39 – Fax: + 41 22 809 49 29
omct@omct.org/www.omct.org



FOREWORD

by Shirin Ebadi
2003 Nobel Peace Prize

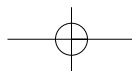
After the wave of arrests in the 1980s, which forced human rights defenders into exile or long prison sentences with loss of civic rights, it was particularly difficult to resume the fight for fundamental freedoms in Iran.

Nevertheless during the 1990s some of us, lawyers and human rights defenders, took the risk of engaging in the struggle, notably by defending political and opinion prisoners and victims of violations of human rights, in particular women and children.

Following the series of murders of politicians and intellectuals in 1998, a number of journalists, writers, intellectuals, academics and university students joined the movement in order to denounce the flagrant and systematic violations of fundamental rights and freedoms, and the impunity enjoyed by their authors, the political leaders and the security forces.

It is in such a context that dozens of activists were arrested and sent to prison, including myself, following summary trials held by special courts, always sitting in camera. Our lawyer friend Nasser Zarafshan, who received a 5-year prison sentence, and two journalists and human rights defenders, Akbar Ganji and Hassan Youssefi Eshkevari, are still in prison. And yet the Declaration on Human Rights Defenders, adopted by the United Nations General Assembly on 9 December 1998, stipulates that «Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.» (Article 1).

In all too many States, however, these provisions are not complied with: Human rights defenders are daily subjected to persecution, violence, threats, arrests and arbitrary detention. How can we correct such abuse and make the international human rights instruments effective? How can we halt the rise of arbitrariness and the erosion of rights that globalisation or the abuse of anti-terrorist powers by opportunistic States bring in their wake? The primacy of inter-



INTRODUCTION

national human rights law still needs to be put into practice, while human rights defenders often find themselves to be the last defence against arbitrariness.

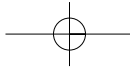
The increasing international mobilisation for respect of «all rights for all» gives me reason for hope. All over the world men and women are rising to denounce the arbitrariness of States, economic powers or armed groups that pay little heed to the public interest. The struggle of these men and women for strengthening the Rule of Law and democracy is a long one, but it is clear that important victories have been achieved by these anonymous citizens. At the same time, their courage, their determination and the aptness of their action are sufficiently effective to produce in return a backlash of repression and silencing by their opponents. More the action of defenders is effective at the national, regional and international levels, more the repression against them is flagrant.

It is crucial that we should all mobilise our forces in order to ensure that these defenders are protected, so that they can continue the fight for all rights to be respected.

The Observatory for the Protection of Human Rights Defenders contributes to this mobilisation designed to ensure that their role is recognised and that they receive the protection they need.

I myself received the support of the Observatory. On the occasion of the publication of this annual report I wish to bear witness to the importance of the support and the solidarity extended to me when I was fighting a lone battle, or completely isolated in prison. The action of the Observatory was decisive and indispensable. Such initiatives truly contribute to strengthening the protection of human rights defenders. This report unfortunately illustrates how much such protection is still necessary: let us mobilise our forces so that they can continue their action.

Shirin Ebadi,
Iranian Human Rights Defender,
20th January 2004



LET'S JOIN FORCES! TESTIMONIES

«I believe this is not only good news but also an important step in the struggle for the release of the boys. The Observatory scored here a big victory for all those believing that human rights are universal».

Message of Matania Ben Artzi, father of Jonathan, received on 16th January 2004 after the decision of the United Nations Working Group on Arbitrary Detention, to which the Observatory had submitted the cases of the detention of Jonathan Ben Artzi, Noam Bahat, Matan Kaminer and Adam Maor for refusing to serve the Israeli army, which it considered arbitrary.

«Thanks to its excellent work of denunciation, the Observatory makes us feel less alone in the fight to defend human rights».

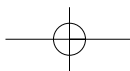
Adriana H. Cuéllar Ramírez, Colombian human rights defender, member of the Lawyers' Collective «José Alvear Restrepo» (CCAJAR). Colombia, 23rd January 2004.

«All the team of Viasna wishes to thank the Observatory, whose prompt reaction - by issuing an urgent appeal after our liquidation - was instrumental in alerting the international community on the very day following our trial».

Viasna. Belarus, 23rd January 2004.

«I wish to thank you for the work you are doing, as well as the work of all the team of the Observatory for the protection of human rights defenders. This protection mechanism has demonstrated its efficiency once more».

Algerian League for the Defense of Human Rights (LADDH). Algeria, 17th December 2003.



TESTIMONIES

«I would like to thank the Observatory for looking after us, human rights defenders in Cameroun. I have been able to know peace thanks to the Observatory. Indeed, their appeals and press releases have made it possible for me to move freely since 2000 to today. This gives me the strength to carry on. Thanks to this organization's actions, defenders don't have to hide to carry out their activities. We are deeply attached to the Observatory. It is always watching over us».

Madeleine Afité, President of the ACAT-Littoral. Cameroon, 26th December 2003.

«Thanks so much for your support and solidarity, which contribute to giving its true meaning to the work in favor of human rights».

Suaram. Malaysia, 22nd August 2003.

«I wish to thank you and express you my profound gratitude for your mobilization and your unfailing support during the hardship I had to suffer in my long fight against the dictatorship of Algiers. This friendly support has deeply touched me».

Dr. Salah-Eddine Sidhoum. Algeria, 23rd October 2003.

«I don't know how to express my deep gratitude for the support and assistance I have received from the Observatory for the protection of human rights defenders. The urgent appeals were instrumental in helping me raise awareness with the relevant authorities».

N'Sii Lunda Shandwe, CODHO. Democratic Republic of Congo, 6th February 2003.

INTRODUCTION

HUMAN RIGHTS DEFENDERS IN A «SECURITY FIRST» ENVIRONMENT

«Human rights defenders stand in the front lines of protection, casting the bright light of human rights into the darkest corners of tyranny and abuse. They work to safeguard the rule of law, to reduce violence, poverty and discrimination, and to build structures for freer, more equitable and more democratic societies. It is to them that many victims of human rights violations turn in their hour of need.» Message from Kofi Annan, United Nations Secretary General, on the occasion of Human Rights Day, 10th December 2003.

Despite the tribute paid by the United Nations Secretary General to the action of the human rights defenders, in over 80 countries such action has to contend with an increasingly hostile environment.

Security: an obsession

The overriding priority given by States to security is reflected in the increase in arbitrary decisions and in challenging human rights. The fight against terrorism, legitimate and necessary as it is, is all too often diverted from its prime objective in order to serve the sole interests of regimes that show scant respect for human rights. President Alvaro Uribe of Colombia put the matter in a nutshell: «General, take command of the Air Force in order to vanquish terrorism. Do not let the human rights traffickers hold you back or deceive you, let the full power of the Colombian Air Force do this great nation the service of ridding us once and for all of this nightmare.»

In such a context, defending the right to a fair trial, the presumption of innocence or the prohibition of torture are considered by many States to be beside the point. Human rights defenders who extol the univer-

INTRODUCTION

salinity of human rights, who combat the death penalty or who denounce liberticidal legislation enacted by their States, find it increasingly difficult to make their message heard.

From Chechnya to Colombia, from Algeria to Israel, the same State logic is invoked in order to justify human rights violations in the name of the peoples' security interests. Such a pernicious approach leads to new political alliances and is often well received by the international community.

Human rights defenders in conflict situations

Human rights defenders are prize targets in long standing conflicts. In many countries, such as the Democratic Republic of Congo, Colombia, Indonesia or the Philippines, to name but a few instances, the parties to the conflict aggressively challenge the neutrality of the human rights organisations. These are presented at best as obstructing their «pacifying» or «revolutionary» action, depending on the case, at worst of embracing the cause of their opponents.

In 2003 the representatives of intergovernmental and humanitarian organisations were targeted by extremist groups. The death of Sergio Vieira de Mello, United Nations High Commissioner for Human Rights, along with several of his colleagues, following a terrorist attack against the UN headquarters in Iraq, durably shocked the international community, just as did the assassination of a representative of the UN High Commissioner for Refugees in Afghanistan.

Mobilisation of the civil society

In the face of increasing arbitrariness, violence and inequalities, the civil society has continued to mobilise. The world-wide or regional success of the social Forums and the anti-war movements bears witness to this expansion and to the new forms taken on by citizens' mobilisation.

At the international level the civil society has won some important victories, in particular in the fight against impunity. In 2003 the International Criminal Court started to operate, the African Court of Human Rights was officially established, and the UN pursued its activities aimed at the adoption of a treaty on forced disappearances. Another area in which the civil society can claim a success is the greater

HUMAN RIGHTS DEFENDERS IN A «SECURITY FIRST» ENVIRONMENT

account taken of economic, social and cultural rights: at long last the responsibility of the economic actors is under discussion.

The Nobel Peace Prize for 2003 awarded to Shirin Ebadi, an Iranian human rights defender, is in this respect a tremendous encouragement for all human rights defenders.

Reactions of intergovernmental bodies

2003 also saw increased mobilisation of certain regional intergovernmental bodies. After the Inter-American Commission on Human Rights in 2001, it is now the turn of the African Commission on Human and Peoples' Rights to create a «Focal point» on human rights defenders. OSCE has made freedom of association a priority, just as the European Union under the Irish presidency (January 2004). These positive measures adopted by intergovernmental bodies - belatedly, despite the well known urgency of the question of defenders - must not mask the fact that certain States are becoming less active in promoting and protecting human rights.

2003 - a sombre record

The Observatory's annual report¹, by presenting the cases of repression against 576 human rights defenders and 80 NGOs in near 80 countries, highlights the seriousness of the defenders' situation and the recurrent obstacles they are up against.

In many countries the physical and psychological integrity of defenders is under direct threat (torture, death threats, aggression, assassination). During the year defenders have been killed in the Philippines, in Nepal, in Indonesia, in Russia, in Guatemala, in Honduras and in Colombia. Defenders are also subjected to judicial harassment and pla-

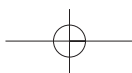
¹ The complete list of cases dealt with during the year by the Observatory, as well as the follow-ups of the cases dealt with during previous years, are grouped compiled together, preceded by an analysis for each region. This year these compilations put the emphasis on certain specific countries, on the basis of information gathered during investigation missions organised during the year in Cameroon, Zimbabwe, Russia, Belarus, Pakistan. This report is not meant to be exhaustive.

INTRODUCTION

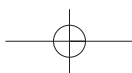
ced in detention on the basis of fallacious or arbitrary charges or accusations, as in China, Vietnam, Iran, Kazakhstan, Belarus, Democratic Republic of Congo, Guinea-Bissau. Other more pernicious methods are also employed to neutralise them: slander and smear campaigns (Cameroon, Colombia), police surveillance and intimidation (Syria, Tunisia), obstacles to employment (Morocco, Uzbekistan), restrictions on freedom of movement (Occupied Palestinian Territories, Malaysia). Lastly, in order to tighten the screw still further on the defenders, States are adopting restrictive legislation on freedom of association, of assembly and of demonstration that paralyses their action (Russian Federation, Belarus, Zimbabwe).

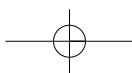
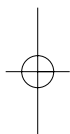
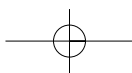
At a time when universal human rights standards are being eroded, the reluctance of States to guarantee that the principles laid down in the UN Declaration on Human Rights Defenders² shall be applied to defenders, is hardly surprising. The aim to contribute to a world freed of inequalities, violence and poverty is alas still very much on the agenda. In that respect the protection of defenders is a *sine qua non* condition for that aim to be achieved.

² See p. 334.



AFRICA





THE SITUATION OF HUMAN RIGHTS DEFENDERS

In 2003, the human rights situation still differed widely from one part of Africa to another.

Noteworthy efforts have been made to settle conflicts at the regional level and, although very fragile, peace processes and the transition to democracy are underway in the Democratic Republic of Congo (DRC), Burundi, Sudan and Côte d'Ivoire. Through NEPAD, the New Partnership for Africa's Development, the continent is trying to introduce a common economic and social development policy that would include respect for human rights. There are also some hopeful signs in the fight against impunity; for example, the new prosecutor of the International Criminal Court is taking account of the situation in the East of the DRC, while the African Court of Human and Peoples' Rights came into effect on 25th January 2004.

But there were also significant counter-trends involving gross violations of human rights: rejection of political rotation, rejection of a multi-party system and truncated elections in Togo, Mauritania, Rwanda and Guinea; arbitrary arrests and detentions as in Mauritania, Zimbabwe and Nigeria; torture in Cameroon; death sentences in Nigeria and Chad; forced expulsions of immigrants in Djibouti, and curtailed freedom of the press in Senegal, Chad and elsewhere.

African governments, in the main, are allergic to independent NGOs and human rights defenders. In some countries such as Equatorial Guinea and Somalia, it is almost impossible to carry out any activities connected with human rights. In other countries, although human rights associations may be able to function, they sail in very dangerous waters and are constantly harassed, e.g. Zimbabwe, Cameroon and Sudan. Other governments, e.g. in DRC, Congo-Brazzaville and Burundi, have adopted a more pernicious strategy, implying the possibility of dialogue and discussion, e.g. through «transitional institutions», while in most cases this is a matter of pure form

AFRICA

with very little practical results, and impedes the activities of the NGOs.

Lastly, in 2003 a «focal point» for human rights defenders was adopted by the African Commission for Human and Peoples' Rights. This mechanism was created after several years of lobbying by the Observatory, together with other NGOs.

Many ways to look at the civil society

The activity and mobilisation of civil society in Africa, despite scanty resources, continue to restrain some of the most repressive states. Associations for the defence of civil and political rights, and also economic and social rights, are still growing at a rapid pace. Certain governments now consider NGOs as partners and contacts because of their impact on the regional and international scenes, e.g. the United Nations Commission on Human Rights and the African Commission for Human and Peoples' Rights.

Current events in Africa also helped to make human rights defenders key contributors to the construction of constitutional governments, in particular through their participation in processes that are ushering in democracy. It is encouraging to see representatives of the civil society taking part in new institutions such as national human rights commissions, national electoral commissions, press freedom commissions and other such bodies, as provided for in peace agreements and their implementing complements.

Nonetheless, the hopes inspired by the creation of these transition institutions are often quashed in practice. In *Congo Brazzaville*, for instance, the authorities have already taken control over the activities of the national human rights commission that was created in 2003. Although the commission is an independent body by law, its status is already in doubt since the procedure for selecting the officers was entrusted to an adviser of the Head of State¹.

Similar control of the transitional institutions resulting from the peace agreement in *DRC* seems likely in the light of the draft incorpo-

¹ See Compilation of cases below.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

rating law currently being discussed by Parliament. For example, the participation of civil society in the independent electoral commission seems to be compromised by the draft law on the organisation, attributions and functioning of this body; Article 13 of the law introduces the idea of having eight «permanent members» (most of them coming from parties to the peace agreements) with deliberation rights and thirteen «non-permanent members» (mainly representing civil society) with consultative status, but the latter are to be selected by an *ad hoc* committee set up by the permanent members on the basis of subjective criteria. This provision means that despite initial promises, civil society will be confined to a minor role.

Relations between civil society and the authorities, when they exist at all, are strained and difficult. Governments vacillate between the need to pay attention to civil society on the one hand, and distrust and fear of its leaders and its mobilisation on the other.

The following examples illustrate the distrust of some authorities to human rights defenders.

In a speech at the 59th session of the Human Rights Commission on 31st March 2003, the *Cameroonian* minister of State for Foreign Affairs said, «as regards civil society, my country would like to express its full appreciation for the quality and seriousness of the work being done by some non-governmental organisations. Yet I wish to emphasise, and deplore, that some NGOs prefer to set themselves up as champions of human rights, and their conduct could easily become merged with manoeuvres to destabilise sovereign states.» Via the media, the Cameroonian Minister of Communication, Prof. Jacques Fame Ndong, denigrated the work of NGOs whose aim is to «make tools of the Cameroonian people and misinform public opinion»².

In *Congo Brazzaville*, at a meeting with NGOs in November, the minister of Communication and government spokesman Mr. Akouala declared that «behind every journalist slumbers a politician» and that «a little censorship is better than a district aflame».

In a press release in Mauritania dated 26th May 2003, the Democratic and Social Republican Party (Parti républicain démocrate

² *Idem*.

AFRICA

et social - PRDS), the President's party, unabashedly said that «the FIDH and the terrorists are fighting on the same side in *Mauritania*». This was after FIDH spoke out to condemn the arbitrary arrests and detentions of religious figures and members of political opposition parties accused of terrorist actions a few months before the presidential elections. The latter have all been released without trial.

In this regard, while the fight against terrorism is legitimate and necessary under constitutional government, it is still a source of concern, especially in the Horn of Africa and East Africa. The African Union³ invited its member states to ratify the 1999 Algiers Convention on terrorism prevention and control, and at the Maputo conference of heads of state in July 2003 it considered drafting a code of conduct to harmonise security policies across Africa. The states are gradually ratifying the various international conventions on the fight against terrorism and most of them, e.g. Angola, Burkina Faso, Cameroon, Chad, Côte d'Ivoire and Djibouti, report to the United Nations Committee Against Terrorism. Some countries such as Kenya are preparing legislations on combating terrorism; human rights defenders are highly critical of these draft laws, which they see as attempts to muzzle all forms of opposition. This year, however, African states have not made much direct use of the fight against terrorism as a pretext for repression against human rights defenders. The old-time methods of criminalising defenders seem to suffice, i.e. putting them in the same category as «enemies of the state», «rabble-rousers manipulated by foreign powers» or «political opponents» and using an arsenal of legal instruments designed for national security purposes to restrict basic freedoms.

Defending Human rights in conflict situations

The wars and conflicts that are still rife in Africa hamper the activities of human rights defenders.

In some countries the level of prevailing violence prevents NGOs from continuing their work and puts their members in serious danger. This is the case of *Liberia* where the Liberia Watch for Human Rights

³ See esp. decisions and statements of the African Union conference in Mozambique (10th -12th July 2003).

THE SITUATION OF HUMAN RIGHTS DEFENDERS

(LWHR) office was ransacked and its director had to take refuge abroad⁴ when the Liberians United for Reconciliation and Democracy (LURD) rebels reached the outskirts of Monrovia, the capital, in June 2003. In Bunia (Ituri), DRC, Justice Plus had to stop its work between May and August 2003 when violence was peaking between the Lendu and the Hema ethnic groups, making the whole city unsafe. The president of Justice Plus, Mr. Lukusa Shango, had to go underground after receiving threats from the Congolese Patriots' Union (Union des patriotes congolais - UPC) militia following denunciation of human rights violations in the region. Mr. Florent Bashika Nirangi, who was a member of Héritiers de la Justice (heirs of justice) was killed in his home by «individuals in uniform» who then took various items from the house.

In conflict situations independent NGOs' access to the whole national territory is extremely limited. Activists in *Côte d'Ivoire*, for instance, cannot move around freely between government-controlled areas and those controlled by the rebels. The southern part of *Sudan* is out of bounds to NGOs. On 2nd June, 38 members of the Nuba Mountain Women's Association were arrested in Kalakla by officers of the National Security Agency (NSA) while they were on their way to Kawda to attend a conference on peace and development in Sudan. Some of them were forced to sign a paper promising not to leave Khartoum without permission. The NSA also closed the offices of the Ruayya Women's Organisation in Al-Awda, the starting point for delegates to the conference.

Lastly, in times of conflict anyone promoting peace and national reconciliation is targeted by defamation campaigns, e.g. this year in *Côte d'Ivoire*, *Burundi* and *DRC* (especially in the east of the country, before the transition institutions were established).

Freedom of assembly

Freedom of assembly, the cornerstone of the United Nations Declaration on Human Rights Defenders, is shunned by many African states, at least some of which are trying to fragment and isolate civil

⁴ See Compilation of cases below.

AFRICA

society in an attempt to quell all protest. It seems impossible to establish any independent NGOs in *Somalia* or *Equatorial Guinea*. In several countries legal red-tape, reprisals against members and restrictions on their activities are deliberately used against NGOs.

In *Tanzania*, a law on NGOs which seriously restricts freedom of assembly is to be adopted in the near future, with laconic motives for refusal to register NGOs and the possibility for the authorities to interfere in their activities⁵.

In *Zimbabwe*, the government also intends to adopt a new, more restrictive law on voluntary bodies that clearly shows the government's intention to control them, and more importantly to ensure that they cannot obtain foreign fundings⁶. This situation is especially alarming in the broader context of criminalising human rights defenders, as a law on public order and security, the Public Order and Security Act (POSA) was adopted in 2002. A law on private associations (Private Voluntary Organisations Act), reactivated that same year, which requires NGOs to register with the Ministry of Public Service, Labour and Social Welfare or risk being closed down.

In *Mauritania*, the Mauritanian Association for Human Rights (Association mauritanienne des droits de l'Homme - AMDH) and the coalition of 13 NGOs, (Forum des organisations nationales des droits humains), to which it belongs, are still not legally registered. A group of lawyers created in the 1980s to defend prisoners of opinion and ensure that the right to a fair trial is respected, are subjected to endless pressures from the government.

In *Cameroon*, some of the judiciary seem to be helping the political authorities muzzle the human rights defenders. On 10th January 2003⁷, the government prosecutor in Maroua published a circular specifically instructing the criminal investigation police in the Maroua region to question any members of human rights associations who might be guilty of «fraud», and refer their cases to the prosecution. As a result, several members of the Movement for the Defence of Human Rights and Freedoms (Mouvement de défense des droits de l'Homme et des libertés - MDDHL) were taken in for questioning.

⁵ *Idem.*

⁶ *Idem.*

⁷ *Idem.*

Freedom of expression

In some African countries freedom of speech is still extremely fragile. Many defenders were arrested or arbitrarily detained and many members of associations were threatened, berated or assaulted for having expressed their opinions on human rights violations.

After the FIDH report on torture in *Cameroon* was published in October 2003, association members who provided the chargés de mission with relevant information were regularly harassed, threatened and hampered in their work⁸.

In *Niger*, in a Ministry of Justice press release dated 19th February 2003, the 2001-2002 annual report of the Niger Association for the Defence of Human Rights (Association nigérienne de défense des droits de l'Homme - ANDDH) is called a «pamphlet» and its accusations against the government «seditious», amounting to «a political position».

In *Burundi*, members of the Iteka League were threatened and intimidated by anonymous telephone calls, in particular when certain reports were published and decisions taken.

After the Christians' Action against Torture (Action des chrétiens contre la torture - ACAT) in Togo prepared a report for discussions on human rights in Togo scheduled by the European Parliament for 19th February, the NGO's President, Yannick Bigah, was summoned by the Minister of Justice, by the Minister of the Interior and then by President Eyadéma. The situation became so serious that Yannick Bigah decided not to attend the meeting and left the country.

In *Zimbabwe*, human rights defenders can only meet during funerals since gatherings of even three or four people require prior authorisation.

Many other examples of violations of defenders' freedom of speech have been recorded in *DRC*, *Sudan*, *Guinea Bissau* and *Chad*⁹.

The governments of some African countries also use various means to try to control their country's independent media, hinder their work or even keep them from talking about human rights; censorship, arbitrary arrests of journalists, threats and various type of pressure have occurred in *DRC*, *Burundi*, *Côte d'Ivoire*, *Niger*, *Congo-Brazzaville*, *Chad*, and elsewhere.

⁸ *Idem.*

⁹ *Idem.*

AFRICA

In *Sudan* and *Zimbabwe*, it is not unusual for independent newspapers to have publication suspended or be closed down.

This year, several journalists were arrested in Togo under amendments to the 2002 Press Code that imposes stricter rules on «propagation of false news» and severely penalises «slander and abuse». These were the legal grounds for arresting three journalists, Filip Evegno, Dzilan Dodji and Kpakpabia Jean de Dieu, on 14th and 15th June 2003 in a cyber café when they were scanning photos of people said to be wounded by the police during the elections. These journalists had intended to make a thorough investigation of the issue. They were detained for ten days by the police, which is against Togolese law, and then spent a month in prison. One of them had to pay a fine of 500,000 CFA francs.

In *Senegal*, Abdou Latif Coulibaly, a senior Senegalese reporter at the daily newspaper *Sud Quotidien* and general director of *Sud FM* radio station, and his lawyer, Mr. Ousmane Seye, Vice President of the National Organisation (Organisation nationale des droits de l'Homme - ONDH) received death threats after a book criticising President Mr. Abdoulaye Wade's method of government was published. Mrs. Sophie Malibeu, a journalist representing RFI (Radio France Internationale) in Dakar was expelled on the grounds that the information she reported on Casamance was not well balanced.

In *Côte d'Ivoire*, RFI correspondent Jean Hélène was executed by a policeman on 21st October 2003 in front of the national police bureau where he was headed to investigate procedures used in the questioning of eleven members of the political opposition.

Defence of economic and social rights

The activities of trade unions that use their right to freedom of speech and stand up for economic and social rights are curtailed.

In *Sudan* for instance, on 21st December 2003, nine members of the General Trade Union Council were arrested by officers of the National Security Agency (NSA) in Shambat and questioned for three days.

Trade unions in *Zimbabwe*, especially the Zimbabwe Congress of Trade Unions (ZCTU), have been subjected to systematic repression¹⁰.

¹⁰ *Idem*.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

Many people have been arrested, and the national authorities have used pernicious means to stem their actions. The government tried to obtain shares in the major companies in order to control the trade unions and create «house» unions under heavy political control.

On 10th November 2003, *Guinean* teachers went on strike after the failure of wage negotiations to address increases in the cost of living. M'Bemba Soumah, a trade union leader was arrested and questioned by the police that day. The following day, six other trade union members were questioned at the police station and then released after spending the night there.

In *Djibouti*, some trade unions are not recognised and none of the conditions required for free elections within the unions exist.

Besides trade union members, other people who demonstrate in protest against violations of economic and social rights are subject to government repression, e.g. in *Togo*, *Sudan*, and *Burkina Faso*¹¹.

Major demonstrations were violently repressed in *Nigeria*. During President Bush's visit last July, some 30 people were arrested for speaking up in front of the U.S. Embassy in Abuja. During the same period, close to a dozen people were killed for demonstrating against the increase in gasoline prices in Lagos, Port Harcourt and Abuja.

In *Zimbabwe*, during a national demonstration on 8th and 9th October 2003 to protest against high taxes, the high cost of living and violations of human rights, over 165 ZCTU members, including the general secretary and the deputy chairman, were arrested in various cities across the country. They were eventually released without charge¹².

International and regional mobilisation

Unfortunately, Mrs. Hina Jilani, the Special Representative of the Secretary-General on the situation of Human Rights Defenders, was not able to go to Africa in 2003. She requested invitations from the governments of Angola, Chad, DRC, Equatorial Guinea, Kenya, Mali, Mozambique, Nigeria, Senegal, Togo, Zambia and Zimbabwe. Up to now she has received positive replies from DRC, Mali, Senegal and Angola.

¹¹ *Idem.*

¹² *Idem.*

AFRICA

At the 59th session of the United Nations **Commission on Human Rights** in Geneva in March/April 2003, the Observatory invited several NGO representatives and organised panel sessions to discuss the situation of human rights defenders in *Zimbabwe* and *DRC*.

In March 2003, the **European Parliament** adopted a resolution on the situation of Mr. Yannick Bigah, chairman of ACAT-Togo, who was forced into exile because of the continued threats he received after writing a report on human rights in his country. The Parliament denounced the harassment of ACAT-Togo members, including its president, and asked the Togolese government to guarantee their safety. The Parliament called upon the European Union to pay special attention to the problem of the safety of human rights defenders through its representatives in third countries.

The high point for the year 2003 can be credited to the African **Commission for Human and Peoples' Rights** which, at its 34th session in November 2003 in Banjul (Gambia) adopted a focal point on human rights defenders, to be led by Mrs. Jainaba Johm, Commissioner.

The creation of this focal point is an important step, and one to which the Observatory has made a major contribution. Since 1997 the Observatory has relentlessly pleaded at Commission meetings to gain recognition of the role of human rights defenders and the need to create a mechanism to ensure their protection at a regional level.

The new mandate entrusted to Commissioner Johm and the terms and conditions for rendering this «focal point» operational and effective still need to be worked out. This will require close cooperation with the U.N. Special Representative for Human Rights Defenders, Mrs. Hina Jilani, and her team.

Another excellent news for the protection of human rights defenders in Africa is the fact that the Additional Protocol to the African Charter on Human and Peoples' Rights establishing the **African Court on Human and Peoples' Rights** came into force on 25th January 2004, after the Union of Comoros became the 15th state to ratify this instrument on 26th December 2003¹³.

13 As of the date of publication of this report, the other member states are Algeria, Rwanda, Togo, Burkina Faso, Burundi, Côte d'Ivoire, Gambia, Mali, Mauritius, Senegal, South Africa, Uganda, Libya and Lesotho.

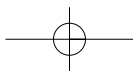
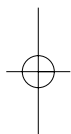
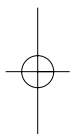
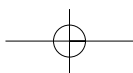
THE SITUATION OF HUMAN RIGHTS DEFENDERS

According to Article 3 of the Additional Protocol, the Court has jurisdiction over all cases and disputes concerning the interpretation and application of the African Human Rights and Peoples' Charter, (in particular concerning the right of association - Article 10, and assembly - Article 11), of the Protocol and of all other relevant instruments pertaining to human rights and ratified by the states concerned.

Under the Protocol, the Court may receive cases not only from the African Commission for Human and Peoples' Rights, signatory states and African intergovernmental organisations but also, on an elective basis, by individuals and non-governmental organisations with observer status before the Commission. Human rights defenders can petition the courts when all in-country channels of recourse have been exhausted if, and only if, the State in question has given due authorisation through a declaration under Article 34(6) of this Protocol. It is important for signatory states to make such a declaration so that this mechanism can become an effective instrument for victims of human rights violations, defenders especially, to fight impunity.

Lastly, the effective, independent functioning of the Court and the position of the victims will not only depend on the choice of judges, scheduled to be selected at the Conference of Heads of States of the African Union in July 2004, but also on the subsidiary texts to the Protocol, e.g. the Court's rules of procedure.

The establishment of the African Court of Human and Peoples' Rights brings hope to Africa. But that hope will be lost unless the court is composed of competent, independent judges and receives the financial and material resources needed to fulfill its mission.



HUMAN RIGHTS DEFENDERS HARASSED

BURKINA FASO

Pressure against MBDHP¹⁴

Mr. Antoine Sore, section chairman of the Burkina Movement for the Defence of Human and Peoples' Rights (Mouvement burkinabé pour la défense des droits de l'Homme et des peuples - MBDHP) in Boulgou and life sciences teacher, was subjected to pressure at his workplace.

Mr. Sore was assigned to the Tenkodogo municipal high school for the 2003-2004 school year. The schoolchildren's parents' association, with the support of the school's vice principal, refused his joining the staff and sent a letter of protest to the regional high commissioner for Secondary Education. Although Mr. Sore had never taught in this school before, the parents claimed that he was a poor teacher. Under such pressure, and because he was not even sent his teaching schedule, Mr. Sore was not able to start his job when school began on 6th October. On 17th October, the school principal refused to issue him the certificate confirming his assumption of duties.

Mr. Sore was finally appointed to an administrative position by order of the ministry of Secondary, Higher, and Scientific Education dated 9th December 2003.

¹⁴ See Annual Report 2002.

AFRICA

Curtailement of freedom of demonstration¹⁵

On 13th December 2003, which marked the fifth anniversary of the death of the journalist Norbert Zongo, the Action group against impunity (Collectif contre l'impunité) composed of 70 associations headed by MBDHP, organised several commemorative events. A demonstration was held and a wreath laid without any incidents, but the information session scheduled by the group afterwards had to be cancelled because Mr. Simon Campaoré, the mayor of Ouagadougou, refused to give them a meeting place.

CAMEROON

National Committee for Human Rights and Freedoms (CNDHL)¹⁶

The National Committee for Human Rights and Freedoms (Comité national des droits de l'Homme et des libertés - CNDHL) was created by a presidential decree dated 8th November 1990.

While its creation brought hope, the way it is actually run is a real problem, especially as regards its independence and representativeness.

Reports, for instance, are sent to the head of State but not made public, on the pretence that publishing them would be too expensive. As a result, the Commission's activities are not widely known. Although a draft law is under preparation that would give Parliament, rather than Government, control over the CNDHL budget, the Commission remains politically tied because of the system for appointing members. In deed, the Committee is composed of 24 commissio-

¹⁵ See Annual Report 2001.

¹⁶ See FIDH investigation mission report on Cameroon: *La torture au Cameroun, une réalité banale, une impunité systématique*, October 2003, chap. 5, «A civil society under surveillance» in the framework of the Observatory's mandate.

HUMAN RIGHTS DEFENDERS HARASSED

ners, but opposition representatives are not allowed. Its chairman, Mr. Chemuta Divine Banda, has publicly advocated the creation of a permanent member status, which would make the Commission even less representative.

Furthermore, current political pressure for the CNDHL to «coordinate civil society» has naturally raised a series of questions. This new brief would give the Committee a key role in defining criteria - where none existed previously - that would determine approval of NGOs. Mr. Banda told the Observatory's representatives conducting their mission in Cameroon that this "coordination role" would provide an opportunity to «sort out what are called NGOs, do a little cleaning up...».

New circular letter infringing on defenders' rights¹⁷

On 10th January 2003, the prosecutor for the Maroua courts (Diamaré district) addressed a specific circular letter to criminal investigation officers (order n° 0994) to take in all human rights activists in his jurisdiction and turn them over to the prosecutor's office for questioning. Informal instructions, apparently, were given so that this directive more specifically applies to members of the Movement for the Defence of Human Rights and Freedoms (Mouvement pour la défense des droits de l'Homme et des libertés - MDDHL). Public prosecutor Koué Kaokamla justified the order by referring to alleged activities by counterfeiters claiming to work for the defence of human rights.

In another circular letter (PPR/MRA/623), dated 3rd November 2003, Mr. Kaokamla stated that the «activities of human rights defence organisations shall not be impeded in any way when carried out within the framework of missions defined in their respective statutes». He nevertheless reasserted the measures set forth in order n° 0994, confirming that they remained «applicable to any person liable for fraudulent acts».

17 See Urgent Appeal CMR 001/0803/OBS 039.

ÁFRICA

Continued harassment of MDDHL¹⁸*Arbitrary detention of Mr. Blaise Yacoubou and Mr. Aminou Mohamadou¹⁹*

On 10th August 2003, Mr. **Blaise Yacoubou** and Mr. **Aminou Mohamadou**, both MDDHL members, were summoned to the Maroua investigations unit, supposedly to retrieve their identity papers that had been confiscated on 30th April 2003, when they were on assignment in Ndoukoula. They had then been arrested by the head of the Ndoukoula district, in application of abovementioned order n° 0994.

However, when Mr. Yacoubou and Mr. Mohamadou appeared before the Maroua investigations unit on 11th August, they were immediately arrested and remanded in custody. They were notified that since they had been sought for several months, they were considered as fugitives. The Diamaré district prosecutor accused them of having entered the office of the Ndoukoula district head, during their mission in April, threatening him, and then fleeing away, leaving their identity papers and mission order behind.

Mr. Yacoubou and Mr. Mohamadou were released after the prosecutor visited them on 14th August 2003. Their health had by then become precarious due to the poor conditions under which they were detained. In particular, they had not been allowed to eat nor drink for two days. On 18th August 2003, the Maroua investigations unit called them in again. Mr. Kaokamla had personally promised the chairman of MDDHL, Mr. Abdoulaye Math, that their identity papers would be returned at that time.

Yet Mr. Yacoubou and Mr. Mohamadou were not able to recover their papers until 2nd September 2003, when released by the prosecutor's office. By the end of December 2003, their mission order had still not been returned.

¹⁸ See Annual Report 2002.

¹⁹ See Urgent Appeals CMR 001/0803/OBS 039 and CMR 001/0803/OBS 039.01.

Harassment of Mr. Abdoulaye Math²⁰

In January 2003, the MDDHL publicly denounced the situation of several minors in the Doualaré district of Maroua, who were held as slaves by a man called Mr. Malbakari. On 6th June, Maroua public prosecutor Kaokamla intimated that this accusation constituted «yet another frame-up hatched by Mr. Math, head of an NDO [*sic*], whose sole purpose is to sully the image of Cameroon in order to obtain funding from international human rights defence organisations». However, faced with evidence brought by MDDHL, the prosecutor finally admitted the truth of these facts in a letter sent to the minister of Justice on 24th July. An investigation was opened against Mr. Malbakari before the criminal Court. The next hearing is scheduled for January 2004.

In addition, on 17th June 2003, Mr. Abdoulaye Math was held for questioning during two days, as directed by the prosecutor, Mr. Kaokamla. Mr. Math was accused by the chancery to have allegedly extorted a sum of 800,000 CFA francs from Mr. Alhadji Yougouda. The MDDHL's president was not released until 19th June, after two days of detention during which he was not allowed to meet with his lawyer. Proceedings were brought against him. During a hearing, Mr. Yougouda himself denied the facts and claimed he did not know Mr. Math, further denying responsibility for the complaint and blaming a certain Mr. Hamal. The hearing was postponed until 21st January 2004. It is worth noting that Mr. Hamal was arrested on 19th November 2003 for aggravated theft and released several hours later on the prosecutor's order. He was arrested again on 22nd December as a result of pressure exerted by his victims.

Obstruction of legal actions taken by MDDHL

In December 2002, the association's phone lines were cut without any explanation²¹. The MDDHL lodged a formal complaint for abuse of commission against Mr. Ahmadou Ahidjo Jamot, representative of CAMTEL, the national telecom company. As Mr. Ahidjo Jamot never

²⁰ See abovementioned investigation mission report and Urgent Appeal CMR 002/1203/OBS 066.

²¹ See Open Letter dated 20th June 2003 to Cameroonian authorities.

ÁFRICA

appeared in court, the hearing has been systematically postponed. The next hearing is scheduled for 21st January 2004.

MDDHL also filed two suits against Mr. Semdi Soulaye, a former member of the MDDHL executive board, and currently coordinator of the Network of Human Rights Organisations and Associations (Réseau des organisations et des associations de défense des droits de l'Homme - ROADH), an organisation linked to the government. The first suit, for forgery and use of false documents, as well as for confiscation of all MDDHL financial documents, is still pending. The second was brought against Mr. Soulaye and the managing director of the Crédit du Sahel bank on 5th December 2003, for forgery and use of false documents, and aggravated breach of trust. Specifically, Mr. Soulaye is suspected of having withdrawn, with the bank's support, the sum of 2,177,000 CFA francs from the MDDHL's bank account. The Maroua court of first instance postponed the summons set for 8th December to a later and as yet undetermined date.

MDDHL and its president are now forced to call on lawyers in Douala and Yaoundé, since those in Maroua have repeatedly been subjected to pressure by the public prosecutor. In one such instance, in December 2003, Mr. Michel Nkenko Yameni, Mr. Math's lawyer in the Crédit du Sahel case, received a call from the public prosecutor, Mr. Kaokamla, who threatened to open an investigation against him if he continued to handle the case. Mr. Nkenko relinquished the case following that call.

Persecution following the publication of an investigative report on torture in Cameroon

Smear campaign against NGOs²²

Since the FIDH report on «*Torture in Cameroon, an 'ordinary' reality, systematic impunity*» was published on 29th October 2003, the government of Cameroon launched a vast smear campaign against the NGOs and human rights defenders who had met with the mission.

For example, in a newspaper interview with *Le Messager* on 19th November 2003, the minister of Communication, Jacques Fame

²² See Urgent Appeal CMR 002/1203/OBS 066.

HUMAN RIGHTS DEFENDERS HARASSED

Ndongo, denigrated the work achieved by the FIDH and its «henchmen» who, according to him, were only interested in «instrumentalising the Cameroonian people and misinforming public opinion». These words confirmed the Cameroonian NGOs' fear to be further considered as «enemies of the people seeking to destroy the country's image abroad».

In addition, during the session of the United Nations Committee Against Torture held from 10th to 21st November 2003, the government systematically challenged civil society's denunciations of human rights violations in the country. Denying all acts of torture, the Cameroonian government accused civil society of giving the Committee «false and sensationalist» information and called several NGOs «troublemakers».

Lastly, on 10th December, International Human Rights Day, several local radio stations including *Radio Maroua*, which covers the north of the country, broadcast statements highly damaging to human rights activists, who were defined as «crooks sullyng the country's image».

ACAT-Littoral and its members targeted²³

Since the report was published, the offices of the Christians' Action for the Abolition of Torture in Douala (Association des chrétiens pour l'abolition de la torture - ACAT-Littoral) are being watched by suspicious-looking men. The manager, Mrs. **Madeleine Afité**, discovered the day after she returned from Geneva, where she had attended the session of the Committee Against Torture, that the locks on her office and home doors had been forced.

At about 9 p.m. on 28th November 2003, three men in military uniforms were seen scouting the neighbourhood around Mrs. Afité's parents' home. At the same time, she received anonymous phone calls from people trying to find out where she was.

For several years, ACAT-Littoral members have been under pressure and continuous surveillance. Their movements are monitored by police and army officers, who also keep the entrance to the organisation's offices under surveillance. The association's phone is tapped. ACAT-Littoral members are regularly taken in for questioning and intimidated, and constantly have to explain their activities; in particular, Mrs. Afité was brought in for questioning in January and March 2003,

²³ See Annual Report 2002 and Urgent Appeal CMR 002/1203/OBS 066.

ÁFRICA

on her return from Geneva where she attended the 59th session of the United Nations Commission on Human Rights, held from 17th March to 25th April.

Harassment of Mrs. Franka Nzounkekang²⁴

On 22nd November 2003, a man came to the office of the Human Rights Defence Group (HRGD) in Bamenda and asked the president, Mrs. **Franka Nzounkekang**, to accompany her on a visit to a victim of abuse. Mrs. Nzounkekang was worried and refused the invitation. Meanwhile, her brother saw three individuals with suspicious-looking equipment, including a gas cylinder and a pipe, in the man's vehicle.

On 24th November, a National Security Agent confirmed to the association's secretary that a special mission was under preparation against HRDG and that Franka Nzounkekang's arrest had already been planned.

On the evening of 26th November, Mrs. Nzounkekang's taxicab was followed by a car driven by two unidentified individuals.

Finally, on 27th November, an anonymous phone call warned Mrs. Nzounkekang that a high-ranking official had ordered her assassination.

Retaliation against MDDHL²⁵

The recurring pressure exerted on MDDHL worsened after the publication of the FIDH investigation mission report.

In an article published in the weekly magazine *L'Œil du Sahel*, dated 20th to 27th November 2003, MDDHL chairman Abdoulaye Math was accused of embezzlement and fraud. Mr. Math lodged a complaint for libel against the magazine. Fearing the lack of independence on the part of the Maroua magistrates, the complaint was lodged with the Douala court of first instance. End of December 2003, Mr. Math was still awaiting the public prosecutor's summons.

In Kousseri, 275 kilometres away from Maroua, two other MDDHL members were harassed by the police as well. The home of one of

²⁴ See Urgent Appeal CMR 002/1203/OBS 066.

²⁵ See Urgent Appeal CMR 002/1203/OBS 066 and press release dated 12th December 2003.

HUMAN RIGHTS DEFENDERS HARASSED

them, Mr. **Alh Wakil Mahammat**, was searched without any legal grounds on 29th November. As for the other, two plain-clothes policemen came to Mr. **Bouba Birva's** home on the night of 28th November and told him «he was on the wanted list». The two men left after extorting 100,000 CFA francs from him. That money still has not been returned to him, despite the promises made by a police officer after the MDDHL chairman interceded.

Finally, on 10th December, a woman from Yaoundé, Mrs. Elise Monthé, broke into MDDHL premises in Maroua. After declaring that she was the wife of the association's chairman, Mr. Math, the woman spent more than 24 hours in the office. Amongst other acts, she threatened to accuse Mr. Math of rape if he tried to throw her out. On 11th December, she physically attacked Mr. Math and broke his arm. At that point, the police intervened, called in by MDDHL staff. Although wounded, Mr. Math remained in custody all night at the Maroua police headquarters «for the purpose of the investigation», as the superintendent put it. Mr. Math was not able to receive any medical treatment until the next morning, on 12th December, and was released in the afternoon only, whereas the woman who had attacked him was released in the morning. Mr. Math lodged a complaint for assault and battery, and destruction of property. His complaint for attempted murder having been dismissed, the case was brought into the Maroua magistrate's court on 24th December 2003. Mrs. Monthé likewise lodged a complaint and changed her grounds three times. After having declared that Mr. Abdoulaye Math was her husband and had swindled her, she claimed she used to own a restaurant in which Mr. Math had run up a bill of nearly two million CFA francs. According to the latest version held by Mr. Kaokamla, the public prosecutor, Mr. Math is said to have extorted large amounts of money from her, promising a visa she never got. The hearing was postponed until 28th January 2004.

AFRICA

CHAD

Dismissal of Mr. Suleymane Guengueng²⁶

On 22nd January 2003, Mr. **Suleymane Guengueng**, founder of the Chadian Association of victims of Political Crimes and Repression (Association des Victimes de Crimes et de Répression Politique - AVCRP), received a letter informing him he was dismissed from his position of information officer at the Lake Chad Basin Commission (Commission du bassin du lac Tchad - CBLT).

Mr. Guengueng had already been suspended from his duties for thirty days in March 2002. His superiors had demanded that he ceases his AVCRP activities under threat of more severe disciplinary sanctions. They had in particular criticised his political commitments which they considered to be incompatible with his employment as an international civil servant. Mr. Guengueng had received the support of the international community to put an end to his suspension.

His dismissal had been decided on 14th November 2002 but he was only notified two months later, a few days after the World Bank had agreed to make a new contribution of 2.9 million US \$ to the CBLT.

Mr. Guengueng is heavily involved, together with other victims of Mr. Hissène Habré regime, in prosecution of the former dictator, who currently lives in exile in Senegal. Proceedings to rehabilitate him had not succeeded by the end of 2003.

Arrest of Mr. Luc Maokarem Beoudou²⁷

Mr. **Luc Maokarem Beoudou**, brother of Mr. Marc Mbaiguedem Beoudou, chairman of the Christians' Action Against Torture (Action des chrétiens contre la torture - ACAT-Chad), disappeared after his arrest on 21st January 2003 in Moundou, in the south of the country.

Mr. Luc Beoudou was accused of publishing an article in the Chadian newspaper *Le Temps*, accusing a soldier working for the current

²⁶ See Annual Report 2002.

²⁷ See Open Letter to the authorities dated 13th March 2003.

HUMAN RIGHTS DEFENDERS HARASSED

regime of the robbery and murder of a businessman. Mr. Marc Beoudou, president of ACAT-Chad, had been responsible for the enquiry and for drafting the article in the name of the association. Following publication of the article Mr. Marc Beoudou had been actively pursued by the authorities, who had signed a warrant for his execution; he was obliged to flee the country. Mr. Marc Beoudou, who is currently in exile in Burkina Faso, was in Cameroon at the time of his brother's arrest. The resemblance between the two brothers apparently was the cause of Mr. Luc Beoudou's arrest.

Mr. Luc Beoudou was only released on 2nd March without ever having been able to meet with a lawyer or to inform his family of his whereabouts. He had to be hospitalised as the result of the ill-treatments he was subjected to during his detention.

His relatives have had no news of Mr. Luc Beoudou since 25th March 2003.

An NGOs radio station closed down²⁸

The radio station *FM Liberté* (Freedom FM) was closed down on 21st October 2003 by decree of the ministry of Public Security and Immigration. Its closure followed a broadcast on 14th October that had included criticism of Mr. Idriss Deby, the President of the Republic of Chad.

However, this decree is not based on any communications law. It refers mainly to «the illegal operation of radio *FM Liberté*», whose programmes have been suspended on several occasions in recent months. In fact the ministry of Public Security and Immigration has no authority to take such a decision, which falls within the competence of the High council of communications. The latter was not consulted regarding this matter. If the decision to close down a radio station may be taken by the ministry when state security is under threat, the decree in fact only refers to its «illegal operation and deviant behaviour» and gives no evidence of a threat to public security.

FM Liberté was created by independent NGOs for the defence of human rights, for which it became the principal communications link in

²⁸ See Urgent Appeal TCD 001/1003/OBS 056.

ÁFRICA

Chad. The radio station had an audience of nearly 2 million listeners throughout the country. On 17th December 2003, a decree of the minister of Public Security and Immigration, Mr. Abdramane Moussa., authorised the station to go back on air.

Impunity for the aggressors of Mrs. Jacqueline Moudeïna²⁹

On 11th November 2003 the N'Djamena tribunal correctionnel decided to release the three aggressors of Mrs. **Jacqueline Moudeïna**. Policemen Mr. Mahamat Wakaye, Mr. Mahamat Idriss and Mr. Taher Babouri were accused of illegal violence and grievous bodily harm.

On 11th June 2001, during a peaceful women's march protesting against electoral fraud observed during the presidential election, the security forces had thrown grenades at the demonstrators. Mrs. Moudeïna was then seriously wounded. Jacqueline Moudeïna is in charge of legal matters at the Chadian Association for the Defence and Promotion of Human Rights (Association tchadienne pour la défense et la promotion des droits de l'Homme - ATPDH), a lawyer for the victims in the Hissène Habré case in Chad and in Senegal, and she received the Martin Ennals Award for Human Rights Defenders in 2002. Mrs. Moudeïna and six other women filed complaints with the N'Djaména Court on 18th March 2002.

The tribunal correctionnel followed the argument of the state prosecutor who stated that there had been no illegal act since the accused had acted according to the orders of their superior officer. The prosecutor then added, with particular cynicism, that the highest authorities of the State should be referred to in order to rule this case.

Mrs. Jacqueline Moudeïna's lawyers have decided to appeal this decision.

²⁹ See Press Release dated 11th November 2003.

Continued pressure against OCDH³⁰

Through the State media, government authorities still constantly denigrate the statements and activities of both the Congolese Human Rights Observatory (Observatoire congolais des droits de l'Homme - OCDH) and FIDH. Mr. Alain Akouala, minister of Communication and government spokesman, held a press conference on 12th November 2003, the day after the president of FIDH declared on the *Voice of America* radio station that peace in Congo was «shaky». Mr. Akouala said this was a grave statement, unrelated to the work of human rights defenders and that such words were clearly subversive and destabilising. On that same day, the authorities demanded OCDH to hand in its drawn up list of missing persons in the «Brazzaville Beach» case³¹, and publicly announced that the «so-called missing» were living in Brazzaville and Kinshasa. These sorts of statements are regularly transmitted by NGOs close to the government, such as the ever-active Congolese Federation of Human Rights³² (Fédération congolaise des droits de l'Homme - FECODHO), which was created in August 2002.

Government still exerts a tight control over the media. For instance, Mr. Akouala told representatives of FIDH and OCDH on 4th November 2003 that «a little censorship is better than a district aflame». He further said that «behind each journalist slumbers a politician» and went on holding journalists for partly responsible for current and past Congolese problems. Since Mr. Akouala is the minister responsible for the adoption of enforcement orders, his statement that «certain newspapers may well disappear» goes along the same lines.

By establishing the National human rights commission (Commission nationale des droits de l'Homme) in summer 2003, the national autho-

³⁰ See Annual Report 2002.

³¹ Between 5th and 14th May 1999, close to 350 persons who had taken refuge in the Pool region during the 1998 civil war disappeared while returning to Brazzaville via DRC.

³² See Annual Report 2002.

ÁFRICA

rities clearly tried to control representatives of civil society. Just like the legislative bodies, the government is trying to control the new transition institutions in order to block their actions. The procedure to select the members of the National human rights commission, for instance, was not respected. The Association for Human Rights and Prison Environments (Association pour les droits de l'Homme et l'univers carcéral - ADHUC) appealed to the Supreme Court to denounce these appointments but did not receive any response. Mr. Christian Mounzeo, who refused to join this Commission as representative of his organisation, OCDH, was then called a «representative of the opposition in exile» and had to put up with a huge smear campaign.

CÔTE D'IVOIRE

Pressure on LIDHO³³

Because the Ivorian Human Rights League (Ligue ivoirienne des droits de l'Homme - LIDHO) was in favour of peace and national reconciliation, its members, like all other like-thinking Ivorian human rights defenders, were subjected to various types of pressure. During the first quarter of 2003, as the Linas-Marcoussis agreements were being finalised, the young patriots' Alliance, a group close to President Mr. Laurent Gbagbo, held several demonstrations during which LIDHO members were accused of being «non-national rebels». Statements such as these were taken over in the «media of hate».

Continued harassment against MIDH³⁴

On 5th April 2003, the headquarters of the Ivorian Movement for Human Rights (Mouvement ivoirien pour les droits humains - MIDH)

³³ See intervention of LIDHO at 34th session of the African Human Rights Commission .

³⁴ See Annual Report 2002.

in Abidjan were attacked. Three armed men in civilian dress burst into the office and beat and threatened Mrs. Cissé, who was then on duty. They stole many documents, especially files containing statements made by victims of human rights violations. On the day of the attack, after having a bailiff come and make a report, MIDH lodged a complaint with the police station in Cocody Angré. By end of December 2003, the aggressors had still not been identified and no action had been taken about the complaint.

DEMOCRATIC REPUBLIC OF CONGO

Continued harassment against the *Voice of the Voiceless* - Kinshasa³⁵

Mr. **Floribert Chebeya Bahizire**, president of the *Voice of the Voiceless* (la Voix des Sans Voix - VSV) went into hiding at the end of 2002 after receiving several oral threats from senior members of the Military Order Court (Cour d'Ordre Militaire - COM). Fearing for the life and safety of its president, VSV has had to close its office.

VSV was finally able to resume its activities in February 2003, and Mr. Chebeya Bahizire returned home in April.

Two human rights defenders released - Kinshasa³⁶

Mr. **N'sii Luanda Shandwe** and Mr. **Willy Wenga Ilombe** were released on 26th January 2003 on a verbal order of the President of the Democratic Republic of Congo after respectively 9 and 11 months in detention at the Kinshasa Penitentiary and Re-education Centre (Centre pénitentiaire et de rééducation de Kinshasa - CPRK).

³⁵ See Annual Report 2002 and Open Letter to the authorities, dated 8th January 2003.

³⁶ See Annual Report 2002 and press release of 27th January 2003.

ÁFRICA

Mr. N'sii Luanda Shandwe, chairman of the Human Rights Observers' Committee (Comité des observateurs des droits de l'Homme - CODHO) and Mr. Willy Wenga Ilombe, lawyer and member of the African Center for Peace, Democracy and Human Rights (Centre africain pour la paix, la démocratie et les droits de l'Homme - CAPD), had been imprisoned by the COM without charges and without a court hearing. They were accused of being in contact with people suspected of jeopardising national security, in particular in relation to the trial of the alleged murderers of former President Mr. Laurent-Désiré Kabila. Mr. Shandwe did not receive proper medical treatment during his incarceration and protested by going on hunger strike in the middle of January 2003.

Neither Mr. Shandwe nor Mr. Ilombe ever received a written order for their release and therefore could be detained again at any moment.

Release of Mr. Emile Omba - Lubumbashi³⁷

Mr. **Emile Omba** had been arrested on 23rd November 2002, after the 18th November publication of a letter he wrote denouncing the «illegal transport of uranium-rich copper from deposits in Lwishuishi and Tumbwe by the company Malta Forrest». He had been transferred to Lubumbashi on 27th November, officially accused of «propagating false information» by the court of first instance on 29th November and condemned to serve a prison sentence.

He was released in February 2003.

Continued harassment of ASADHO/Katanga - Lubumbashi³⁸

On 15th April 2003, 8 people were arrested by order of Colonel Mr. Charles Alamba Mungako, COM prosecutor. They were leaving a COM hearing and had a press release with them on the «unconstitutionality of the COM». The document had been signed that same day by the Katanga branch of the African Association for the Defence of Human Rights (Association africaine de défense des droits de

³⁷ See Annual Report 2002.

³⁸ See Press Release of 16th April 2003.

HUMAN RIGHTS DEFENDERS HARASSED

l'Homme - ASADHO/Katanga), as well as by the Centre for Human and Humanitarian Rights (Centre des droits de l'Homme et du droit humanitaire - CDH) and the Commission for Extension of Human Rights and Development (Commission de Vulgarisation des Droits de l'Homme et du Développement - CVDHO).

On 16th April 2003, Mr. **Prince Kumwamba Nsapu**, ASADHO-Katanga administrative and financial vice director, and Mr. **Grégoire Mulamba Tshisakamba**, CDH General Secretary, went to the COM to get information on the abovementioned arrests. At their arrival they were arrested and taken to Kassapa prison on the grounds of «instigating rebellion». Together with the eight other people arrested on 15th April, they were to be judged by the COM on 17th April in application of a procedure that violates law n° 23/2003 of 18th novembre 2002³⁹.

Thanks to pressure of the international community Mr. Kumwamba Nsapu and Mr. Mulamba Tshisakamba were provisionally released on 19th April and then acquitted on 22nd April at a COM hearing. The court deemed that the accusations against these two people were part of their rights to opinions and recommendations guaranteed by the Constitution; the court also referred to the decrees taken by the Head of State on 18th March 2003 that had entered into force on 25th March 2003.

Nine human rights defenders arrested - Lubumbashi⁴⁰

On 8th September 2003, a group of human rights NGOs, including ASADHO-Katanga and Christian associations such as the Evangelist

³⁹ As part of the reform of the military legal system, the President of the Republic, on 18th November 2002, promulgated Law n° 023/2002 on the Military Judicial Code. Article 379-2 of the Code rescinds Law no. 19 of 23rd August 1997, on the basis of which the Court of Military Order was created. Article 380 of the new law subordinates the law's entry in force to a date set out in a decree signed by the Head of State. On 18th March 2003, the Head of State signed Decree n° 032/2003 that sets the date for the entry into force of the aforementioned law. Article 1 stipulates that «Law n° 023/2002 of 18th November 2002 on the Military Judicial Code shall enter into force on 25th March 2003». Since that date, Law n° 023/2002 of 18th November 2002 on the Military Judicial Code is the only law that applies to the organisation and functioning of the military legal system in DRC, since the Court of Military Order and the Prosecution no longer exist.

⁴⁰ See Press Release of 16th April 2003.

ÁFRICA

Group for Non-Violence (Groupe évangélique pour la non-violence - GANVE), as well as the Congolese Teachers' Association (Association des enseignants du Congo - AECO), held a peaceful demonstration in front of different high schools throughout the country to protest against the introduction of a special enrolment fee that parents had to pay.

During the demonstration, the mayor of Lubumbashi, Mr. Kaseba Makunko, ordered the arrest of the following members of the group: Mr. **Mbuya** and Mr. **Bakatunyingela** of ASADHO-Katanga, Mr. **Ntumba**, Mr. **Lumbala**, Mr. **Kasongo**, Mr. **Kashala**, Mr. **Manyonga** and Mr. **Tshibas** of GANVE, and Mr. Kapembe of AECO. The police beat and arrested them. They were released two days later.

Members of the Friends of Nelson Mandela Association arrested - Buta⁴¹

Colonel Mr. Mongenzo, chief commander of the Movement for the Liberation of Congo (Mouvement pour la libération du Congo - MLC), ordered the arrest of Mr. **Aliana**, a member of the Friends of Nelson Mandela Association in Buta on 8th January 2003. Col. Mongenzo had intercepted a report by Mr. Aliana on human rights violations in Buta. This report was to be sent to the United Nations Mission in Democratic Republic of Congo (MONUC).

After being accused of spreading false information, Mr. Aliana was kept in prison and subjected to inhuman and degrading treatment. He was released on February 2003 the MONUC intervened.

Continued harassment against the League of Electors - Kinshasa⁴²

Mr. Paul Nsapu subjected to threats and pressure

Between 9th and 11th January 2003, the president of the League of Electors (Ligue des Electeurs - LE), Mr. **Paul Nsapu**, received several anonymous phone calls ordering him to refrain from further public sta-

⁴¹ See Annual Report 2002.

⁴² *Idem*.

HUMAN RIGHTS DEFENDERS HARASSED

tements on «political problems» in DRC, and on the trial of the alleged murderers of Mr. Laurent-Désiré Kabila.

His friends and relatives were closely watched throughout the year. Since October 2003, the authorities have made several heavy-handed attempts to convince them to speak ill of the LE and its president to the local population and partners.

Harassment against Mr. Richard Kazadi

Mr. **Richard Kazadi**, a lawyer, legal adviser to the LE and member of the LE executive board, was tied up in his home on 17th August 2003 by a group of armed men in uniform who fled when Mr. Kazadi activated his alarm system. Furthermore, he has received anonymous threats by phone regularly.

In 2001, Mr. Kazadi was kidnapped by military men who stole his money and work documents and then locked him up in the boot of his car.

Harassment against Mrs. Lubwitu Mafolo

In 2002, Mrs. **Lubwitu Mafolo** took in Mrs. Lydia Lufwabantu and her husband, both sought by the police at that time. They were members of the LE and had to go into hiding because of the threats generated by their activities in the League. They now live in exile.

Since their departure, Mrs. Lubwitu, who stayed in contact with the League, has been subjected to all sorts of pressure. The police searched her house several times in 2003 and questioned her regularly on her connections with the LE. The League lost contact with her in September 2003.

Mr. François Butedi arrested

During the night of 13th November 2003, Mr. **François Butedi**, a LE member, was arrested in his home in Kinshasa and taken to the police station. After beating and sequestering him, the police seized various working documents on human rights violations and insecurity in Kinshasa and in the Lower Congo province. These documents had been vital in finalising a report that the LE presented to the 34th session of the African Human Rights Commission at Banjul (6th to 20th November 2003).

Mr. Butedi was released the next day. He had been arrested in 2002 after a sit-in organised by LE to push for successful completion of inter-Congolese peace negotiations in Pretoria.

ÁFRICA

Harassment of Miss Ngandu Kabongo

Miss **Ngandu Kabongo**, an LE interviewer, was threatened and pressured by the authorities in 2003. During her investigation into rapes committed by the militia in the fighting zone, she was called in for questioning and interrogated three times between January and March 2003. The police, moreover, ordered her to stop her investigation and all other LE activities.

Miss Ngandu Kabongo was placed under arrest on 29th November 2003 for a few hours. Since the beginning of December, neither her family nor LE has had any news from her.

Detention, torture and harassment of members of the Lotus Group⁴³*Seven members of the Lotus Group detained and tortured - Opala⁴⁴*

At end of December 2002, Mr. **Jonas Yeni Asambi**, the enquiries officer at the Lotus Group in Opala and president of the Rural Radio NGO, was arrested by order of Commander Visuri, an officer in the RCD-Goma (Rassemblement Congolais pour la Démocratie) army based in Opala. He was accused of having encouraged «civil disobedience» among the Opala population by denouncing human rights violations in the region and reporting the inclusion of certain soldiers from Rwanda in the RCD-Goma army.

During an interrogation which included torture and inhuman and degrading treatment, Mr. Yeni Asambi gave the names of six of his colleagues and co-workers. All six were arrested on 28th December 2002. Their names are:

- Mr. **Christian Ofafele Loyombo**, member of the Lotus Group and headmaster of the medical technical institute of Opala;
- Mrs. **Eugénie Loyombo Issa**, member of the Lotus Group and principal of the Opala nursery school;

⁴³ See Annual Report 2002.

⁴⁴ See Urgent Appeal RDC 001/0203/OBS 007.

- Mr. **Mambele**, member of the Lotus Group and social services facilitator in Opala;
- Mr. **Paul Ayaka**, contributor to the Lotus Group and deacon of the Opala protestant community;
- Mr. **Fany Yeni Loola**, secretary-rapporteur of the Lotus Group and teacher at the Opala catholic secondary school;
- Mr. **Okinani**, contributor to the Lotus Group and catechist at the Opala catholic church.

Mr. Christian Ofafele Loyombo and Mrs. Eugénie Loyombo Isso were apparently arrested because of their activities and because they were relatives of Mr. **Willy Loyombo**, president of the Opala branch of the Lotus Group, who fled Kisangani after receiving threats at the end of 2002.

These seven people were locked up in the prison of the RCD-Goma army headquarters where they have been beaten every day. Commander Visuri levied a fine of seven goats per prisoner. Although the families settled the fine, the prisoners were transferred to Isangi and finally released on 8th February 2003.

Afterwards Mr. Yeni Asamba and Mr. Okinani took refuge in Kisangani. Mr. Willy Loyombo, who secretly returned to Opala in March 2003, also had to return to Kisangani, when threatened by the Security and Intelligence Department (Département de la sécurité et des renseignements - DSR)

Mr. Guillaume Ali Efufu arrested and tortured - Kisangani⁴⁵

On 31st January 2003, a group of soldiers summoned Mr. **Guillaume Ali Efufu**, interviewer for the Lotus Group in Kisangani, on his way to the Lotus office. He was then brought to the RCD-Goma military police office for an ID check. Finding out he was a Lotus member, the senior military officer then immediately ordered his arrest. He was taken to the police station on 11th Avenue in Tshopo commune, where he was whipped over and over again on the sole of his feet and then thrown in jail for 24 hours. He was released on 1st February 2003 and taken to the Saint-Joseph medical centre in Tshopo for treatment.

⁴⁵ *Idem.*

ÁFRICA

*Preventing a conference in Kisangani*⁴⁶

At the last minute, the mayor Jean Sikoti tried to cancel and postpone a conference that the Lotus Group in Lubunga (Kisangani) had scheduled for 27th January 2003. The subject of the conference was the role of Congolese human rights defenders in the advent of peace and a law-based state in DRC. Armed soldiers and security services officers posted around the meeting hall spread panic among the participants, but the conference was held anyway.

Continued harassment of Mr. Kitenge Senga and Mr. Bosongo - Kisangani

On 29th January 2003, following a conference held two days earlier in Lubunga, Mr. **Dismas Kitenge Senga**, President of the Lotus Group, was summoned by the DSR to the Kisangani city hall. Mr. Kitenge had to turn over the conference papers and the list of participants. He was reproached especially for holding the conference without the permission of the municipal authorities.

Mr. Kitenge and Mr. **Jean-Baptiste Bosongo**, president of the Lufalanga human rights defence group, attended a seminar organised by FIDH in Kinshasa from 25th to 28th February 2003. They were arrested upon their return to Kisangani and taken for questioning to the DSR headquarters. Although both of them had completed all the formalities required to travel through MONUC flights, the DSR authorities blamed them for going to Kinshasa without prior authorisation. They were also asked about their contacts in Kinshasa and their connections with international human rights organisations. Last, the DSR demanded information about the activities of Mrs. Bibiche Bambale, a Lotus member who lives in exile in Europe.

Mr. Kitenge and Mr. Bosongo were released a few hours later, at the order of the Governor of the Province.

Mr. Patrice Botalimbo Lifofela arrested - Opala

On 30th November 2003, Mr. **Patrice Botalimbo Lifofela**, a member of the Opala branch of the Lotus Group was arrested in Yaisau, 20 kms

⁴⁶ *Idem.*

HUMAN RIGHTS DEFENDERS HARASSED

away from Opala, while leading a training session on citizens' rights and duties. According to the deputy head of the regional security services, who ordered the arrest, Mr. Botalimbo was urging the population not to pay local taxes.

M. Botalimbo was released on 2nd December thanks to the reaction of the local population. During his detention he was often subjected to inhuman and degrading treatment, mainly beatings. Since then he has fled to Kisangani.

*Threats against members of the Justice and Peace Commission - Poko*⁴⁷

The Commander in Chief of the national RCD troops in the region accused Mr. **Michel Kaneru**, a priest in the Saint Augustine Order and Father **Ghislain Mokagoale**, both members of the Justice and Peace Commission, together with the potestant Minister, Mr. Mubibake, with stirring up rebellion. The three of them serve the Poko parish in the Haut-Uélé district. Mr Kaneru, Mr. Mokagoalé and Mr. Mubibale, who denounced violations of human rights committed by the local authorities and the widespread impunity reigning in the region, had to go into hiding after receiving death threats from the military command between 15th and 25th April 2003.

They were not able to return to Poko until end April when the military commander of the region had been transferred.

Harassment of ASADHO - Beni

On 16th December 2003, three RCD-Kisangani military men interrupted the course given by Mr. **Omar Kavota**, a teacher and head of the Mangina branch of ASADHO, 30 kms away from Beni. Mr. Kavota had been ordered to turn in a 16-year old student, Muhindo Kaghoma Opisi, (a may-may «veteran» who had been discharged nine years earlier), so that he could be sent to a training camp. Thanks to Mr. Kavota's protests, backed by the school supervisor, Mr. Kalihi Pen Munongo, the three soldiers were not able to take the youngster with them.

⁴⁷ See Annual Report 2002.

ÁFRICA

On 19th December, Mr. Babaye, the commander in chief, ordered Mr. Kavota and Mr. Munongo to be arrested and taken to the military camp in Mangani. They were released the next day, after being tortured. They were beaten, whipped, rolled in the mud, undressed and forced to walk all around the town carrying heavy quantities of water. Although their health was not good, they were not given any treatment in Mangani and had to take refuge at ASADHO-Beni.

Mr. Kavota and Mr. Munongo lodged a complaint with the Beni military board.

ETHIOPIA

Legal proceedings against EHRCO⁴⁸

On 9th April 2001, Mr. **Mesfin Wolde-Mariam**, former chairman of the Ethiopian Human Rights Council (EHRCO), and Mr. **Birhanu Nega**, chairman of the Ethiopian Economic Association, took part in a meeting about human rights held at the University of Addis Ababa, where they called for academic freedom and respect of human rights. Following a students' demonstration on 17th and 18th April 2001 that the police had violently contained, Mr. Wolde-Mariam and Mr. Nega were arrested on 8th May. They were released on bail on 5th June 2001, after going on hunger strike to protest against their detention conditions.

Since that time, Mr. Wolde-Mariam and Mr. Nega have been charged on the basis of Articles 32-1 and 480 of the Criminal Code. They are accused of having encouraged students «to demand respect of their rights by rioting rather than through legal means». They are also accused, on the basis of Articles 32-1 and 250 of colluding with the Ethiopian Democratic League (EDL), an organisation considered as illegal at that time (but which in the meantime has been registered)

⁴⁸ See Annual Report 2002.

HUMAN RIGHTS DEFENDERS HARASSED

because it allegedly sought to «create a clandestine party in order to change the constitution by illegal means».

The hearing has been postponed over and over again since June 2001. The next session is scheduled for 9th February 2004.

GAMBIA

Aggression against M. Ousman Sillah⁴⁹

On 26th December 2003, Mr. **Ousman Sillah**, chairman of the Lawyers' coalition for Human Rights, was attacked in front of his house in Bakan, 20 km away from Banjul, by two hooded, armed men who shot him point blank. He was seriously injured and evacuated to Dakar.

Mr. Sillah is in charge of Mr. Baba Jobe's file. Mr. Jobe is the majority leader of the parliamentary group of the ruling party, the Alliance for Patriotic Reorientation and Construction (APRC). Early in December, after intra-party feuding, he was accused of economic crime and tax evasion. Mr. Jobe was arrested on 27th December, the day after the attack. End of December 2003, he was still being detained.

GUINEA-BISSAU

Mr. Joao Vaz Mane arrested and threatened⁵⁰

On 29th January 2003, Mr. **Joao Vaz Mane**, vice chairman of the Guinean Human Rights League (Ligue guinéenne des droits de l'homme - LGDH) was served with a warrant from the State Security services, and then held in detention for over 20 days.

⁴⁹ The Observatory contacted the Gambian authorities about this case.

⁵⁰ See Urgent Appeals GNB 001/0203/OBS 006 and GNB 002 /0803/OBS 036.

ÁFRICA

On 28th January, Bombolon, a private radio station invited Mr. Vaz Mane to participate in a programme called «palavering on peace». During the broadcast, Mr. Vaz Mane accused the President Kumba Yala of misappropriation, saying that the President had used funds intended for pilgrimages to Mecca for political and personal purposes. Mr. Vaz Mane was never charged. He was finally released on 19th February 2003, and claims that he was not allowed meeting with his lawyer or his family during that time.

Mr. Vaz Mane was further seriously threatened by Mr. Bitchofla Na Fafé, the chief police commissioner, for denouncing the criminal conduct of some police officers on a radio programme put on *Bombolom* on 9th July 2003. One of the examples he gave was that of an 18-year-old boy who was killed by a policeman for selling groundnuts without any authorisation from the Ministry of Trade. He had quoted the case of a woman who was arbitrarily arrested and sexually assaulted by policemen as they came to her home in search of her husband who was suspected of money laundering.

At a press conference held on 14th July 2003 at the central police station, Mr. Bitchofla Na Fafé publicly denigrated LGDH activities by saying that «Mr. Vaz Mane will not have any more opportunities to spread false information about my policemen and the ministry. That was Mr. Vaz Mane's last statement. He will have to face up to a real man». Mr. Bitchofla Na Fafé openly threatened the LGDH vice chairman to launch legal proceedings against him, although the threat was never turned into action.

LIBERIA

Detention of Mr. Aloysius Toe⁵¹

Mr. **Aloysius Toe**, director of the Movement for the Defence of Human Rights (MODHAR), was arrested on charges of «treason» on

⁵¹ See Annual Report 2002.

HUMAN RIGHTS DEFENDERS HARASSED

4th November 2002. He was suspected of collaborating with the Liberians United for Reconciliation and Democracy (LURD), a group of armed rebels. He was held in the central prison in Monrovia and finally escaped in August 2003 during the fighting. He now lives in exile.

Pillage of Liberia Watch for Human Rights⁵²

In June 2003 Mr. **Thompson Ade-Bayer**, director of Liberia Watch for Human Rights (LWHR), had to flee abroad for several months because he was informed that pro-governmental militia intended to assassinate him because of his activities.

While he was abroad, he was told that the LWHR offices had been completely ransacked during the fighting between LURD and governmental forces and that his son had been kidnapped during these events. The son reappeared several months later. Mr. Ade-Bayer was able to return to Liberia in November 2003.

MAURITANIA

Infringement of lawyers' independence⁵³

Mr **Mahfoudh Ould Bettah**, who is openly committed to human rights, has been leader of the bar for the last 12 years and was re-elected with an absolute majority on 27th June 2002. The government invalidated the elections, in violation of the criminal code, so that a second round could be held. Mr. Khalifa, a pro-government lawyer, was finally officially recognised as the new leader of the bar by the office of the public prosecutor. The second round was rife with irregularities, and Mr. Bettah's supporters reported that they had been pressured by the authorities.

⁵² *Idem.*

⁵³ See Urgent Appeal MAU 001/0703/OBS 033.

ÁFRICA

Mr. Bettah was summoned on 24th April and on 12th May 2003 to appear before the Council of the bar, presided over by Mr. Khalifa, the grounds being that he was acting as if he still held his old position. Mr. Bettah felt that the summons was «insulting» and decided not to appear. He was finally suspended for three years, as of 7th July 2003.

NIGERIA

Armed attack against the offices of an NGO and death threats⁵⁴

On 24th October 2003, some 20 armed men burst into the offices of the Consulting Centre for Constitutional Rights and Justice (C3RJ) in Port-Harcourt. After vandalising the premises, they held up Mr. **Churchill Ibeneche**, the executive director of C3RJ, and staff members at gunpoint and threatened to kill them if they didn't clear out within 24 hours.

This happened in the presence of Mr. Bishal Khanal, the representative of the United Nations Voluntary Fund for Project Evaluations, with whom a meeting had been scheduled that day. Mr. Ibeneche and the C3RJ members decided to evacuate the premises. Mr. Khanal's visit may have instigated this attack.

The next day, at the end of the 24-hours deadline, the attackers came back to destroy and steal the remaining documents, computers, books, files, etc.

Still fearing for their life, by end 2003 the C3RJ members had not yet been able to return to their office. All their programmes, especially the support programme for victims of torture, were suspended.

The case was reported to the Nigerian police, but no suspects have been questioned as yet.

⁵⁴ See Urgent Appeal NGA 001/1103/OBS 062.

Reports confiscated⁵⁵

On 14th October 2002 in Lagos, the customs office impounded 2 000 copies of the report entitled *Hope Betrayed? A Report on Impunity and State – Sponsored Violence in Nigeria* published by the OMCT, and the Centre for Law Enforcement Education, Nigeria (CLEEN). State Security services agents harassed Mr. Idris Bawa, a researcher for the National Human Rights Commission, as well as Mrs. Isioma Ojugbana and Mrs. Ijeoma Nwachukwu, two members of the Civil Liberties Organisation (CLO), who worked on this report.

After the report was seized, CLEEN lodged a complaint against the customs services with the Federal high court in Lagos which heard the case in June 2003. On 10th November 2003, after several adjournments, the CLEEN lawyers at last were able to submit their arguments. But because of an overburdened schedule, the court interrupted the hearing and postponed it until 26th January 2004.

On that date, the defence, represented by Mr. S. T. Shodikare, a lawyer who had just taken over the case, asked for the court's leniency, and to postpone the hearing until he could get a certified copy of the legal action underway. The lawyer for the prosecution was not against this request but reminded the court that the hearing had been scheduled for that day, and hence asked that the plaintiffs be awarded 5 000 naira compensation. The judge accepted the hearing to be postponed for 24th March 2004 and 2 000 naira were awarded to the plaintiffs.

RWANDA**Campaign to slander LIPRODHOR⁵⁶**

In 2003, the League for the Promotion of Human Rights in Rwanda (Ligue pour la Promotion des Droits de l'Homme au Rwanda -

⁵⁵ See Annual Report 2002.

⁵⁶ See FIDH press release of 4th June 2003.

ÁFRICA

LIPRODHOR), was accused of «divisionism», in other words, working with the Democratic Republican Movement (Mouvement démocratique républicain - MDR), which is a faction of the opposition party said to be «divisive».

These accusations were levied by the parliamentary Commission that was set up at the end of 2002 and tasked to investigate into MDR. When the Commission report was presented in April, LIPRODHOR was accused of receiving money to pay for activities connected to MDR. Although the written report does not explicitly refer to this connection and no legal proceedings have been launched, these accusations are part of a campaign to sully the reputation of LIPRODHOR.

In May, at a meeting organised by a group of women's organisations attended by members of the Parliamentary Commission and representatives of civil society, LIPRODHOR was again pointed at and was accused of «divisive activities».

Last June, the governmental weekly *Imvaho Nshya* published accusations by the prefect of Cyangugu (southwest Rwanda) in an article entitled «LIPRODHOR sows confusion in Cyangugu». According to this article, the prefect blamed the organisation for its «destructive policy» and for «being better known as a political front rather than as a human rights organisation, bringing ethnic differences to the fore day and night» as well as «propagating a divisive ideology».

AMI activities still suspended⁵⁷

The activities of the Modest and Innocent Association (Association modeste et Innocent - AMI) were suspended on 20th February 2002 by the Nyabisindu appeal court. The court banned all AMI publications, in particular its newspaper *Ubuntu*. Since it was suspected of being on good terms with the opposition party Democratic Party for Renewal (Parti Démocratique pour le Renouveau - PDR), AMI was not authorised to resume its activities in 2003.

The appeal court put the chairman of AMI, Mr. **Laurien Ntezimana**, under house arrest at Butare on 20th February 2002. He has to report to the town authorities every week. Although he has been given some lati-

⁵⁷ See Annual Report 2002.

HUMAN RIGHTS DEFENDERS HARASSED

tude since trips outside of Butare and outside the country have finally been authorised, no official legal decision was taken in 2003 to lift the decision of the court.

SENEGAL

Mr. Alioune Tine questioned and intimidated⁵⁸

In March 2003, Mr. **Alioune Tine**, General Secretary of the African Association for the Defence of Human Rights (Rencontre africaine pour la défense des droits de l'Homme - RADDHO) was summoned by the Criminal Investigations Division (Division des investigations criminelles - DIC), for questioning about his support for the National Coalition for Togolese Civil Society (Coalition Nationale de la Société Civile Togolaise) that wanted to organise a seminar in Senegal, with the support of the European Union. Senegal had refused to accommodate the meeting.

On 20th June 2003, Mr. Tine was called in again to the State security services which are under the Interior ministry. He was asked about his relations with Mr. Jemil Ould Mansour, a Mauritanian opposition activist who had fled to Senegal after the unsuccessful attempted coup d'État in Mauritania on 14th-16th June 2003. This interrogation was prompted by the public statements RADDHO had made during the political unrest in Mauritania. Although he condemned the attempted putsch, Mr. Tine also pointed to the serious risks faced by Mauritania refugees, were they to be extradited to their home country. Since there is no extradition agreement between the two countries, Senegal, he stressed, must accept the provisions of the international human rights instruments that guarantee the right to life.

During the interrogation, police inspector Mbaye Sady Diop insisted that «the Senegalese government would hold for responsible any

⁵⁸ See open letter to the Senegalese authorities dated 23rd June 2003.

ÁFRICA

person who tried to help Mr. Jemil escaping the law or escaping abroad». The director of the Security services, Mr. Cheikhou Sakho, told Mr. Tine that hiding Mr. Jemil constituted a concealment of someone liable under ordinary law.

Mr. Tine said that he only knew Mr. Jemil through the press and through Mauritanian friends. He did mention, however, that Mr. Jemil risked a life-long prison sentence if he was extradited to his home country. He also mentioned the obligation of Senegal to «offer Mr. Jemil political asylum or enable him to find refuge in some other country».

SUDAN

Arrest and continued harassment of Mr. Gazi Suleiman⁵⁹

On 8th February 2003, Mr. **Gazi Suleiman**, a lawyer and president of the Sudan Human Rights Group (SHRG) was arrested by the National Security Agency (NSA), together with Mr. Al Haj Warrag, managing director of the daily newspaper Al Horia, and Mr. Gnodtke, the Ambassador of Germany to Sudan. The three men had met to prepare the annual commemoration of the death of Mahmoud Mohamed Taha, an intellectual murdered in 1985 during the Numeiri regime.

When the Ambassador was recognised, he was released immediately. Mr. Warrag and Mr. Suleiman were only released a few hours later after having been questioned about their activities.

Mr. Suleiman was arrested again on 2nd July 2003 by NSA agents who burst into his home and then took him to the NSA Department of political affairs, where he was questioned about a press conference that was supposed to be held in his office that same day, in honour of the signing of the Khartoum Declaration (E'laan El Khartoum). This declaration had been signed by 18 political parties, 14 civil society organisations and 78 eminent personalities, in support of the peace process in

⁵⁹ See Urgent Appeal SDN 001/0603/OBS 031.

HUMAN RIGHTS DEFENDERS HARASSED

Sudan and the Cairo Declaration, which called for respect for the diversity of the Sudanese population without discrimination as to ethnic group, sex, religion or political opinion.

After two hours of examination, Mr. Suleiman was told to go home, collect some personal effects and tell his family that he was going to be detained at the Kober prison. His family had no news from him until he was released on 15th July. When his family and close friends tried to visit him in the Kober prison or at the NSA headquarters, they were told that Mr. Suleiman was not being held there.

The NSA agents streamed into Mr. Suleiman's offices and prevented the press conference from taking place on 2nd July. The people there were detained in the offices for over an hour before being taken to the NSA headquarters. They were finally set free later that day.

During the last few years Mr. Suleiman has been arbitrarily arrested and detained several times⁶⁰ by the authorities. In May 2002 he was ordered to dissolve the SHRG⁶¹.

Continued harassment of Mr. Faisal el Bagir Mohamed and against the Amal Centre⁶²

Mr. **Faisal el Bagir**, who is an independent journalist, a correspondent for Reporters Without Borders (RSF), a member of the Sudan Organisation against Torture (SOAT) and of the Khartoum Centre for Human Rights and Environmental Development (KCHRED), was arrested on 8th June 2003 when he returned from Athens where he had attended an international conference on the future of Iraqi information media.

The airport security services went through his luggage and confiscated his passport and various newspapers he had with. After waiting for two hours, he was taken to the NSA Department of political affairs and questioned at length about his activities as a journalist, his political opinions, the purpose of his trip to Athens, and his connections with SOAT, KCHRED and RSF. Several hours went by before he was released.

⁶⁰ See Annual Report 2002.

⁶¹ *Idem.*

⁶² *Idem.*

ÁFRICA

Mr. el Bagir, whose activities have been kept under surveillance and checked regularly since 2001 was arrested again under similar circumstances on 26th July and 7th October 2003. He had already been arrested in October 2002 when returning from abroad.

Furthermore, on 6th August 2003 he was arrested when together with Dr. **Nageeb Nagmeldin el Toum**, a SOAT member and head of the Amal Centre for Rehabilitation of Victims of Physical and Mental Trauma. The two men were convened by NSA after SOAT had issued a press release expressing its satisfaction at the liberation of 32 political prisoners; the press release had been published in that day's issue of the *Al Rai Alam* newspaper. After answering questions on the activities of SOAT, Mr. el Bagir and Mr. el Toum also had to provide the papers and the participants' list for a conference that SOAT had held on 26th June at the Abd Al Karim Mirghani Centre in Omdurman to commemorate the U.N. International day in support of victims of torture. The two men had participated in this conference which was chaired by Mr. **Murtada Algali**, a SOAT member and activist of the KCHRED.

Mr. el Bagir and Mr. Algali were summoned again to the NSA media Department on 18th October 2003, after the publication of an article denouncing restrictions on freedom of the press in Sudan and the closing of certain newspapers. The NSA agents had them fill in a file giving details of their private life, their political affiliations and the names of their friends.

Freedom of press has not only been inhibited by constant harassment of independent journalists (in particular regular arrests, for very short periods of time), but also by many other restrictions in 2003. Despite a government decree in December 2002 that officially ended censorship, the authorities drew a sort of «red line» for the press. Any article mentioning subjects that are behind the «red line» such as abductions of women and children, the peace process, the situation of political opponents, the outlawed opposition party Popular National Congress (PNC) or conflicts in the Darfour region, is systematically seized and may not be published. Many independent newspapers were shut down in 2003, e.g. the Khartoum Monitor, the only English-language newspaper in the country. It was suspended four times because of articles criticising the government. Its manager, Mr. Nhial Bol, had to flee abroad in November.

Continued repression of students' movements⁶³

Students were confronted with an upsurge of violence against them in 2003. Many peaceful demonstrations were fiercely repressed by anti-riot squads, followed by arbitrary arrests in many universities across the country. During a peaceful march-past in front of the Bakt al Ridah University on 17th March 2003 organised to protest against the ban on creating a students' association, the police intervened and violently dispersed the demonstrators. Several people were wounded, and 45 students were arrested.

In addition, students suspected of belonging to students' associations or participating in political activities of any sort are systematically sanctioned by their universities, e.g. suspensions and expulsions. Reports indicate that many students are arrested and that some are even tortured during their detention. On 5th January 2004 for instance, the NSA arrested Mr. **Waiel Taha**, a member of the Khartoum University Student Union and a SOAT activist, during a meeting organised in protest at police violence against a group of female students on 3rd and 4th January. Mr. Taha was held in the NSA building, beaten and tortured. He was finally released on 7th January. The prosecutor responsible for «crimes against the state» accused him of «intimidation» (Article 144 of the Criminal Code) and «criminal action» (Article 182). By 10th January 2004, Mr. Taha had not yet been summoned by the court.

Arrest and detention of Mr. Ibrahim Adam Madawi⁶⁴

On 27th December 2003, Mr. **Ibrahim Adam Madawi**, president of the Sudan Social Development Organisation (SUDO), ran a seminar on human rights in Shendi. The next day he was arrested by the NSA at his home in Omdurman.

After searching and ransacking his house, the security agents seized an important amount of documents, in particular the ones concerning a water development project in southern Sudan. They took him to his office at Lamda Engineering, searched the premises and seized his computer.

⁶³ *Idem.*

⁶⁴ See Urgent Appeal 001/0104/OBS 001.

ÁFRICA

Mr. Madawi was then detained in some unknown place. On 30th December his wife asked the authorities for permission to visit him. The next day Mr. Madawi was allowed to call home. On 3rd January 2004, his wife was told that he had been transferred to Kober Prison. In early January he was being held there although no charges had been brought against him. The authorities have not given any explanation for this arrest.

SUDO is a volunteer organisation working on sustainable development, especially in the Darfour region where it is researching human rights violations and providing assistance to internally displaced persons. Several SUDO members have been harassed because of their activities. Mr. **Hussein Ibrahim Gindeel**, for instance, SUDO executive director, was held incommunicado from 24th to 27th March, as he was supposed to lead a seminar on the role of the civil society in peace process in Damazin, from 24th to 27th March 2003. Authorities who initially had given permission for a seminar to be held, cancelled it on 24th March without giving any reasons.

TANZANIA

Restrictive law on NGO status⁶⁵

The law on NGOs of November 2002, severely restricting freedoms of association and expression, should have come into force before the end of October 2003 with its publication in the *Official Gazette*. This had still not taken place by December 2003.

The act, which was drafted by the Parliamentary Assembly of Tanzania without any consultation with national NGOs, was ratified by M. Mkapa, President of the Republic, in December 2002.

Obligation to register

Article 35(1) of the act provides for criminal sanctions against NGOs that do not register. In accordance with this article, any person who ope-

⁶⁵ See Open Letter to the Tanzanian authorities dated 8th October 2003.

rates an NGO without obtaining registration «shall on conviction be liable to a fine not exceeding five hundred thousands shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment».

Considering the criminal sanctions attached to the non registration, the situation is likely to become extremely dangerous for NGOs, all the more so as the cases in which the registration can be refused are not strictly defined. Indeed, the NGO Act provides that an «NGOs Coordination Board» (NGO Board) may refuse to approve application for registration of an NGO, particularly if its activities do not strive for public interest. However, the definition of «public interest» is extremely vague. Indeed, according to Article 2 of the Act, «public interest includes all forms of activities aimed at providing for and improving the standard of living or eradication of poverty of a given group of people or the public at large».

Moreover, the NGO Act provides that the director of the NGO Board is appointed directly by the President of the Republic and contains no other provision relating to the qualification of the members of this Board nor on their election process.

Interference in NGO activities

According to the NGO Act, the NGO Board provides «policy guidelines to NGOs for harmonizing their activities in the light of the national development plan». However, some of these national development plans are very controversial for NGOs, with some organizations in fact advocating against some of them, in particular regarding privatization or land acquisition.

Moreover, Article 7 of the NGO Act also provides the NGO Board with the right to «investigate and to inquire into any matter» in order to ensure that NGOs adhere with their own statutes.

Article 25 of the NGO Act establishes a National Council for NGOs (the Council), which is a collective forum of NGOs, whose purpose is the co-ordination and networking of NGOs operating in Tanzania. However, Article 25(4) prohibits any NGO to «perform or claim to perform anything which the Council is empowered or required to do under the act».

ÁFRICA

Pressure on LEAT⁶⁶

In November 2001 Mr. **Nshala Rugemeleza**, president of the Lawyers Environmental Action Team (LEAT), and Mr. **Tundu Lissu**, a LEAT lawyer, had publicly demanded an inquiry into the Bulyanhulu massacre in 1996⁶⁷. Following their declarations legal proceedings were brought against them in April 2002, for «publication with seditious intent».

The case, which had initially been handled by the Magistrate Court, was transferred to the Supreme Court in December 2002 at the request of Mr. Rugemeleza and Mr. Lissu, for examination of the constitutionality of articles 31 and 32 of the Newspaper Act. According to these two articles, any public criticism of government policy and action might be considered as an act of treason and be subjected to prosecution. Interestingly, in 1991 the president of the National Commission of Enquiry had declared that these provisions were incompatible with the freedom of expression guaranteed by the Tanzanian Constitution and had requested the government to amend them. Twelve years later nothing had been done yet.

Although the Supreme Court has been in charge of the case since December 2002, Mr. Rugemeleza and Mr. Lissu continue to be summoned by the Magistrate Court. The hearing was again postponed on 30th October 2003 with no date specified.

Furthermore, at the beginning of October 2003, Mr. Lissu was threatened by the president of the National bar association who had recently been promoted to Supreme Court judge and who had stated to Mr. Lissu that «his life was worth more than his work». At the same time Mr. Lissu had been placed under close police surveillance for several days. These threats have since ceased.

⁶⁶ See Annual Report 2002.

⁶⁷ In August 1996, during the expulsion of thousands of miners in the Bulyanhulu region, around fifty of them died as a result of being buried alive.

HUMAN RIGHTS DEFENDERS HARASSED

TOGO

Threats and harassment against ACAT-Togo⁶⁸

At the end of January 2003, the Christians' Action for the Abolition of Torture (Action des chrétiens contre la torture - ACAT) produced a very critical report on human rights in Togo in 2002. This report was presented to the European Parliament as part of a debate on the human rights situation in Togo to take place during the Parliamentary session of the Committee on Development and Cooperation on 19th February 2003.

On 13th February the chairman of ACAT-Togo, Mr. **Yannick Koffigan Bigah**, was summoned by the minister of Justice and the Interior minister and was required to explain this report. He was also summoned by the Head of State. Fearing for his own safety, Mr. Koffigan Bigah decided to leave the country.

The members of ACAT-Togo continue to be subjected to intimidation following the departure of their chairman (anonymous phone calls, shadowing, etc.) by individuals in civilian dress.

ZIMBABWE

The number of human rights violations has continued to rise since the 2002 presidential elections - a result of the increasingly restrictive policies of Mr. Robert Mugabe's regime. Repression aimed at human rights defenders, lawyers, journalists and trade unionists has also changed in nature, as noted by the August 2003 mission mandated by the Observatory⁶⁹. Legal frameworks are not just being ignored; they are

⁶⁸ See Urgent Appeal TGO 001/0203/OBS 009.

⁶⁹ See joint report by Observatory and ZimRights published in February 2003 and presented at the U.N. Commission on Human Rights, *Onslaught Against Human Rights Defenders*.

ÁFRICA

being turned into instruments that the government uses for its own purposes. Freedoms of speech, association and assembly are being threatened by the adoption of new and particularly restrictive legislations. The new bill on NGOs, expected to be adopted in the next few months, clearly illustrates this point. The justice system's increasing lack of independence, the corruption of judges and systematic hearing delays are all weakening the position of defenders, who fear they will soon be deprived of all judicial resources.

Adoption of restrictive legislation

The Public Order and Security Act - POSA

Since its adoption in January 2002, the law on public order and security has become one of the government's most effective means of repressing all forms of opposition and turning the legitimate exercise of basic freedoms into a crime.

Freedom of speech is the main target of this law, which in fact forbids any criticism of the President and his government. Article 16, for example, condemns any declaration that is «abusive, indecent, obscene or false (...), that may engender feelings of hostility towards, or causing hatred, contempt or ridicule» of the President. Article 15 also prohibits «publishing or communicating false statements prejudicial to the State», as well as declarations «adversely affecting the economic interests of Zimbabwe, or undermining public confidence in a law enforcement agency». Recourse to these dispositions-which in fact go against article 20 of the Zimbabwean Constitution-is facilitated by their particularly murky formulation. The POSA has been repeatedly invoked against journalists, trade unionists and human rights defenders.

This Act also constrains freedom of association and assembly. In addition to requiring the organisers of any public meeting to inform the local police of a meeting four days in advance (the police being allowed to cancel it altogether for the sake of «public order» - a provision systematically used against opposition parties and human rights defenders, though never on the ruling party meetings), article 19 also prohibits any act that «forcibly disturbs the peace, security or order of the public or any section of the public; or invades the rights of other people; [or intends] to cause such disturbance or invasion or realising that there is a risk or possibility that such disturbance or invasion may occur». The

HUMAN RIGHTS DEFENDERS HARASSED

combination of the requirement to inform public venues and the vagueness of the provision amounts to an arbitrary and selective limitation of freedom of assembly.

The Access to Information and Protection of Privacy Act (AIPPA) and the Broadcasting Services Act (BSA)

The Act, passed in March 2002, and amended in 2003, in effect allows for the authorities to exercise close political supervision on all media operating in Zimbabwe. Sections 38-42 of AIPPA provide for the establishment of a Media and Information Commission (MIC), whose board is appointed by the Information minister, currently Jonathan Moyo. The MIC is responsible for the now mandatory registration of all media and journalists operating in Zimbabwe (section 66). This also holds true for foreign journalists. Since the licence granted by the MIC must be renewed each year, many journalists prefer to censor themselves rather than risk having their licenses revoked. An editor interviewed by the Observatory's mission leaders admitted to watering down his journalists' articles on a regular basis, in order to avoid having the newspaper closed down. Furthermore, under section 65 of the Act, the MIC can take action against any journalist who publishes information deemed to «threatens the interests of defence, public safety, public order, the economic interests of the State, public morality or public health». The AIPPA, by combining a particularly pernicious means of registration and strict limitations vis-à-vis news reported, restricts freedom of speech both directly and indirectly. This act has not only been used many times against journalists; it has also been invoked against human rights activists gathering data, and as such further hinders the population's access to information.

The Broadcasting Services Act (BSA), adopted in 2001, allows for close governmental control on the whole broadcasting sector. According to sections 6, 7, 11 and 15 of BSA, all broadcasting media is required to be licensed, and agreement rests in the hands of the Broadcasting Authority of Zimbabwe (BAZ), whose members are appointed by the minister of Information. Furthermore, section 24 of the BSA allows the minister to have a say in the contents of the broadcast programmes, and gives him the right to ban any broadcaster deemed to be a threat to national security.

ÁFRICA

*Private Voluntary Organisations Act - PVO Act*⁷⁰

The PVO Act, though enacted in 1967, had never been fully enforced. In a September 2002 notice, however, the government reasserted the provisions of the PVO Act, which, in its section 6, requires all private voluntary organisations (including NGOs) to register with the minister of Public Service, Labour and Social Welfare. In a speech to the Parliament in November 2002, the minister of Justice also declared that unregistered associations should immediately cease their activities, or face closings and arrests.

Of further concern for human rights defenders in Zimbabwe is the government's intention to adopt new legislation to replace the PVO Act with new legislation, to ensure Zimbabwean NGOs «are not infiltrated by foreign agents» according to a government official. The future law would give the government greater control over non-governmental organisations' activities by tightening conditions for their registration. The National Association of Non-Governmental Organisations (NANGO), a coalition of Zimbabwean NGOS, has already been consulted on the draft of the bill, but this consultation does not provide any governmental guarantee that the interests of NGOs will really be taken into account. There has also been concern within the NGO community that NANGO might not be as independent and representative as originally hoped.

Increasing attacks against human rights defenders

NGOs targeted

In July 2003, NGOs involved in food aid received new operational guidelines making it mandatory to go through state organs to distribute food. Amidst protests from the international community concerned about politicisation of food aid distribution, the government quickly retracted and officially declared that these new provisions should not be implemented. They have never been legally and officially annulled, however, and so could still be applied at any time. In 2003, many associations were in fact subjected to intense pressure to employ youth mili-

⁷⁰ See Annual Report 2002.

HUMAN RIGHTS DEFENDERS HARASSED

tias in their teams and to direct food aid to certain regions chosen by local authorities.

NGOs working to defend human rights, lawyers' associations and development organisations were also targeted in 2003:

In February 2003, Dr. **Makumbe**, an NGO activist, president of Transparency International- Zimbabwe and outspoken academic known for his criticism of the regime, was arrested along with Mr. **Brian Kagoro** and Mr. **Brian Raftopolous**, both members of the Crisis Coalition of Zimbabwe, at a peaceful demonstration organised by the church. The three men were charged under POSA for organising and attending an «illegal gathering». They were set the same day without charges.

On 14th February 2003, Mrs. **Sheba Dube-Phiri**, president of ZimRights and member of the Women of Zimbabwe Arise (WOZA), a NGO advocating recognition of women in Zimbabwe, was arrested along with 15 other women and 2 men following a demonstration organised by WOZA. All were released on 16th February without charges.

On 10th May 2003, 46 women -most of them WOZA members- were arrested after a demonstration organised to commemorate Mothers' Day in Bulawayo. They were first denied access to a lawyer during their detention and were released on 11th and 12th May, without having been informed of the reason for their arrest.

On 5th June 2003, Mrs. Dube-Phiri and Mrs. **Jennifer Williams**, also a WOZA member, went to the police station in Bulawayo to provide food for detainees who had not been given anything to eat for some days. They were escorted by their lawyers Mr. **Ncube** and Mr. **Ndebele**. The women and their lawyers were arrested upon arrival at the police station and the lawyers' licences were confiscated. The police insulted them, threatened to abduct and kill them and accused them of incitement to rebellion. Mrs. Williams and Mrs. Dube-Phiri, as well as Mr. Ncube and Mr. Ndebele, were released the same day without charges.

Mrs. Williams was arrested again on 24th July along with 47 other women following a peaceful demonstration organised in Bulawayo. She was also brought in for questioning on 18th November. In both cases the police freed her the same day without bringing any charges against her.

On 6th June 2003, in the Bindura region, members of President Mugabe's Zimbabwe African National Union-Patriotic Front (ZANU-PF) abducted and tortured a group of employees of the Zimbabwe

ÁFRICA

Civic Education Trust (ZIMCET). The ZANU-PF members then handed them over to the Bindura police station, where they were held until 9th June without being informed of the charges brought against them. However two ZIMCET members were accused of having organised a public meeting without prior authorisation on the basis of article 24 of the Public Order and Security Act.

The National Constitutional Assembly (NCA), a coalition of Zimbabwean NGOs created in 1996, has been under considerable pressure from authorities since it played an active role in the 2000 constitutional referendum that led to the rejection of President Robert Mugabe's proposal to revise the Constitution.

Early 2003, the president of the NCA, Mr. **Lovemore Madhuku**, was arrested along with several other association representatives. They were all accused of trying to overthrow the government and detained for 24 hours at the Harare police station where they were insulted, threatened and ill-treated. They were released without having had access to a lawyer, and without being informed of the charges against them. At the end of August 2003, the president of the Maronga section of the NCA was arrested under similar circumstances.

On 22nd October 2003, while peacefully demonstrating in Harare, 400 activists including NCA president Mr. Lovemore Madhuku⁷¹, were beaten and then arrested by the police⁷². The demonstrators were calling for a reform of the 1978 Constitution, which was drawn up before Zimbabwe's independence, and greater democracy. They were placed in detention and denied access to their lawyers, who were violently manhandled when they appeared at the police station. Most of the demonstrators were released the next day, after paying Z\$ 5 000 in bail. Dr. Madhuku, who refused to pay the deposit fine, was retained and accused of having infringed upon article 24 of the POSA («illegal assembly without prior authorisation from authorities»). He was released provisionally on 24th October after an immediate court appearance, and his case was re-examined the following week. The court refused to place him on further remand and in the end found him innocent of all charges.

71 See Urgent Appeal ZIM 001/1003/055.

72 *Idem*.

Last but not least, all meetings organised by the NCA that are not prohibited on the basis of the POSA are closely watched and disrupted. One example of such treatment was the meeting held in mid-August 2003 in Hwange in Matabeleland province. The NCA further reports frequent police raids in their main office in Harare (usually right before a meeting, or immediately following it), seizing many working documents.

Lawyers and magistrates

Many human rights defenders denounce the lack of independence of government-appointed judges, who invariably rule in keeping with government orders. Many cases of corruption have been reported - the ruling party, for instance, has granted land and farms to some of the Supreme Court judges.

Conversely, the government has also systematically transferred and/or demoted judges perceived to having issued rulings too favourable to the opposition or to civil society. Judge **Gorwe**, for example, was transferred after having refused to release several ZANU-PF supporters on bail. The pressure on magistrates has reached such heights that it forced the former Chief Justice Mr. **Gubbay** to retire, as the government publicly said it could no longer guarantee his protection and security. Between 2001 and 2002, 6 Supreme Court and High Court judges were pressed to resign under similar circumstances and were replaced by pro-governmental magistrates, thus paralysing the country's highest judicial bodies.

In addition, court sessions involving human rights defenders or land distribution are regularly disrupted by ruling party supporters and youth militias.

On 17th January 2003, Mr. **Gabriel Shumba**, a lawyer working for the Zimbabwe Human Rights Forum, and his client Mr. Job Sikhala, member of the Chitungwiza Parliament and member of the Movement for Democratic Change (MDC), were arrested along with other MDC members. They were denied access to a lawyer, and were severely tortured by state agents, whose ill-treatments included forcing them to drink urine. All were freed on 19th January in precarious health. Despite medical reports filed after their release, the police officers responsible for these acts of torture were not charged. Most of the victims required post-trauma medical treatment in South Africa. Mr. Shumba, who now lives in exile, continues to receive threats.

ÁFRICA

On 17th February 2003, Mr. **Justice Benjamin Paradza**, a Harare High Court judge, was arrested at his office. He was detained at the Borrowdale police station and accused of «corruption» but no judicial basis for the charge was noted. His arrest came after a ruling of his in favour of the capital's mayor and MDC member Mr. Mudzuri. On 16th September 2003, the Supreme Court declared that Mr. Paradza's arrest, detention and custody were unconstitutional, and therefore rejected the charges brought against him.

On 8th April 2003, State prosecutor Mr. **Chikafu** was violently accosted by a group of independence war veterans, who criticised him for having provisionally released several MDC supporters who had been arrested a few weeks earlier.

On 2nd June 2003, Mr. **Chidawanyika** and Mr. **Kufaruwenga**, both lawyers and human rights activists, went to the central police station in Gweru, in the interior of the country, to defend clients. Police there insulted and ill-treated them, and prevented them from meeting with their clients. On 15th August 2003, in Victoria Falls in north western Zimbabwe, Mr. Dube, another lawyer, was attacked under similar circumstances by policemen based at the Victoria Falls army camp.

On 16th August 2003, Mr. **Walter Chikwanha**, magistrate of Chipinge court, and Mr. **Khumalo**, court president, were attacked by a group of independence war veterans in front of the court's premises, following a ruling against the government. Armed with sticks and brass knuckles, the assailants violently beat the two magistrates and four court employees. Police were present at that time but did not intervene.

The veterans, escorted by two armed policemen, then brought Mr. Chikwanha to the National Security offices next to court offices and forced him to sing ZANU-PF slogans in public before releasing him.

The ministry of Justice refused to officially condemn this attack and transferred Mr. Chikwanha to the Mutare court in August 2003.

The prominent human rights lawyer Mrs. **Béatrice Mtetwa** was the victim of another attack on 12th October 2003⁷³. When she saw a group of men in the street attempting to steal her car, Mrs. Mtetwa called the

73 See Annual Report 2002.

Borrowdale police station. But instead of chasing the thieves, the police attacked Mrs. Mtetwa, kicking and hitting her on her face and her body. Mrs. Mtetwa filed a complaint on 16th October.

Pressure on mass media and journalists

On 7th April 2003, Mr. **Frank Chikoklore**, a *SW Radio Africa* correspondent, who had filed several stories on the stay-aways, was arrested while on the bus; he was taken to Kutama police station, where he was accused of «wanting to overthrow the government». He got strip-naked, severely beaten for several hours. He was released the following day with no charges. He twice went to the police (in Norton first, then in Harare) to complain, but both times the police refused to file a case.

On 18th March 2003, Mrs. **Gugulethu Moyo**, legal adviser for the Associated Newspapers of Zimbabwe (ANZ), an organisation created under the direction of the *Daily News*, went to the Glen View police station to apply for the release of Mr. Philemon Bulawayo, photographer for the *Daily News*. Mr. Bulawayo had been arrested that same day while covering an opposition-organised demonstration called for by the MDC. Mrs. Moyo was mistreated and arrested upon arrival at the police station. Both were detained for two days and then released without charges.

On 30th June 2003, the ANZ chief executive officer Mr. **Sam Nkomo**, the *Daily News's* publishers, the paper's commercial director Mr. **Moreblessing Mpofu**, its editor Mr. **Nqobile Nyathi**, as well as Mrs. Gugulethu Moyo, were accused of infringing on the POSA. In May 2003 the *Daily News* had published MDC announcements calling for a massive protest movement at the beginning of June. When these adverts were published, Mr. Nkomo and Mr. Mpofu were charged under section 16 of POSA of «denigrating the government». They were made to sign warned and cautioned statements before being released. Also on the basis of article 16, Mr. Nyathi was accused of «offending the president» following the 26th June publication of another article.

Mrs. Moyo, who served as Mr. Nkommo's and Mr. Mpofu's lawyer in this case, was accused of «inciting people in the Glen View and Budiriro suburbs to rebel» on the basis of article 19. These accusations were made following her arrest in Glen View in March, when she was released without charges. The police first denied Mrs. Moyo access to a lawyer, pointing out that she could defend herself since she is a lawyer. She could in the end be represented by another ANZ lawyer, Ms. Kay

ÁFRICA

Ncube. Mrs. Moyo was released after signing the statement.

On 12th September 2003, the Supreme Court ruled that *The Daily News* was operating illegally because it had not been registered with the MIC. Its offices were then hastily closed. *The Daily News* appealed this decision, and on 24th October, Judge Majuru ordered the MIC to register the paper and its parent company, the ANZ.

On 25th October *The Daily News* came out with a limited edition of the newspaper to announce the Court's decision. The editorial staff's premises were immediately closed down and four ANZ directors charged with «publication without prior authorisation» based on the AIPPA. The police claimed that the Court's decision did not constitute a legal authorisation to operate and as such did not lift the newspaper's suspension. The four men were provisionally released, and the next hearing is set for 6th February 2004.

The Media and Information Commission lodged an appeal to the Supreme Court's decision of 24th October. The verdict rendered by Mr. Nare on 19th December upheld Mr. Majuru's decision and ruled that *The Daily News* should be authorised to resume publishing. Mr. Nare's judgment also strongly suggested that the MIC abuses court process to buy time and frustrate ANZ's remedy as well as freedom of expression. Mr. Nare and his family were repeatedly threatened during the case and on the day the verdict was pronounced, Mr. Nare was subjected to a vast smear campaign relayed by pro-governmental media, in particular *The Herald*.

The police ignored the Court's ruling and kept the newspaper closed down.

The AIPPA was also used against foreign journalists. In early 2003, *The Guardian* correspondent Mr. **Andrew Meldrum**, was tried for «publishing a falsehood», a criminal charge carrying a jail term of two years. The court ruled in his favour, acquitting him of the charges and allowing him to stay in the country, but he was illegally abducted and expelled from the country in May. His wife, Dolores Cortez Meldrum, a permanent resident of Zimbabwe, was illegally deported on 23rd June.

Pressure on trade unionists

Authorities systematically cracked down on trade unions this year, in particular on the Zimbabwe Congress of Trade Unions (ZCTU). Given the increasing risk of arrest or injury to its members during large-scale actions, the ZCTU was forced to reduce its activities in 2003. Observers

HUMAN RIGHTS DEFENDERS HARASSED

on field noted many violations to the freedoms of association and assembly. Restrictions were reported in particular by the International Labour Organisation (ILO), which quoted the case of Zimbabwe in June 2003 in a declaration on the Organisation's Convention n° 98 concerning the right to organise and bargain collectively.

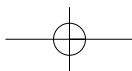
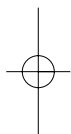
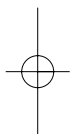
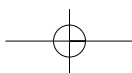
Along with the POSA, authorities also made use of the Labour Relations Amendment Act (LRAA) adopted in March 2003. The LRAA greatly restricts trade unions' freedom to organise demonstrations and strikes. The government also gained better internal control of the country's largest companies by purchasing large blocks of shares, and was thus able to set up new and closely-monitored in-house trade unions. This is the case, in particular, at Galiba caterpillars company and the Aroma clothing manufacturing plant.

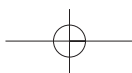
In April 2003, 20 trade unionists were arrested and released on bail after paying Z\$ 7 million.

On 2nd June 2003, a local Masvingo ZCTU leader was called into the Masvingo central police station. He was arrested the next day, bullied and severely beaten before being released provisionally.

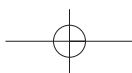
On 8th and 9th October 2003, more than 165 officials and members of the ZCTU were arrested in different cities of Zimbabwe, including general secretary **Wellington Chibebe**, president **Lovemore Matombo**, and the trade union's vice president **Lucia Matibenga**, while peacefully demonstrating to protest over high levels of taxation, high cost of living, shortage of cash and the gross violation of human and trade union rights. They were later released without charges.

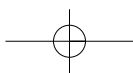
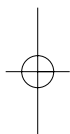
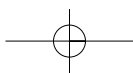
On 18th November 2003, Mr. **Peter Munyuwi** and Mr. **David Shambare**, both ZCTU members, were arrested and severely beaten. Mr. Shambare had received threats after organising protests against the Zimbabwe rail company. Both men were released without any charges having been brought against them.





AMERICAS





THE SITUATION OF HUMAN RIGHTS DEFENDERS

Latin America is the «continent» with the highest number of assassinations of human rights defenders. The observation made by the Special Representative of the UN Secretary General on Human Rights Defenders, also applies to 2003. The report presented by the Representative to the UN Commission on Human Rights in March 2003 listed thirteen countries where human rights defenders have been executed and six of these were in Latin America¹. Twenty-two countries were cited for cases of defenders receiving death threats and suffering other threats and ordeals, and ten were in the Americas. Of the fifteen countries where the offices and/or homes of the defenders were attacked, burgled or searched without warrants, six were in Latin America. And six American countries out of eleven were cited for legal or bureaucratic harassment of defenders².

These figures confirm the data collected by the Observatory on the extent and severity of violations of human rights defenders in the Americas, with the case of Colombia being the major concern. The situation of defenders is made even worse with the impunity enjoyed by the offenders perpetrating these offences, despite the fact that North and South America is one of the regions where human rights are best guaranteed through both national legislation and the high level of ratification of international and regional treaties on human rights.

The Fight against Terrorism and the Erosion of Rights

Since the attacks of 11th September 2001 in the United States, new anti-terrorism measures have been adopted, «old» laws deemed «no

¹ Argentina, Brazil, Colombia, Honduras, Mexico and Peru.

² See UN document, ref: E/CN.4/2003/104.

AMERICAS

longer applicable» or incompatible with the new circumstances of the fight against terrorism, have been revised and in many cases have led to greater restrictions on rights for both individuals and groups. This has provided conditions likely to worsen the situation and lead to violations of basic rights.

The international campaign against terrorism and the defence of «national security» have only too often been used as an alibi for campaigns against civil society, with a whole range of abuses targeting defenders who are often seen as terrorists. *Colombia* stands as a symptomatic example of this.

On 8th September 2003³, President Álvaro Uribe Vélez gave a speech during human rights week, when the new commanding officer of the air force was sworn into office. In a quite pernicious way he divided the NGOs defending human rights into three categories: the «theoretical» NGOs, the so-called «respectable» NGOs, which must be protected by the State, and a third group presented as follows: NGOs whose members are «writers and political wheelers and dealers who ultimately serve terrorism and who cowardly are hide behind the human rights flag». These NGOs therefore should not receive any protection from the State. He concluded his address by encouraging the new air force commander, General Lesmez, to ignore human rights in the bid to defeat terrorism.

This speech was given at a time when the president had been criticised for his first year in power, the criticism coming from the eighty Colombian NGOs in the «Plataforma Colombiana Democracia y Desarrollo» and published in a book entitled *El embrujo Autoritario* on 8th September; criticism was also expressed in the report by the United Nations Development Programme (UNDP). These statements denigrating the work done by human rights defenders is part of a broader strategy where, in the name of the fight against terrorism, public authorities release themselves of their obligation to respect human rights, thus giving blanket approval for any attacks on defenders.

In addition, new anti-terrorist legislation, voted by the Congress in Bogotá on 10th December 2003, granted judicial powers to the army and

³ See Compilation of cases below.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

allowed the police to detain suspects and conduct searches without any warrants, to intercept mail and tap telephone calls. This new legislation stirred up a strong reaction, particularly from defenders and the director of the office of the United Nations High Commissioner on Human Rights in Colombia, but has not yet been presented to the Constitutional Court. This new legislation legalising arbitrary detention of defenders is of particular concern as there was an increase in their detentions in 2003 and they are now covered by a legal framework.

In *Chile*, the authorities have used new anti-terrorist legislation to arrest and charge leaders of the Mapuche communities who have been opposing foreign logging companies.

In the *United States*, reasons of national security have been cited to justify decisions to refuse visas to Latin American defenders wishing to travel to the UN headquarters in New York and the Organisation of American States (OAS) in Washington, breaching their international diplomatic obligations. At the October 2003 session of the Inter-American Commission on Human Rights (IACHR), concern was expressed about the difficulties encountered by petitioners, victims, witnesses and/or experts applying for visas, some of which have even meant that certain hearings have had to be cancelled. The Commission noted that it would be approaching the United States so that such obstacles, which have a serious impact on the protection of the users of the human rights, system did not occur again in the future⁴.

Defenders in a Situation of Armed Conflict, post-Conflict or in a Situation of Widespread Violence

In certain countries that are suffering the effects of armed conflict or widespread violence, e.g. Colombia and Guatemala, human rights defenders are on the front line, victims of harassment and violence.

In *Colombia*, more than fifty years of widespread violence have developed into an internal conflict, engendering human rights violations (abduction, torture, rape, summary execution, internal displacement of populations and exile), to a level that far surpasses all other situations

⁴ IACHR press release, n° 30/03, § 3.

AMERICAS

worse than anywhere else in the region. Defenders, whether rural farmers, indigenous people, political or community leaders, journalists, trade unionists, members of NGOs or lawyers supporting their cause⁵, live in a constant climate of fear and insecurity: some have been assassinated by paramilitary groups after accusations of being the political branch of allegedly subversive groups or of collaborating with such groups, while others, to a lesser extent, have gone missing, apparently taken by guerrilla groups who reject their critiques.

The intention of using national security needs to restrict constitutional guarantees for the most basic human rights is quite flagrant in Colombia. One past example occurred four days after Uribe took office on 7th August 2002, when emergency measures - under provisions in Articles 213 and 214 of the Constitution, covered by Law 137 passed in 1994 - were decreed. Dated 12th September 2002, the decree on public security measures, involving greater power and prerogatives for both army and police, included provisions restricting the right to assemble or demonstrate, and authorising arrests, house searches and telephone tapping without a warrant. The decree was subsequently quashed by the Constitutional Court, on 25th November 2002.

But President Álvaro Uribe Vélez did not admit defeat and since then has been waging the battle in Parliament, where he holds a majority, to bring about a constitutional reform granting the army powers normally held by police investigators, including authorisation to arrest and search without a warrant signed by a judge⁶. Organisations from Colombian civil society, international NGOs and the highest United Nations authorities have called on the Colombian State to abandon the reform; this was the recommendation of the High Commissioner on Human Rights⁷ and the UN Commission on Human Rights in the declaration on 25th April 2003, speaking on human rights in Colombia⁸

5 Joint Report by the Observatory and Avocats sans Frontières/France, following an international mission of inquiry, *Colombia: Administration of Justice or Impunity ?*, March 2003.

6 See compilation of cases below.

7 Report by the UN High Commissioner on Human Rights on Colombia, document E/CN.4/2003/13, 24th February 2003.

8 It must be noted that the terms of this declaration were negotiated with the Representative, the Plenipotentiary Minister (Colombia), Carlos Franco.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

and expressly urging the Colombian State not to transfer judicial power to the armed forces and to withdraw the draft legislation. Despite these recommendations, as was explained above, on 10th December 2003, the anti-terrorist law was passed by the legislative authority.

In *Guatemala*, the situation of defenders has remained extremely preoccupying. The peace agreements which put an end to 36 years of civil war are proving difficult to implement, particularly those on socio-economic issues and the agrarian situation, fuelling fears that the situation of human rights in the country could deteriorate. In 2003, defenders were trapped in a highly polarised electoral campaign and continued to be victims of acts of persecution and violence perpetrated by members of paramilitary groups⁹. Many civil servants, either judicial or responsible for human rights (Prosecution Office on Human Rights), have also been targets for assassinations, threats and office break-ins¹⁰. The deputy public prosecutor on human rights in Chimaltenango was assassinated, and no fewer than 16 of the 31 deputies, as well as the prosecutor, received threats¹¹. These attacks may also have been planned by paramilitary type organisations.

On 23rd January 2003, the special UN representative stated in a press release announcing the publication of her report on Guatemala, after investigations between 26th May and 1st June 2002, on defenders, that «Principal targets of violations are human rights defenders involved in efforts to obtain the truth about past violations and defenders involved in the promotion of economic, social and cultural rights and the rights of indigenous peoples [...]. Journalists and religious leaders are at times also targeted». She added that «the involvement of clandestine structures and groups in attacks against defenders and allegations of their links with state security forces is a matter of serious concern that must be addressed by the Government on an urgent basis»¹².

In *Haiti*, while celebrating the bicentenary of independence, political violence is spreading. In a country already in the grips of a general

⁹ See Compilation of cases below.

¹⁰ *Idem*.

¹¹ Press release, dated 27th August 2003, the IACHR condemned the illegal raid perpetrated by persons unknown on the offices of the Prosecutor responsible for human rights, n° 25/03.

¹² United Nations document, E/CN.4/2003/104/Add.2.

AMERICAS

political, economic and social crisis, president, Jean-Bertrand Aristide is attempting to gag all protests. On 5th December 2003, a demonstration by students and academics from the Autonomous University of Haiti was violently repressed by known pro-government groups with backing from the police.

Criminalisation of Social Demonstrations and Defenders

While 2003 saw a number of demonstrations arising with the worsening socio-economic situation in a number of countries, most did not reach the level of the protests that had shaken Argentina, Uruguay, Paraguay and El Salvador in 2002.

However, in *Bolivia*, rather than dialogue, a disproportionate use of violence was the path chosen, with brutal repression of the demonstrations and a death toll of more than 80 in September and October 2003. The movement was in protest against the export of Bolivia's natural gas by Chile.

In *Peru*, on 27th May 2003, after three weeks of strikes in public services (health and education) and the agricultural sector, the Peruvian government had no hesitation in implementing emergency measures, under Article 137 of the Constitution, the fruit of the highly controversial 1993 reform of the constitution by President Fujimori. This restriction of public freedom and the increasing militarisation of the social conflict left one student dead and fifty injured. More recently, on 20th November 2003, the anniversary of the Convention on the rights of the child, a peaceful demonstration by around 150 children and teenagers living and/or working in the streets of Lima, was brutally repressed by the police. The young people were calling for proper involvement in public debate and proper consideration in civil society. Thirteen children and adults were arrested; some of the adults reported they had been the victims of ill-treatment before being released¹³. An investigation into the events was opened on 9th December 2003, and is being conducted by a lawyer working with a public defender.

In *Argentina*, the economic revival in 2003, after the financial crisis which had shaken the country, raised great hopes for the population,

13 OMCT PER 031203.CC/ESCR.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

but the social climate remained very fragile. On 20th December 2003, while the «*piqueteros*» were demonstrating to mark the second anniversary of the Argentinazo (19th-20th December 2001), a bomb exploded in the crowd, injuring around twenty people.

In *Venezuela*, to a background of conflict and acute social tension, human rights defenders experienced great difficulty in carrying out their work and also ran the risk of being exploited for political purposes.

In *Ecuador*, the re-emergence of the White Legion (Legión Blanca) is cause for concern. In July 2001, the White Legion had threatened a number of organisations recognised at the international level for their commitment to human rights and had endeavoured to discredit a number of defenders and their families. In February 2003, more death threats targeted a number of organisations working on social issues and the defence of basic liberties, passing them off as «military targets», attacking indigenous and left-wing civil servants considered as «former subversives» and described as «revolutionary reds»¹⁴.

In *Cuba*, the situation of many human rights defenders is a major source of concern. In June 2003, the Cuban High Court confirmed the rulings handed down by the first court with 15 to 25 year sentences for dissidents arrested between 18th and 26th March 2003, on conspiracy charges under Law 88 for the protection of national independence and the economy in Cuba. Many of these detainees were involved in the Varela project and are internationally recognised human rights defenders; for example, Marcelo Lopez and Marcelo Cano, active figures in the Cuban Commission for Human Rights and National Reconciliation (CCDHRN – Comisión Cubana de los Derechos Humanos y de la Reconciliación Nacional)¹⁵. The Observatory intervened, denouncing these hearings which were held without any due guarantees to a fair and equitable trial resulting in sentences designed solely as sanctions to punish the exercise of fundamental liberties, including primarily freedom of expression, opinion and association¹⁶.

¹⁴ See Compilation of cases below.

¹⁵ *Idem*.

¹⁶ *Idem*.

AMERICAS

More Attacks on Defenders of Economic, Social and Cultural Rights

With globalisation and the privatisation of the economy, as well as greater inequality causing more and more violations of economic, social and cultural rights, the responsibility of private parties, in particular the most powerful corporations and multinationals, is increasingly clear, although it takes none of the primary responsibility away from States and their obligation to protect human rights¹⁷. Those who express critiques against economic policies seen as negative for certain sectors of the population or for the environment, whether they be State policies or the policies of trans-national corporations, are often seen as not acting in the interests of the nation, or even as terrorists, and find themselves victims of official or disguised repression; this is the case of those who fight for the right to employment, for land rights or for the protection of the environment in *Honduras, Chile, Ecuador, Mexico, Bolivia* and *Colombia*.

The situation in *Colombia* is symptomatic of the repression targeting trade unionists. According to statistics published by the National Trade Union School, between 1st January and 15th May 2003, 29 trade unionists were assassinated, 99 received death threats, twelve escaped deadly attacks and three were abducted. With violence prevailing throughout the country, the paramilitary leader, Carlos Castaño, was able to make the following statement: «Trade unionists, for example, stop people from working. That is why we kill them»¹⁸. People directly affected by these exactions include those attempting to exercise their rights to collective bargaining or negotiation, as in the case of conflict between major multinationals and their opponents. The number of trade unionists assassinated was lower than in 2002, but the number of cases of arbitrary detention has shown a serious increase.

In Central America, particularly *Guatemala* and *Nicaragua*, trade union leaders have been constantly threatened and harassed.

¹⁷ Work by the UN Sub-Commission on the promotion and protection of human rights led to standards being adopted covering the responsibility on human rights of trans-national and other companies; UN document E/CN.4/Sub.2/2003/12/Rev.2.

¹⁸ Weekly magazine: *Semana*, 12th June 2001.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

The defence of the environment is behind a number of conflicts in the Americas, and specifically in the countries around the Amazon basin and in Central America. One of many examples is *Honduras*, where defenders have been harassed, threatened and assassinated because of their committed stand against logging and the construction of a hydro-electric dam¹⁹.

The land itself is cause for conflict and violence. Indigenous leaders defending their land have often become targets for public authorities wishing to conduct projects affecting these communities, targets for companies wishing to take their land or underground resources, and for latifundistas or even small farmers in search of land to clear. The small farmers or those without land are often victims of pressure exerted by large landowners and corporations.

The report by the Observatory on *Landless people and their defenders in the State of Pará*²⁰ shows the reality of the situation in *Brazil* where there have been thousands of such victims over decades, including many defenders fighting for their rights²¹. In *Ecuador*, leaders of the Saracuya people received death threats in February 2003, because they had refused to surrender their land to the Argentine oil company, Compañía General de Combustibles (CGC), supported by the government, even though they had been offered financial and material compensation. The Inter-American Commission on Human Rights (IACHR) granted protective measures to the Saracayu community on 5th May 2003. On 16th October 2003, the petitioners reported to the IACHR that the protective measures granted in their favour had been violated. The Ecuadorian government had ordered the arrest of a number of community leaders and the military occupation of the sector. On 5th December 2003, a demonstration in support of the community was stifled by a group of armed men, with links to the company CGC: demonstrators were allegedly arrested, struck with sticks, wood and machetes and shots were apparently fired. The government allegedly refused to intervene, arguing that it

¹⁹ See Compilation of cases below.

²⁰ Report of the mission of judicial observation of the Observatory, *Landless people and their defenders in the State of Pará*, May 2003.

²¹ See Compilation of cases below.

AMERICAS

was an internal problem between indigenous communities and did not involve the State.

In *Mexico*, there have been many indigenous victims with land claims. Lawyers and human rights defenders in charge of the Agua Fría case²² were insulted and harassed and received death threats²³. In the course of a dispute on the current registration of traditional native lands, a lawyer from the Centre for Legal Studies and Social Investigation (Centro de Estudios Jurídicos e Investigación Social, CEJIS) was attacked in *Bolivia* in March 2003²⁴.

Ongoing Impunity

It is more than apparent that in most cases of harassment, threats, assassinations and disappearance against human rights defenders, impunity prevails, despite the fact that certain countries have set up governmental mechanisms and independent bodies responsible for investigating violations of human rights.

In *Colombia*, reforms carried out or planned by the government chosen by President Alvaro Uribe Vélez in August, 2002, far from improving the situation of human rights in the country, are likely to suspend some of the legal guarantees previously protecting the Colombian people and making the situation even more difficult for anyone speaking out against human rights violations²⁵. Given the widespread violence prevailing in the country, these reforms reinforce the impunity for these offenders even greater. Furthermore, the administrators of justice in Colombia, members of the Fiscalía human rights unit, employees of the related Technical Investigation Body, trial lawyers and public defenders, are regularly victims of threats and harassment. They have been threatened, physically attacked and some have been murdered because of their work which deals with sensitive cases of violations of human

22 In May 2002, 26 natives were assassinated. After extreme pressure from public opinion, Mexican authorities arrested at least 26 members of neighbouring communities. Some of these say they were forced to confess and that they were tortured.

23 See Compilation of cases below.

24 *Idem*.

25 Joint Report by the Observatory and Avocats sans Frontières/France, following an international mission of inquiry, *Colombia...*, *op.cit.*

THE SITUATION OF HUMAN RIGHTS DEFENDERS

rights, including those committed by private groups and members of the police. A number of them have had to abandon their work and have chosen exile because of the threats; no effective protection measures have been implemented by the Colombian government, despite repeated demands from the Inter-American Commission on Human Rights.

In *Mexico*, a number of disturbing blows have undermined efforts to promote human rights, e.g. the dismissal of the Under-Secretary of State on Human Rights, Mariclaire Acosta, a decision by the Minister of Foreign Affairs, Luis Ernesto Derbez, and the lack of progress made by the special prosecutor appointed to investigate violations of human rights committed under previous governments; these examples show the degree of difficulty human rights defenders face up in their struggle.

In *Venezuela*, members of the Committee for Families of Victims (Comité de Familiares de Víctimas del 27 de Febrero, COFAVIC) are encountering more and more threats and intimidation, showing that the Venezuelan authorities have not enforced the protective measures as required by the Inter-American Commission on Human Rights.

In *Guatemala*, on 13th March 2003, the government, the ombudsman for human rights and a large number of organisations from civil society agreed to set up a Commission to investigate illegal groups and clandestine security systems (Comisión de Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad, CICIACS). The Commission will have three commissioners, one appointed by the Guatemalan government, another by the UN and the third by the OAS, and will investigate illegal armed groups and clandestine security system operating within the country, focusing special attention on human rights defenders, judges, witnesses and other representatives of civil society. The commission offers hope for civil society, but is still only a plan. The UN, after a recent mission to assess the project, has not yet stated its position as to whether and how it will be involved.

2003 did see certain advances in the fight against impunity, in particular in Argentina, Peru and Brazil.

In *Argentina*, President Nestor Kirchner succeeded in having the Chamber of Deputies vote the cancellation of the «Final Point» and «Due Obedience» laws; and this is a key step in the fight against impunity, so that those responsible for war crimes and crimes against humanity will finally be brought to trial and judged.

AMERICAS

In *Peru*, the report by the Truth and Reconciliation Commission published on 28th August 2003, which was a major turning point on the road to truth and peace for the country, has been a victory for human rights defenders. But it will only be a total victory once the mechanisms required to implement the recommendations of the commission have been set up.

In *Brazil* in May 2003, two large landowners were found guilty by a people's jury and sentenced to 19 years and 10 months for the contract killing of João Canuto de Oliveira, president of the farm workers' union in Rio Maria, in the state of Pará, and defender of land rights, who was assassinated on December 18th, 1985²⁶. However, despite the tough sentence, these two large landowners have been left free, under the terms of the «Fleury» law, passed on 22nd November 1973. The trial, which would never have been held without the perseverance and tenacity of the defence lawyers of the farmers and the Brazilian associations, is still one small step towards the fight against impunity, which prevails in the country.

Mobilisation for Regional and International Protection of Human Rights Defenders

Civil Society

On 31st March 2003, the Martin Ennals Award for Human Rights Defenders²⁷ was awarded to Mr. Alirio Uribe Muñoz, president of the «Jose Alvear Restrepo» Lawyers' Collective (Colectivo de Abogados «Jose Alvear Restrepo») in Colombia.

At a regional level, the third Latin American consultation for human rights defenders is scheduled for 2004. Previous consultations were held in Mexico in June 2001²⁸ and Guatemala in July, 2002²⁹; they were an

²⁶ Report of the mission of judicial observation of the Observatory in May 2003, *Landless people and their Defenders in the State of Pará*, May 2003.

²⁷ The prize is awarded by a jury made up of the main international NGOs, including OMCT, FIDH, SIDH, HRW, AI and CIJ.

²⁸ The first consultation was organised by the non-governmental *ad hoc* committee for the protection of human rights defenders (Colombia), the national network of civil human rights organisations «All human rights for all» (Mexico), the International Service for Human Rights and Amnesty International.

²⁹ The second consultation was organised by the non-governmental ➡

THE SITUATION OF HUMAN RIGHTS DEFENDERS

opportunity for a dynamic exchange of views between defenders in the Americas, analysing the challenges and dangers they have to deal with, as well as deciding on strategies to be implemented in partnership with both the Special Unit on defenders set up by the IACHR in late 2001 and the regional representative of the UN High Commissioner for Human Rights in Latin America and the Caribbean³⁰. The Observatory is part of the committee in charge of following-up on the previous consultations and preparing the consultation for 2004.

International Bodies

At the session of the UN Commission on Human Rights held in Geneva from 17th March to 25th April 2003, the Special Representative of the UN Secretary General on Human Rights Defenders presented her report on the mission she had carried out in Guatemala from 27th May to 1st June 2002. The Regional representative of the UN High Commissioner for Human Rights in Latin America and the Caribbean, Roberto Garetón, entered the case of human rights defenders as a key point on his agenda.

More than half the complaints covered by the Committee on Freedom of Association of the International Labour Organisation (ILO) are lodged against Latin American governments charged with violations of trade union rights. Guatemala, Cuba, Venezuela and Colombia were singled out for special study at the annual conference of the ILO by the Committee on the Application of Standards. The conference called on the governments of Cuba, Guatemala and Venezuela to agree to missions where the ILO would have direct contact, for the purpose of helping these countries deal with serious violations of trade union rights. The government of Colombia was urged to take all necessary measures

⇒ 29 *ad hoc* committee for the protection of human rights defenders (Colombia), the national human rights movement (Guatemala), the national network of civil human rights organisations «All human rights for all» (Mexico), the International Service for Human Rights and Amnesty International. The Observatory took part in the meeting.

30 The Observatory is part of the committee in charge of following-up on the previous consultations and preparing the third consultation. It is primarily responsible for coordinating and sending information to regional and international parties.

AMERICAS

to put an end to insecurity: the proposal to send a mission of inquiry or to draw up a «special paragraph» on this was rejected.

At the 118th session of the IACHR, the Commission expressed concerns on the situation of human rights defenders in this part of the world. It took special note of the fact that since the previous session, «many such defenders have been assassinated, while others have been subject to constant threats and harassment in the conduct of their job³¹».

The situation of human rights defenders, and more generally, the situation of every person exercising his or her civil and political rights, has been the subject of close study for the IACHR, and especially in Colombia, Guatemala, Haiti and Cuba. For Colombia, heading the list of IACHR concerns, the Commission was disturbed to note reports of violence and harassment targeting defenders, trade unionists, social leaders and journalists. The IACHR also noted that Cuba was the only country in the Americas that «does not have a democratic form of government» and that the Cuban state «continues to pursue a repressive policy, particularly against groups or individuals seeking to exercise their political rights³²».

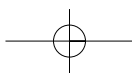
In a statement released on 9th December 2003, concerning student demonstrations in Port-au-Prince on 5th December, the Commission recalled that all Haitians had the right «to full and free exercise of their right to freedom of expression and the right of assembly, in a non-violent fashion in accordance with the law and the Inter-American norms for the protection of human rights³³».

The Observatory applauds the establishment of the Special Unit on Defenders set up within the IACHR in December 2001, but is disappointed to note that thus far no reports have been released nor missions conducted. The report drawn up by the Unit is scheduled for publication in 2004, after approval by the Annual General Assembly.

31 IACHR release n° 30/03, § 10.

32 *Ibid.*, § 19.

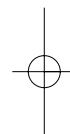
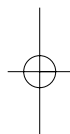
33 IACHR release n° 33/03.



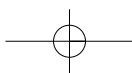
THE SITUATION OF HUMAN RIGHTS DEFENDERS

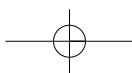
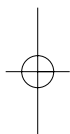
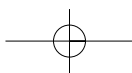
European Union

The European Parliament has addressed the question of human rights defenders in two resolutions on Cuba. The European Parliament thus called attention to «the numerous arrests, imprisonments and severe sentences after summary trials affecting more than 70 dissidents and human rights activists, as well as the resumed use of the death penalty³⁴».



³⁴ Resolution, European Parliament on Cuba, P5_TA-PROV(2003)0374.





HUMAN RIGHTS DEFENDERS HARASSED

BOLIVIA

Aggression against CEJIS members³⁵

On 13th March 2003, Mr. **Cliver Rocha**, lawyer in charge of the Regional Unit of the Centre for Legal Studies and Social Research (CEJIS, Centro de Estudios Jurídicos e Investigación Social) in Riberalta and Director of the Indigenous Union of the Amazonian region of Bolivia (CIRABO, Central Indígena de la Región Amazonica de Bolivia) was assaulted as he was leaving the Riberalta court. He was savagely beaten and threatened with death by Alex Ribert Rejas, a landowner, following a hearing opposing the Ribert Rejas family to the «Esperanza» community of the Tacana indigenous people. He managed to escape with the help of his sister. The CEJIS lodged a complaint on the basis of the certificate drawn up by the Criminal Investigation Department's (PTJ, Policia Tecnica Judicial) attending physician and was also to file a complaint with the Public Prosecutor, the Human Rights Permanent Assembly and the department of the Ombudsman. At the end of 2003, the trial is ongoing.

On 25th September 2003, Mr. **Cesar Blanco**, lawyer for the CEJIS, was also assaulted by Mr. José El Hage, a member of a family of contract

³⁵ See Urgent Appeal BOL 001/0303/OBS 014 and Annual Reports 2001 and 2002.

AMERICAS

killers from the region, simply because he had been involved in a trial initiated by the community of independent people of the Earth from Origen Monte Verde, versus his brother Mr. Alberto El Hage. Mr. Blanco lodged a complaint. At the end of 2003, the case is pending.

On 12th November 2003, about 3 p.m., some 150 individuals burst into the regional office of the CEJIS in Trinidad. The assailants were looking for Mr. **Javier Aramayo**, regional director of the CEJIS, so as to attack him physically. These facts have also been included in a complaint submitted to the Department of the Public Prosecutor which, at the end of 2003, is being processed.

CEJIS lawyers and members are constantly being subjected to threats and assaults because they offer legal support to the recognition of the land rights of indigenous people and the authorities fail to take the necessary measures to punish those responsible for these acts. Mr. **Leonardo Tamburini** is a case in point. He is a CEJIS lawyer and a defender of Chiquitanos indigenous rights, and survived an attempted assassination in 2001 and was further subject to grave threats in 2002; the perpetrators have not been prosecuted.

Break in and burglary of the APDHB offices³⁶

On 19th October 2003, unidentified individuals got into the offices of the Human Rights Permanent Assembly of Bolivia (APDHB, Asamblea Permanente de Derechos Humanos de Bolivia) in La Paz and stole video cassettes, a DVD, a VHS player, and a portable computer. Apparently, these intruders attempted to copy the data on the APDHB's computer hard disks. The APDHB lodged a complaint with the Criminal Investigation Department (PTJ, Policia Tecnica Judicial) in Bolivia. It would seem that this theft relates to the work performed by the APDHB in the difficult circumstances Bolivia experienced in September 2003. From 15th September 2003 and into October 2003, social protests took place throughout the country to expose the gas export arrangements. These demonstrations were brutally crushed by the police, leading to a large number of casualties. The APDHB worked

³⁶ See Urgent Appeal BOL 002/1003/0BS 054.

HUMAN RIGHTS DEFENDERS HARASSED

especially hard to ensure a negotiated solution to the conflict and to report grave violations of human rights. In particular, they held important information on violations perpetrated by the police during the crack down on social unrest.

BRAZIL

Intimidation of members of the Global Justice Centre³⁷

On 11th January 2003, returning from a mission to collect information on summary executions carried out in the State of Paraíba, the research workers of the **Global Justice Centre** (Centro Justiça Global) found that the flat in which they had been staying had been broken into. Two portable computers as well as research documents had been stolen. Other more valuable goods like a computer, a television set and other office equipment was not taken.

The next day, 12th January 2003, two members of the Centre were making a call from a telephone box when they noticed two suspicious men in a vehicle parked opposite them. Frightened, they fled and the vehicle sped away. In the face of such acts of intimidation, the Global Justice Centre lodged a complaint with Dr. Nilmaria Miranda, Human Rights Secretary of the State of Paraíba. He appealed to the government to set up an enquiry into the facts immediately. At the end of 2003, the enquiry had given no results.

These acts of intimidation seem to be linked to enquiries undertaken by the Centre on acts carried out by armed groups in the State of Paraíba, within the framework of a Global Justice general project on summary executions in Brazil. Violent acts against the civil population have increased in the State of Paraíba and the organizations fighting for the conviction of the perpetrators of these violations are particularly exposed to acts of intimidation aimed at deterring them from continuing their enquiries. The Global Justice Centre had already received

³⁷ See Urgent Appeal BRA 001/0103/0BS 002.

AMERICAS

threats several times because of its work of exposing human rights violations. Hence, on 23rd September 2002, the Inter-American Commission on Human Rights (IACHR) had taken measures to protect members of the Global Justice Centre and the member of parliament for the State of Paraíba, Mr. Luis Albuquerque Couto, Itambé municipal councillor, Mr. Manoel Becerra de Mattos and the Prosecutor, Mrs. Rosemary Souto Mayor de Almeida. They had all reported violent acts perpetrated by armed groups in the States of Pernambuco and Paraíba to the Parliamentary enquiry commission on narcotics trafficking.

The trial of those behind the assassination of Mr. João Canuto de Oliveira³⁸

On 22nd and 23rd May 2003, the trial of two large-land owners, Mr. Adilson Carvalho Larandeira, former mayor of Rio Maria, and Mr. Vantuir Gonçalves de Paula, charged with having ordered the assassination of Mr. **João Canuto de Oliveira** took place. The latter, chairman of the Trade Union of Rio Maria rural workers, State of Pará, and defender of land rights, was assassinated on 18th December 1985. The «Canuto» case is symbolic of the predicament of human rights defenders who are struggling for the cause of peasants in this region of Brazil and who are constantly subject to threats, harassment and violence. In this context, the Observatory sent a judicial observation mission charged with verifying the trial proceedings which attracted great public support. The hearings complied with Brazilian procedural rules and went on without incident. Nonetheless the observers reported restrictions in public access to the court room, especially since hundreds of people had travelled to the capital of the State of Pará to attend the hearings. Some of them had come from 800 kilometres away. The two defendants were sentenced to 19 years and 10 months in prison. However, the judge released them pending possible appeals, invoking the fact that they were first time offenders pursuant to the «Fleury» Act (22nd November 1973). In accordance with the Act, a convicted person

38 See Press Release of 30th May 2003 and the report of the Observatory's judicial observation mission *Landless people and their defenders in the State of Pará*, May 2003

HUMAN RIGHTS DEFENDERS HARASSED

who is a first offender may remain free pending appeals. As of the end of December 2003, the appeal was before the appeal judge, Mrs. Albania Lobato Bermerguy, who will hand down a ruling.

The enquiry and the judicial investigation process have lasted for 18 years and have been marked by the disappearance of witnesses, the absconding of persons to be questioned in the enquiry and repeated delays in the procedure. These incidents have been condemned by the Inter-American Commission on Human Rights (IACHR). Assassination of trade union leaders and peasants has gone on ever since and there have been some 400 deaths, including Mr. João Canuto.

The Observatory noted with satisfaction that the peoples jury declared the defendants guilty without a shadow of a doubt. However, it expresses its concern at the decision to release the convicted men despite the seriousness of the offences and the length of the sentences, and the risk that they may abscond and new threats be made against some witnesses who are still at risk. Mr. Olinto Vieira enjoys permanent protection while Mr. Sebastiao Vieira has none and is under constant threat.

The position of people who defend the landless is precarious. Their lives are in jeopardy and they come under attacks aimed at discrediting them and bringing their action, which is carried out within a perfectly legal framework, into disrepute.

For instance, in June 2003, the offices of the Redenção Rural Workers Trade Union were ransacked, and important documents, containing inter alia, information on slavery in Brazil, were purloined. This attack took place several months after a similar burglary at the offices of the Landless Movement (MST, Movimento dos Sem Terra) in Marabá, when two computers containing many files were stolen. Furthermore, **Henri Burin des Rozières**, a lawyer, was subject to a slanderous campaign led by the sitting judge of Rio Maria, Roberto Cezar Oliveira Monteiro, because of his work in defence of the landless.

AMERICAS

COLOMBIA

Summary executions

Assassinations/attempted assassination of trade unionists³⁹

Attack on Mr. Alirio Rueda⁴⁰. On 12th January 2003, Mr. **Alirio Rueda**, chairman of the Oil Industry Workers Trade Union (USO) in Barrancabermeja, escaped gunfire shots when in a vehicle travelling from Bucaramanga to the oil port. At Patio Bonito, 80 kilometres from Barrancabermeja, paramilitaries had placed a roadblock but the occupiers of the vehicle decided not to stop. The paramilitaries fired at the vehicle but nobody was hurt.

Assassination of Mr. Juan Antonio Bohorquez Medina⁴¹. On 20th February 2003, on the road running between Alban and Bituima, in the department of Cundinamarca, the Trade Union leader of Bituima, Mr. **Juan Antonio Bohorquez Medina**, a member of the Union of the Federation of Teachers of Colombia (FECODE - CUT) was kidnapped. His body was found in the Alban jurisdiction where he worked.

Assault on Mr. Elber Alberto Granja⁴². On 20th February 2003, Mr. **Elber Alberto Granja**, former chairman of the SINTRAMUNICIPIO workers union and head of the Vives Action Council, in the department of Cauca, escaped from an assault when he was in his garden. An armed individual fired on him from the street, but a young person passing by disturbed him. Mr. Alberto Granja immediately lay on the ground and was able to escape unharmed.

Assassination of Mr. Marco Tulio Diaz⁴³. On 15th June 2003, Mr. **Marco Tulio Diaz**, former Chairman of the Workers Trade Union (USO) in Tibù and chairman of the National Association of Pensioners of the Colombian Oil Industry (ECOPETROL), was assassinated in his

39 Incomplete list of serious cases where Trade Union leaders were involved.

40 See Colombia Special Appeal December 2002-January 2003.

41 See Colombia Special Appeal February 2003.

42 See Colombia Special Appeal February 2003.

43 See Colombia Special Appeal June-November 2003.

HUMAN RIGHTS DEFENDERS HARASSED

mother's home. His brother was seriously wounded. Mr. Marco Tulio Diaz had worked for more than twenty years for ECOPETROL.

Assassination of Mr. Alberto Marquez⁴⁴. On 15th July 2003, Mr. **Alberto Marquez**, member and leader of the Tolima Agricultural Workers Union (SINTRAGRITOL) and of the Association of Indigenous Leaders of Tolima (ACIT) was assassinated along with his body-guard, Mr. Nelson Castiblanco, in Natagaima, by the Tolima paramilitary group. Mr. Alberto Marquez had received many death threats from paramilitary groups in the region which forced him to be constantly on the move with his family. He earned recognition for his work on behalf of the indigenous and peasant rural population.

Assassination of Mrs. Zuly Codina Pérez⁴⁵. On 12th November 2003, Mrs. **Zuly Esther Codina Perez**, national leader of the Health and Social Security Trade Union (SINDESS), was assassinated in Santa Marta, in the Magdalena department, on her way to her work at the Santa Maria Central Hospital.

Assassination of Mr. Carlos de la Rosa Elles⁴⁶. On 30th November 2003, Mr. **Carlos de la Rosa Elles**, treasurer of the Atlantic Transport Undertaking Workers Trade Union (SINTRAATLANTICO), affiliated to the CUT, was assassinated in Barranquilla. This assassination should be placed in the context of a conflict of recognition between the trade union and the Atlantic Transport Company.

Assassination of Mr. Severo Bastos⁴⁷. On 14th December 2003, Mr. **Severo Bastos**, former employee of the Colombian Institute for Agrarian Reform (INCORA), member of SINTRADIN, the trade union of the employees of said institute, Arauca section, of which he was the alternate representative, was assassinated by heavily armed hired assassins, in the town of Rosario, Norte de Santander, a place he had been living in for some time. The employees of this trade union are particularly under threat. On 16th November 2003; Mr. Mario Sierra, alternate treasurer of this trade union was assassinated. In 2002 and

44 *Idem.*

45 *Idem.*

46 *Idem.*

47 See Urgent Appeal COL 009/1203/OBS 069.

AMERICAS

2003, Messrs. **Rodrigo Gambos**, **Jairo Vera Arias** and **Mario Sierra Anaya**, directors of the SINTRADIN sector were also assassinated.

Assassination of representatives of civil society.

*Assassination of Mrs. Miryam Castano de Caldon*⁴⁸. On 24th January 2003, Mrs. **Miryam Castano de Caldon**, leader of the peasants' association «The Conquest» was assassinated in Cajibío, Cauca department. She was active in promoting human rights and had taken part in training courses organized in the region by Justice and Peace. After taking one of the children who lived in her house, three armed men got onto her plot of land and shot at her five times.

*Assassination of Mr. José Absalo Achury*⁴⁹. On 11th May 2003, after having received telephone threats related to his work as an attorney, Mr. **José Absalo Achury**, defender of political prisoners in Colombia left Bogotá for the estate of members of his family in Granada, in the Meta Department. He stayed there until 15th May 2003 practicing his profession. On 16th May, Mr. Absalo Achury went to a friend's house to attend a meeting. On returning home, he was approached by six men travelling in a van and on two motorbikes. After stabbing him several times, these men broke into his car and took it to the road that leads to San Martín. There was no news of Mr. José Absalo Achury, from the 16th, the day he disappeared, until 28th May when his body was found in the rural area of San Juan de Arama. His body bore traces of torture and of bullet wounds to the head. This case has been passed to the department of human rights in Bogotá and to the Villaviciencio Support Unit. As of the end of December 2003, the enquiry had produced no results.

*Assassination of Mr. Jairo Roberto Moncayo Pascuaza*⁵⁰. On 16th September 2003, Mr. **Jairo Roberto Moncayo Pascuaza**, leader of the student movement and member of the Permanent Committee for the Defence of Human Rights (CPDH, Comité Permanente de Defensa de Derechos Humanos) in Nariño, was assassinated in Pasto, by two men on a moped. Mr. Moncayo Pascuaza figured on the programme of the

48 See Colombia Special Appeal February 2003.

49 See Colombia Special Appeal May 2003.

50 See Colombia Special Appeal June-November 2003.

HUMAN RIGHTS DEFENDERS HARASSED

Ministry of the Interior for the protection of trade unionists, social leaders and human rights defenders. He worked with communities who had been forcibly displaced and took part in projects to strengthen and support human rights in particular in cooperation with the Vice-President of the Republic, Redepaz and the Ombudsman.

*Assassination of Mrs. Esperanza Amaris Miranda*⁵¹. On 16th October 2003, about 7.30 p.m., three armed paramilitaries in a public service vehicle arrived in front of Mrs. **Esperanza Amaris Miranda**'s domicile in the Versailles district. After having intimidated her, they forced her to get into the vehicle. Five minutes later she was shot down opposite the Camilo Torres Restrepo school and her body was thrown out onto the road. Mrs. Amaris Miranda was a member of the team of the Women's House of the Popular Women's Organization (OFP, Organización Femenina Popular) located in the Primero de Mayo district of Barrancabermeja. She had lodged a complaint with the judge's office concerning threats made against her by paramilitary groups. According to the information obtained in December 2003 on the enquiry, only the driver of the public service vehicle, in which Mrs. Amaris Miranda was abducted, has been arrested. Furthermore, following threats directed at Mrs. Amaris Miranda's family, her children have been moved to another region. The OFP informed the judge of these threats.

*Assassination of an indigenous leader*⁵². On 12th August 2003, Mr. **Reinaldo Perdomo**, a human rights defender from Ariari and a community leader in the region, was assassinated by an armed man who shot him three times in the head. Mr. Perdomo had been displaced since 2002 because of military action in Ariari.

51 See Urgent Appeal COL 006/1003/OBS 053.

52 See Colombia Special Appeal June-November 2003 and Open Letter to President Alvaro Uribe of 2nd September 2003.

AMERICAS

Arbitrary Detentions*Arbitrary detentions of trade unionists*

*Arbitrary detention of Mr. Policarpo Camacho and Mrs. Gloria Holguin*⁵³. On 8th January 2003, Mr. **Policarpo Camacho** and Mrs. **Gloria Holguin**, leaders of the Agricultural and Animal Rearing Unitary Trade Union Federation (FENSUAGRO), were detained in Calacará, Quindío department, after their flat had been searched. In the course of the search, copies of the weekly newspaper VOZ, trade union newsletters and other documents related to their trade union work were stolen. Since then they have been in custody in the Armenia district.

*Arbitrary detention of Mr. Hernando Hernandez*⁵⁴. On January 15th 2003, the office of the judge general of the Nation issued an arrest warrant for suspected links with the guerrilla for Mr. **Hernando Hernandez**, International Affairs Secretary of the Workers Trade Unions (USO).

*Arbitrary detention of Mr. Hermes Vallejo Jiménez*⁵⁵. On 12th August 2003, Mr. **Hermes Vallejo Jiménez**, a member of the Association of small and medium sized Tolima farmers (ASOPEMA), was arrested in Bogotá. As of the end of December 2003, Mr. Vallejo Jiménez is being held in Picalena de Ibagué prison.

*Arbitrary detention of leaders and members of FENSUAGRO*⁵⁶. On 17th August 2003, several members and leaders of the Trade Union Federation FENSUAGRO were arrested in Chalán, Colosó and Ovejas in the department of Sucre during an operation conducted jointly by the police, the marine infantry and the judge's office which involved arresting 156 people.

*Arbitrary detention of several trade unionists*⁵⁷. On 21st August 2003, during a military operation, hundreds of soldiers and police officers from the Administrative Security Department (DAS) and the Public

53 See Colombia Special Appeal December 2002-January 2003.

54 *Idem*.

55 See Colombia Special Appeal June-November 2003 and Open Letter to President Alvaro Uribe of 2nd September 2003.

56 *Idem*.

57 *Idem*.

HUMAN RIGHTS DEFENDERS HARASSED

Prosecutor, accompanied by masked individuals, entered dozens of houses in Saravena (Arauca), and proceeded to detain 42 persons, 28 of whom were still in prison on 27th August. At least 16 human rights defenders, reporters and leaders of social movements were arrested including: Mr. **José Murillo Tobo**, Chairman of the «Joel Sierra» Human Rights Regional Committee in Arauca⁵⁸; Mr. **Alonso Campino Bedoya**, leader of the Central United Organisation of Colombian Workers (CUT), Arauca section and member of the «Joel Sierra» Human Rights Regional Committee. Both were entitled to protection under the measures adopted by the Inter-American Human Rights Commission; Mr. **Willian Jiménez**, leader of the Public Workers Union of the district (SIDEM); Mrs. **Blanca Segura**, Chairman of the National Trade Union of Education Workers (SINTRENAL) and Mr. **Jairo Machado Durán**, chairman of the Community Action Council of the Libertadores de Saravena district.

*Arbitrary detention of Mrs. Amparo Arciniegas*⁵⁹. On 24th August 2003, Mrs. **Amparo Arciniegas**, secretary general of the Tolima section of the Agricultural Workers Trade Unions (SINTRAGRICOL) was detained in the Tolima department, during a military operation which took place in the Coello, Cajamarca and Anaimé districts when 58 persons were arrested including a number of social and trade union leaders.

*Arbitrary detention of Mr. Rudy Robles Rivero*⁶⁰. On 14th October 2003, Mr. **Rudy Robles Rivero**, secretary general of the Agricultural Workers Union (SINDEAGRICULTORES) was arbitrarily detained in Colosó, department of Sucre. In December 2003, he was still in the Vega prison, in Sincelejo, in Sucre. On 15th September 2002, Mr. Robles had already been arrested by the army in the department of Sucre, in the Chalán municipality⁶¹. Furthermore, on 23rd October 2003, Mrs. **Yorman Rodriguez**, wife of Mr. Rudy Robles Rivero, was stopped and questioned by the police between Tolú Viejo and Colosó. During lengthy questioning, the police officers attempted to sexually abuse her, and physi-

58 See below.

59 See Colombia Special Appeal June-November 2003.

60 *Idem*.

61 See Annual Report 2002.

AMERICAS

cally and psychologically ill-treated her and insisted that she «cooperate with the authorities». They kept the mobile phone she had on her and which had been given to her husband Mr. Ruddy Robles Rivero, under the Ministry of the Interior protection programme for social leaders. On 28th July 2003, Mr. Rudy Robles had read a report on the human rights situation in the Montes de María region in front of the «verification commission» composed of non-governmental organizations, Government and United Nations representatives.

*Arbitrary detention of Mr. Eduardo Hernández Cabrera*⁶². On 14th October 2003, Mr. **Eduardo Hernández Cabrera**, trade union leader of public enterprises in the Espinal district of the department of Tolima, disappeared. Mr. Eduardo Hernández Cabrera was approached by strangers who were apparently members of the Unified Action Group for Personal Freedom (GAULA), composed of Administrative Security Department (DAS) agents, of the Technical Enquiry Corps (CTI), the judge's office and the military forces to prevent and fight kidnappings. In November 2003, it was established that he was being held at the Ibagué prison. The same day, in Villavicencio, in the department of Meta, his sister, Mrs. **Rocío del Pilar Hernández Cabrera** was also detained.

Arbitrary detentions and accusations against members of civil society

*Arbitrary detention of the chair of the CPDH, Arauca section*⁶³. On 3rd March 2003, Mrs. **Teresa Cedeño Galíndez**, chairperson of the Permanent Committee for the Defence of Human rights (CPDH, Comité Permanente de Defensa de Derechos Humanos) and member of the «Eduardo Umaña Mendoza» National Association of Attorney Defenders was arrested in Bogotá and subjected to inhuman and degrading treatment by members of the national police force. The national police issued an arrest warrant against her based on the «state of emergency» clauses enshrined in the new police code, whereby a person may be detained for 24 hours. Mrs. Cedeño had protested against acts carried

⁶² See Colombia Special Appeal June-November 2003.

⁶³ See Colombia Special Appeal March-April 2003 and Urgent Appeal COL 002/0803/OBS 037.

HUMAN RIGHTS DEFENDERS HARASSED

out by the national police which fall within the powers of the Technical Enquiry Corps (CTI).

On 4th March 2003, Mrs. Cedeño was released after strong pressure from members of her family, human rights organizations, civil servants from the Vice Presidency of the national police, the United Nations and other bodies. On 30th July 2003, Mrs. Cedeño was again arrested in Bogotá and charged with «procedural fraud».

Up to 1st August 2003, the defence had not been informed of the precise charges being pressed against the lawyer, nor the facts which gave rise to the charges. Several hours before her arrest, Mrs. Cedeño had gone to the Ministry of Foreign Affairs to make a speech before representatives of the Colombian State in charge of implementing protection measures. In her address, she had denounced the persecution of lawyers defending human rights in the department of Arauca by members of the Support Unit of the judge of the Nation's office, military commands and security bodies.

On 1st August 2003, the lawyer was taken into hospital. On 2nd August, she was transferred to the «El buen pastor» national women's prison. On 6th August 2003, the judge's office issued confirmation of the charges against Mrs. Cedeño and ruled that she could be released on bail on 8th August. As of the end of 2003, Mrs. Cedeño's case is pending.

On 29th October 2002, the Inter-American Commission on Human Rights (IACHR) had decided to grant Mrs. Cedeño protection measures, in the light of the constant threats which she had been subjected to by the paramilitaries in her region who accuse her of defending guerrilleros.

*Arbitrary detentions of an OZIP leader*⁶⁴. On 26th September 2003, during a highly mediatized military operation, Mr. **Arcadio Mutumbajoy**, Vice-chairman of the Indigenous Organization of the Putamayo Area (OZIP, Organización Zonal Indígena de Putamayo) and 18 other indigenous people and peasants, accused of being members of the guerrilla forces (FARC, Fuerzas Armadas Revolucionarias de Colombia), were arrested. Before he was detained, Mr. Arcadio Mutumbajoy had learned that he was on the list of persons charged, and hence he decided to immediately report to the judge's office in Mocoa,

64 See Colombia Special Appeal June-November 2003.

AMERICAS

where he received assurances that no procedure had been instigated against him. Previously, Mr. Mutumbajoy had been threatened by the FARC who had accused him of being a military informer.

*Arbitrary detention of members of the «Joel Sierra» Human Rights Regional Committee's Foundation and other defenders*⁶⁵. On 21st August 2003, in the framework of a military's operation during which dozens of inhabited houses in the Saravena municipality were «burgled» by some army members, members of the police of the Security Administrative Department (DAS), and of the «Public Prosecutor's Office», Mr. **José Murillo Tobo**, Chairman of the «Joel Sierra» Human Rights Regional Committee's Foundation was, among others, detained. Mr. Murillo is entitled to protection under the Inter-American Commission on Human Rights (IACHR).

In another raid, on 12nd December 2003, around 5.30 p.m. several police officers entered the «Joel Sierra» Human Rights Regional Committee's Foundation and other social organizations to carry out what they termed an «optional search» at the time a workshop on human rights within the framework of the Training School, sponsored by the «José Alvear Restrepo» Lawyers Collective was underway. Those present reportedly refused to give access to the police as they had no search warrant.

Later, around 7 p.m. an undetermined number of policemen led by Captain Buitrago returned to the building and entered the premises without a warrant, but under the pretext that they had spotted some riots coming from the Foundation building to the Police station nearby. Alleging in *fragante delicto* they immediately arrested everyone present. Amongst the prisoners was Mr. **Yilson Torres**, Chairman of the «Joel Sierra» Human Rights Regional Committee's Foundation and Mr. **Isnaldo González**, the Vice President of the same Committee and Mr. **Andrés Rivera**, an assistant to the Lawyers' Collective pedagogical team; Mssrs **Beimar Martínez**, **Emmanuel Riveros**, **Arnulto Duarte**, **Luis Parmenio González**, members of various sections of the «Joel Sierra» Foundation.

During the detention period, Captain Buitrago adopted a threatening and offensive attitude towards all the people held, in particular to

65 See Colombia Special Appeal June - November 2003, Open Letter to President Alvaro Uribe of 2nd September 2003 and Urgent Appeal 009/1203/OBS 069.

HUMAN RIGHTS DEFENDERS HARASSED

the co-ordinator of the pedagogical team and lawyer of the Group. He demanded her identity papers and then copied the details saying that «it was to keep him informed» and added that «this was the way he treated those who defended that kind of cause and that previous evidence existed against the organization».

Later, the prisoners were transferred to the Saravena police station, where until 10 p.m. the same day they were denied their right to legal assistance, even though a defence lawyer was pressing for an interview. Eventually, at 11.30 p.m., all the prisoners were allegedly released.

*Accusations against members of the Justice and Peace Commission*⁶⁶. On 21st August 2003, the general commandant of the military armed forces, Mr. Jorge Enrique Mora Rangel, called a press conference during which he accused the members of the Justice and Peace Commission (CJP, Comisión Justicia y Paz) of a breach of trust and the setting up of illegal groups, qualifying the Cacarica communities «FARC concentration camps administrated by an NGO called Justice and Peace». Subsequently, it was found that there were four criminal proceedings against the CJP, including two for the crime of rebellion, one for setting-up terrorist groups and another for breach of trust.

These complaints listed 15 members of the Cacarica Community Coordination and 5 members of Justice and Peace: Messrs. **Danilo Rueda, Daniel Vásquez, Ana Marià Lozano, Enrique Chimonja** and **Abilio Pena**. At the end of 2003, the persons named were freed. However, it is feared that they may be the victims of attacks given the grave accusations made against them. These proceedings rest solely on unsubstantiated evidence. Some of the witnesses involved have admitted receiving money for their testimonies.

The CJP was subject to legal proceedings in 1997 and 1999 for the presumed offence of libel and slander. Similarly, the headquarters of the CJP in Bogotá was searched in 1998. Its members received death threats on several occasions and one of them, Mr. Danilo Rueda, was followed and escaped abduction in 2002⁶⁷.

These threats and accusations may well be linked to the large volu-

⁶⁶ See Urgent Appeal COL 004/0903/OBS 046 and Annual Report 2002.

⁶⁷ See Annual Report 2002.

AMERICAS

me of legal work done by the CJP in the region. Indeed, the CJP is involved in the trial of the Maderas del Darién firm which is accused of illegal exploitation of natural resources in the Cacarica river basin, and has entered a claim for damages in a number of trials against military men presumed responsible for grave violations of human rights, like General Rito Alejo de Rio. As regards the first case, the Constitutional Court, in its ruling T-955/2003 of December 2003, ruled that the rights to diversity, cultural identity, property, participation and subsistence of the black communities of Caracarica are mandatory.

General Mora Rangel's statements were taken up in the press and through various media they contributed in stigmatising and discrediting the CJP both nationally and internationally. It is important to underline that an article which appeared in the American newspaper *The Wall Street Journal*, dated 14th November 2003, accuses members of the CJP of collaborating with the FARC.

The Justice and Peace Commission which works on the self-determination Communities project, life and dignity (CAVIDA, Comunidades de Autodeterminación Vida y Dignidad), is composed of religious people from the Catholic and other churches and lay missionaries. That NGO provides a presence and ongoing support to the communities of long displaced persons who live in the Cacarica area, in particular in the camps known as «God's Hope» and «New Life»⁶⁸.

Since 13th May 2003, the XVII Army Brigade has been undertaking a military operation to terrorize members of the «God's Hope» area and has already begun proceedings against their members without the latter having any defence rights. As part of this campaign, the military pressurizes the inhabitants of Turbo, Riosucio and Cacarica and offers rewards to those who testify against the Justice and Peace Commission.

68 The inhabitants of the camps were brutally removed from their lands in February 1997, during the «Genesis» operation led by the XVII Army Brigade, commanded by General Rito Alejo del Rio and supported by armed civilians (paramilitaries). This operation led to the exile to Panama, deportation to Bahía Cupica and the assassination and disappearance of more than 85 members of the communities.

Threats/Harassment/Assaults

Threats against trade unionists

Threats/Harassment against the CUT

Occupation of the offices of the CUT⁶⁹ and threats against the leaders of the CUT in Cali⁷⁰. On 10th January 2003, the officers of the Administrative Security Department (DAS) and of the Department of the Public Prosecutor occupied the offices of the Central United Organisation of Colombian Workers (CUT) in Cali.

On 12th March 2003, at a public hearing in Cali on impunity and failure to dismantle municipal enterprises of Cali (EMCALI, Empresas Municipales de Cali), department of the Cauca Valley, members of Brigade III disarmed the body-guards of the trade union leaders present and immobilized their vehicles. Without any explanation, a number of them were thus left unprotected like Mr. **Otoniel Ramírez**, chairman of the sub-department of the CUT in the region and Mr. **Ariel Díaz**, an official of the same entity and in charge of human rights. The military said that they were obeying orders from superiors and that the State authorities have never provided any explanation as to this behaviour.

Insecure position of Mr. Domingo Tovar Arrieta⁷¹ and threats against the National Executive Committee of the CUT⁷². On 28th February 2003, in a letter addressed to the State authorities, Mr. **Domingo Tova Arrieta**, a member of the National Executive Committee of the CUT and Director of the Human Rights Department who enjoyed the protection measures issued by the Inter-American Commission on Human Rights (IACHR), reported the shortcomings of the Ministry of the Interior's Protection Programme for Trade Union Leaders and Human Rights Defenders. As a sign of protest and so as to make the Colombian State responsible for what might happen to him, he announced that he was returning the bullet-proof vehicle and foregoing the body-guards.

Because of his high risk situation, Mr. Tovar had been provided with a bullet-proof car and four armed bodyguards but the transport manager

69 See Colombia Special Appeal December 2002-January 2003.

70 See Colombia Special Appeal March-April 2003.

71 See Colombia Special Appeal February 2003 and June-November 2003.

72 See Colombia Special Appeal March-April 2003.

AMERICAS

of the Administrative Security Department (DAS) had notified him that he would no longer be supplied with fuel for the vehicle which was supposed to protect him.

On 30th October 2003, Mr. Tovar Arrieta received an anonymous call telling him he would pay for the «loss of the referendum» with his life⁷³. He had indeed taken a very active part in the active abstention campaign in the 26th October 2003 referendum.

On 29th April 2003, the CUT received an e-mail which threatened the National Executive Committee signed «Honest Colombian politicians». This mail was probably prompted by CUT's work to defend and protect its members whose lives are under threat.

Death threats against members of the USO⁷⁴

On 6th May 2003, the Workers' Trade Unions (USO) received an e-mail signed by paramilitary leader Mr. Carlos Castaño, which accused the Union leaders of having links with subversive organizations and declaring that they were a military target. This threat included the leaders' children.

On 15th August 2003, the USO workers found at the headquarters of the Organization in Barrancabermeja a letter of condolence referring to Messrs. **Mauricio Alvarez, Victor Jaimes, Juvencio Seija** and **Elkin Menco** which contained the following message: «M.D.U. the armed Group M.D.U. (death to the USO leaders), confident of the decision taken after having carefully studied the USO leaders has ordered the killing of the first martyrs on our list: Messrs. Mauricio Alvarez, Victor Jaimes, Juvencio Seija and Elkin Menco. 14th August 2003».

These threats were made during the negotiation of the collective agreement submitted by the USO Union to the Colombian Public Oil Undertaking (ECOPETROL) which gave rise to the militarisation of the Cartagena and Barracabermeja refineries.

Harassment of members of the SINALTRAINAL

Accusations against members of SINALTRAINAL⁷⁵. On 6th August 2003, the prosecutor of section 61 charged Messrs. **Luis Javier Correa Suárez**,

⁷³ See Regional analysis.

⁷⁴ See Colombia Special Appeal May 2003 and Urgent Appeal COL 003/0803/OBS 040.

⁷⁵ See Colombia Special Appeal June-November 2003.

Jorge Humberto Leal, Juan Carlos Galvis, Luis Eduardo García, Alvaro González, José Domingo Flórez and Edgar Alberto Páez Melo, leading members of the National Food Industry Trade Union (SINALTRAINAL) with slander and libel. The ruling was made following a complaint lodged by PANAMCO Colombia S.A. and by the Santander bottling plant (which bottles Coca Cola in Colombia).

*Attempted assassination and threats against Mr. Juan Carlos Galvis and assassination of a member of his family*⁷⁶. On 22nd August 2003, Mr. **Juan Carlos Galvis**, chairman of the CUT in Barrancabermeja and Vice chairman of SINALTRAINAL, was the victim of an attempted assassination as he left the headquarters of his trade union at Barrancabermeja. Individuals aimed their guns at the Ministry of the Interior's protected vehicle in which Mr. Galvis was travelling and forced it to stop. The body-guards showed their official papers with details of their registration with the Administrative Security Department (DAS). Despite that, these individuals opened fire before escaping.

On 25th August 2003, the Communist party adviser, Mr. David Ravelo Crespo received an anonymous death threat call and was informed that while Mr. Galvis had got away this time, next time he would not escape.

Recently, on 4th November 2003, Mr. Galvis received a number of telephone calls at his domicile. The Inter-American Commission on Human Rights adopted protection measures for Mr. Galvis.

On 3th December, about 9 p.m. in the Bosque de la Tira district of the town of Barrancabermeja, two unknown men arrived by foot at the domicile of Mr. **Jesús Rojas Castañeda**, the brother of Mrs. Jacqueline Rojas, Chairman of the Popular Women's Organization «OFP», partner of Mr. Juan Carlos Galvis, and member and militant of the Association of Municipal Educators (ASDEM). They asked for him and when he was on his way out they shot him dead in the presence of his partner. It would seem that this crime was related to a dispute between Panamco Colombia S.A., the Santander S.A Bottling plant (the Colombia Coca Cola bottling plant) and SINTRAINAL.

⁷⁶ See Colombia Special Appeal June-November 2003 and Open Letter to President Alvaro Uribe of 2nd September 2003.

AMERICAS

*Kidnapping and ill- treatment of the son of a SINALTRAINAL leader*⁷⁷. On 10th September 2003, at 1 p.m., **David José Carranza Calle**, aged 15, son of Mr. **Limberto Carranza**, director of SINALTRAINAL and an employee of Coca-Cola in Barranquilla (Department of Atlantico) was brutally approached by four unknown individuals wearing hoods on Boulevard Simón Bolívar (La Esmeralda shop) in Barranquilla. The four men forced David José Carranza Calle to get off his bicycle and forcibly threw him in a white van. They drove off, tortured and threatened him and demanded to know the whereabouts of his father, Mr. Limberto Carranza. At 4.30 p.m. the same day, they dumped him at Canón de la Ahuyama where he was found by a passer-by who took him to the police station.

At the time of the abduction, Mr. Limberto Carranza received a telephone call saying: «trade unionist, son of a bitch, we'll see you off and if not you, your house».

Subsequently, complaint number 2705 was lodged with the Department of the Public Prosecutor 16, Law 30/86 on public security, under number 166873.

*Harassment of Mr. José Onofre Esquivel Luna*⁷⁸. On 22nd October 2003, Mr. **José Onofre Esquivel Luna**, member of the Management Committee of SINALTRAINAL, Bulagrande section, was a victim of harassment. Two individuals driving a motorbike with no registration plates attended his domicile claiming to come from the judge's office.

On 28th October 2003, two individuals claiming to be officers from the metropolitan police of Santafé de Bogotá (SIPOL) came to his place of work and asked where he was. After checking with the judge's office, it was ascertained that no such order had been issued. Several days before the events, the name of Mr. Esquivel Luna had been included in a communiqué of the United Self-Defence Forces of Colombia (AUC, Autodefensa Unidas de Colombia) which designated him as a military target.

*Threats against Mr. Herberth Suarez*⁷⁹. On 30th October 2003, Mr. **Heberth Suarez**, Chairman of SINALTRAINAL, Cali section,

⁷⁷ See Urgent Appeal COL 005/0903/OBS 047.

⁷⁸ See Colombia Special Appeal June-November 2003

⁷⁹ *Idem*.

HUMAN RIGHTS DEFENDERS HARASSED

received threats by telephone with the following message: «Tell this son of a bitch trade unionist that we are going to kill him». Previously, Mr. Suarez had been subject to intimidation. In September 2003, an individual claiming to be a special agent sent from Bogotá by the government, had warned him saying that he should take great care in the town of Padrera because «it was full of paramilitaries».

Harassment of members of the SINTRAUNICOL

*Death threats against Mr. Alvaro Enrique Villamizar Mogollón*⁸⁰. On 25th February 2003, a communiqué from the United Self Defence Forces of Colombia (AUC) circulated in the Industrial University of Santander (UIS) in which several persons were designated as «military targets» included the Chairman of the University Employees Union of Colombia (SINTRAUNICOL) Sub-management Unit of Bucaramanga, Mr. **Alvaro Enrique Villamizar Mogollón**. In the same communiqué, the AUC also declared that student representatives were also military targets. **Mauricio Rivera** and **Juan Lozano**, members of the higher and academic councils of the University, Mrs. **Rosmerlin Estupinàn**, member of the Executive Committee of the Colombian Association of University Students (ACEU), as well as other students, Messrs. **Mauricio Pinto** and Príncipe **Gabriel González**.

*Abduction of Mrs. Bessy Pertuz*⁸¹. On 30th September 2003, as she was leaving the National University of Colombia in Bogotá and was walking towards a taxi, Mrs. **Bessy Pertuz**, vice chairperson of SINTRAUNICOL, was abducted. For two hours she was driven round the town and advised to cease all trade union activity. Finally, she was left in a southern district of the town. Her mobile phone and floppy disks containing information on the activities of the trade union were confiscated.

Furthermore, since 26th September 2003, Mrs. Bessy Pertuz had received several telephone calls at her office from persons who did not speak or hung up as soon as they heard her voice. Mrs. Pertuz is also part of a social support network to trade unionists and of the Human Rights Department of the CUT. She is also co-ordinator and creator of the Human rights teaching post at the Universities of the departments of Valle, Nacional, Atlántico and Fusagasugà.

⁸⁰ See Special Appeal February 2003.

⁸¹ See Colombia Special Appeal June-November 2003.

AMERICAS

*Threats against SINTRAUNICOL and other trade union organizations*⁸².

On 26th November 2003, the national headquarters of the SINTRAUNICOL in Bogotá, received a letter dated 11th November, containing threats against the following organizations: ANTHOC, USO, UNEB, SINDESENA and SINTRAUNICOL. The text which invokes «military action» asserts that this action will hit all those who have been detected and warned: Mr. **José Múnera**, Mr. **Antonio Flórez**, Mr. **Luis Otalvaro**, Mrs. **Elizabeth Montoya**, Mr. **Norberto Moreno**, Mrs. **Bessi Pertuz**, Mr. **Luis Ernesto Rodríguez**, M. **Alvaro Vélez**, Mr. **Mario Puerto**, Mr. **Alvaro Villamizar**, Mr. **Eduardo Camacho**, Mr. **Pedro Galeano**, Mrs. **Ana Milena Cobos**, Messrs **Carlos Gonzales** and **Alirel Diaz**».

Threats against Mr. Walfredo Santoya García⁸³

On 28th February 2003, the secretary of the trade union association of professors of the Popular University (ASPU, Asociación Sindical de Profesores de la Universidad Popular), received a call asking him to tell the professor and treasurer of the association Mr. **Walfredo Santoya García**, to leave the union and that his days were numbered.

These threats should be taken seriously because on 22nd October 2001, the former chairman of the association, Mr. **Miguel Angel Vargas Zapata** and professor **Luis José Mendoza Manjarrez**, member of the National Management Council were assassinated. Mrs. **Myriam Segura Molina**, chairperson ad interim was forced into exile because of constant threats.

Threats, searches and discredit of NGOs*Campaign to discredit the work of human rights organizations conducted by the Colombian authorities*⁸⁴

On 10th April 2003, during a conference which took place in Washington under the auspices of the U.S. Army, Brigadier General,

⁸² *Idem*.

⁸³ See Colombia Special Appeal February 2003.

⁸⁴ See Press releases of 12th September 2003 and of 2nd October 2003 and Colombia Special Appeal March-April 2003.

HUMAN RIGHTS DEFENDERS HARASSED

Mr. José Aruto Camelo, executive director of the department of military criminal justice accused human rights NGOs of waging a «legal war» against the military. He even asserted the NGOs were the friends of «subversion» and that they acted within the context of a strategy orchestrated by the guerrillas.

Similarly, the Colombian Ambassador to Portugal, Mr. Plinio Apuleyo Mendoza made on many occasions unsubstantiated claims against NGOs, and in particular against Human Rights Watch, the Colombian Jurists Commission and the «José Alvear Restrepo» Lawyers' Collective.

On 8th September 2003, during the Human Rights Week and on the occasion of the installation of the new commander of the air forces, President M. Alvaro Uribe placed human rights defence organizations in three categories: «theoretical» NGOs, «respectable» NGOs which deserve State protection and the «NGOs made up of writers and political schemers who in fact serve terrorism and who, in a cowardly fashion, hide behind the banner of human rights» and who thus should not qualify for State protection.

He went on to say that: «every time a security policy is put in place in Colombia to combat terrorism and that terrorists begin to feel weakened, they immediately send their spokesman forth to invoke human rights; They have no shame or limits. They publish books in Europe full of rumour and slander. They know that their only weapon is the slander they hypocritically conceal behind Human rights». «These individuals should realize that we are determined to fight against terrorism and its perpetrators and that one of our strategies aims to isolate the terrorists and that to that end we shall not waiver in arresting all those who become accomplices by commission or omissions». «When I began to combat terrorism as governor of my province (...) lawyers' groups, terrorist spokespersons, emerged either as such or in other guises. They were not combating terrorists, but only the will of the departmental government to put an end to their activities».

This address was made at a time when the President had come under severe criticism on his first year in office from the 80 NGOs which compose the «Colombian Development and Democracy Platform» in the book *Authoritarian Bewitchment* published on the same day as well as in a report issued by the UNDP (U.N. Development Programme).

It would seem that the President places these 80 NGOs in the third category of NGOs, «NGOs of writers and political schemers who in fact

AMERICAS

serve terrorism and in a cowardly fashion hide behind the banner of human rights» and are the spokespersons for the terrorists. President Alvaro Uribe Vélez ended his address by urging the new commander of the armed forces to ignore human rights in vanquishing terrorism: «General Lezmez: You have become the Commander of the armed forces to vanquish terrorism. Do not allow the human rights traffickers you detain deceive you. May all the Colombian armed forces aid our great Nation to rid itself once and for all of this nightmare».

On 30th September 2003, President Alvaro Uribe Vélez made an address to the General Assembly in New York in which he drew the same distinction between good and bad NGOs and claimed «the State's right to refute biased reports». For his part, the Minister of Defence announced in Washington that the State «intended to look into the activities of thousands of organizations operating in Colombia». In the context of the previous statements and the tremendous insecurity that reigns in Colombia, such plans augur a growing criminalisation of the social sectors of the country.

The Inter-American Commission on Human Rights expressed its concern about the President's statements. On 17th September, the Commission sent a letter requesting explanations from the Minister of Foreign Affairs, Mrs. Carolina Barco.

In the current circumstances, such statements constitute an incitement to violence. Thus, on 29th September 2003, in a communiqué headed «Why do dogs bark?», the United Self-defence Groups of Colombia (AUC) of the Bolivar Central Block, in turn, profited from these stands to criminalize several Colombian and foreign NGOs.

In the communiqué, the paramilitaries welcomed the Presidents attack on «some humanitarian bodies who seem to have chosen their camp in the conflict and for whom the only people guilty of Human rights violations are the sworn enemies of the communist guerrilla and those who fight against it». Inter alia, the AUC listed the José Alvear Restrepo Lawyers' Collective, the Colombian Jurists Commission, the Regional Corporation for the Defense of Human Rights (CREDHOS, Corporación Regional para la Defensa de los Derechos Humanos) and the Popular Women's Organisation (OFP). The communiqué also listed several international organizations accused of operating like «veritable consulates acting on behalf of the Colombian terrorist guerrilla».

Threats against a member of ASFADDES⁸⁵

On 9th January 2003, a boy ostensibly sent by a paramilitary group active in the Medellín region, turned up at the domicile of Mrs. **Maria Eugenia López**, member of the Association of Families of Disappeared Prisoners in Colombia (ASFADDES, Asociación de Familiares de Detenidos Desaparecidos), Medellín section, to invite her to an appointment with «Mr. Barney», a paramilitary well known in the region. Back on 24th December 2002, a man and a woman came to the domicile of Mrs. López but, finding no one at home, left. Mrs. López has often received threats from paramilitary groups. This time, she decided to leave Medellín.

Threats against several members of the OFP⁸⁶

On 5th February 2003, the headquarters of the Popular Women's Organization (OFP, Organización Feminina Popular) hosted in Cantagallo, a meeting convened by the Ombudsman of Barrancabermeja and of Magdalena Medio to look into the threats received by the OFP from the paramilitaries in the Cantagallo district, where two female coordinators were threatened and harassed over the last two months. This meeting was attended by about fifty people from various bodies such as the Regional Ombudsman's Office, the townhall, the military and police authorities, two representatives from the UN High Commission on Human Rights, two representatives of the World Trade Union Federation, the National USO delegates, the Unitary Workers Union, the SINALTRAINAL, the International Peace Brigade, the German Delegation for Life and Peace, the Defence of Children International, the Magdalena Medio Development and Peace Programme, the Regional Corporation for the defence of Human rights (CREDHOS), the diocesan Life and Peace Commission, the Juanist sisters and the OFP district priest.

The meeting was interrupted by members of an armed group, apparently of paramilitaries, who left the premises thanks to an intervention on the part of the women and other participants at the meeting.

85 See Colombia Special Appeal December 2002-January 2003

86 See Colombia Special Appeal February 2003 and May 2003.

AMERICAS

However, they threatened to return in the evening to set fire to the premises of the OFP and to assassinate any leaders of the organization who happened to still be there. These threats were compounded with those already received by Mrs. **Cleotilde Moròn**, the new coordinator of the OFP in Cantagallo, Mrs. **Yolanda Becerra**, general coordinator of the OFP and Mrs. **Jackeline Rojas** coordinator in charge of the Cantagallo region. Despite these threats, the director of the OFP, announced that she would remain in office. On 10th May 2003, the paramilitaries ordered someone to go to the North West Women's House to tell the «bitch» Mrs. Yolanda Becerra «that she would get a headfull and that they were going to abduct twenty women from the OFP to shut them up».

On 26th May 2003, several men, under the orders of a paramilitary commander, arrived at Mrs. **Graciela Afaro's** home, member of the OFP and threatened her by saying that all the members of the OFP were members of the guerrilla. The OFP lodged a complaint with the judge but due to a lack of evidence the men are still at large.

On 29th May, a paramilitary who is well known in the Cerro district approached Mrs. **María Emilse Alvarado**, member of the OFP, and told her that she should «be careful because the paramilitaries have decided to kill several members of the OFP».

Search of Mr. Marco A. Nieves' domicile⁸⁷

On 7th July 2003, a search without a warrant took place at the domicile of Mr. **Marco A. Nieves**, vice chairman of the Communal Action of the Doña Lilana district, legal representative and founder of the National Association of the Colombian Displaced (ANDESCOL, Asociación Nacional de Desplazados Colombianos), located in Bogotá. The perpetrators were agents of the police intelligence unit (SIJIN, Sección de Inteligencia de la Policía), including agent Wilson Rico who was identified. During the search, ANDESCOL documents, documents of the communal action committee and of the office of the United Nations High Commissioner for Refugees (UNHCR) having to do with joint action were confiscated.

⁸⁷ See Colombia Special Appeal June-November 2003.

HUMAN RIGHTS DEFENDERS HARASSED

Harassment of a member of ANDAS⁸⁸

On 19th November 2003, when on his way to the Magdalena Medio region with his family, Mr. **Teófilo Rangel Ferreira**, a member of the National Association of Solidarity Aid (ANDAS, Asociación Nacional de Ayuda Solidaria) was intercepted by paramilitaries. The paramilitaries detained his brother for hours.

Harassment of members of PBI⁸⁹

On 9th December 2003, about 2.30 p.m., Mr. **David Raboso**, a Spanish national and Mrs. **Dorotea Timmer**, a Dutch national and volunteers of Peace Brigades International (PBI), were travelling in a vehicle clearly marked with the symbols of the organization and accompanied by a member of the San José de Apartadó Peace Community, when they were attacked by four heavily armed individuals wearing civilian clothes. In the course of the attack, two of the assailants aimed their guns at each member of the PBI and ordered them to get out of the vehicle. They forced them to hand over their mobile phones and the keys to the vehicle. The incident took place between Mangolo and Tierra Amarilla, a place already reported several times as a check point of the self-defence group and from where an economic blockade on the San José Peace Community has been run repeatedly over a long period.

Subsequently, the assailants forced the member of the Peace Community to get out of vehicle so as to talk to him. Faced with the insistence of the PBI members who explained to the armed men that they were in constant contact with the regional authorities, the assailants replied that «they knew all about that», that «it didn't matter much», and carried on insulting them. Finally, the armed men took the mobile phone away from the PBI and several million pesos which belonged to the Peace Community and which was intended for their community projects, as well as copies of the identity papers and bank-books of some members of the community.

Since August 2003, the PBI organization has been the victim of declarations and harassment in the region of Urabá. During that month,

⁸⁸ *Idem.*

⁸⁹ See Urgent Appeal COL 010/120/OBS 070.

AMERICAS

the media screened videos on the population of the Cacarica communities asserting these were concentration camps in which national and international visitors, like members of the PBI, prevented State security bodies from freely moving around. Hence, members of the PBI and other international humanitarian organizations such as Médecins sans Frontières France and the U.N. High Commissioner for Refugees were described as colluding with the guerrilla.

Subsequently, on 14th November, the American newspaper *The Wall Street Journal* published an article in which the Cacarica and San José de Apartadó communities were described as the political arm of the insurgents supported by members of Amnesty International and the PBI. This article was translated into Spanish and distributed in the town of Turbo during a public demonstration on 21st November 2003.

On 22nd November 2003, acts of harassment were perpetrated against a member of the PBI of Spanish nationality, while he was travelling on a public service bus on the road between Turbo and Apartadó. On that occasion, two men who said they were members of the self defence group, questioned him about whether he was a member of the Police of the International Red Cross saying «here we are the ones who impose the law» and they ordered him to get off the bus at a place called «El Tres» in the Turbo community, because they wanted to talk to him. Faced with this situation, the volunteer said he was a member of PBI.

PBI-Colombia had sent a team to the Urabá region in July 1998, in response to requests made by the Inter-congregational Peace Commission (Comisión Intercongregacional de Paz) and the Research and Popular Education Centre (CINEP, Centro de Investigación y Educación Popular). Since then, the PBI team, in the context of its international mission, regularly visits the displaced populations of the San José de Apartadó Peace Community⁹⁰.

⁹⁰ The San José Peace Community has been under constant harassment from paramilitaries, the guerrilla and the government army. From 1997, a year during which the population was declared a Peace Community, it began to undergo serious and systematic human rights violations such as massacres, selective killings, and later an economic blockade strategy in the form of verifications, thefts and illegal check points which have not ceased despite the intense militarization which is underway in the region. Because of this situation, the Inter-American Human Rights Commission has granted protection measures to that community.

*Break-in at offices of the Woman's House Corporation*⁹¹

At approximately 7.15 pm on 19th December 2003, four unknown armed men entered the offices of the Woman's House Corporation (CCM, Corporación Casa de la Mujer) in Bogotá, and forced Mrs. **Emilce Marroquín**, then pregnant, Mrs. **Myriam Pérez** and Mr. **Richard Alarcón** to lie on the floor under the armed surveillance of one of the intruders.

While the employees of the Woman's House Corporation were detained in this way, the other three intruders went directly to the second floor where the computer's hard disk (CPU or central processing unit) and terminals were located. They cut the telephone lines and removed five hard disks, containing information on the projects in which the Woman's House Corporation is involved, the organizations and women's leaders with whom the CCM works, the demonstrations in which they have taken part, database of national and international organizations with which the CCM has links, as well as accounting, financial and bank-related information.

Although there was other computer and communications equipment (printers, photocopiers, fax, laser, video) on the premises, only the CPUs and terminal were stolen.

The whole operation was over in just seven minutes. Once the intruders had left the CCM, the victims called the police from a public telephone and two police officers promptly appeared. However, the police officers failed officially to record the incident and they did not pursue an investigation based on the descriptions and the details which could have allowed the intruders to be identified and/or apprehended.

Threats against lawyers who support human rights

*The criminalization of defence*⁹². In an environment where armed conflict and the violation of common law are frequent, Colombia's lawyers are among the most exposed on the planet. They are forced to endure an insidious and unpredictable round of intimidation, threats,

91 See Urgent Appeal COL 011/1203/OBS 071.

92 See Joint International Investigation Mission Report by the Observatory and Avocats sans Frontières/France: *Colombia: Administration of Justice or Impunity?*, March 2003.

AMERICAS

harassment, lawsuits, disappearances, assassination, and more. Their vulnerability is exacerbated by the absence of any professional institution capable of offering them collective protection and of disseminating a culture of respect for the law and the rights of the defence. In this they are an almost unique case in the whole of Latin America, in that they have no professional order to represent them with regard to the authorities, regulate their activity, punish dereliction of professional integrity in a framework of mechanisms which ensure the independence of the defendant, and protect access to the defence which lawyers can provide. The legal profession and the right to practice law are regulated only by the high council for the judiciary, which is also responsible for promoting ethical practice and punishing unethical activity. The difficulties encountered by lawyers in enforcing respect for the mechanisms necessary for the exercise of the rights of the defence, and their own safety, are part of the stigmatization to which they are subject. The authorities, armed groups and certain sectors of society, especially the media, have no respect for the legal profession, and often are ignorant of the Basic Principles which underpin it. Article 18 of these principles, which states that the lawyer must not be identified with the case she or he is defending nor attacked for this reason, is largely unknown. All too often lawyers are the subject of threats, especially those who are defending persons indicted for their alleged participation in the armed conflict, or who accept cases related to the violation of human rights and international humanitarian law by all parties to the conflict, and most notably leaders of the armed forces. Lawyers who defend trade union members or who are involved in lawsuits concerning land disputes are also subjected regular threats. Many lawyers have been driven into exile just to ensure their survival.

*Threats against Mr. Denys Alberto Monsalve Garzón*⁹³. Due to the threats he was subjected to, Mr. **Denys Alberto Monsalve Garzón**, a lawyer with the smallholder's association of Arauca (ACA, Asociación Campesina de Arauca), Saravena section, was forced to flee Saravena and remain in hiding for 8 days.

Nothing was heard of Mr. Denys Alberto Monsalve Garzón from 7th to 15th January 2003 after he had approached a taxi to go from Saravena

93 See Special Appeal Colombia, December 2002-January 2003.

to Pueblo Nuevo in Tame region. On his reappearance, Monsalve Garzón stated that he had learned that the paramilitaries were looking for him and he had been forced to flee. He had been receiving harassment from the Saravena police for some months, and had been arrested on several occasions and taken to the police station where he was accused of collaborating with the guerrilla forces and orchestrating «several crimes against the forces of order».

Threats against ACADEUM lawyers

*Threats against Mers. Waldir Sinisterra and Albert Hoyos Suárez*⁹⁴. On 4th February 2003, Mr. **Waldir Sinisterra** and Mr. **Albert Hoyos Suárez**, lawyers with the Colombian defence lawyers association (ACADEUM, Asociación Colombiana de Abogados Defensores de Derechos Humanos Eduardo Umaña Mendoza), and their families received threats from the «Bloque Calima» of the United Self Defense forces of Colombia (AUC). Two individuals who identified themselves as belonging to the Calima group came to the lawyer's offices to make the threats. Sinisterra and Hoyos Suárez are known for their work in denouncing human rights violations by armed groups, and for their legal and humanitarian support of victims in Tulúa, Valle del Cauca province. This province lies in the heart of a region where peasants have been massacred and illegal executions have taken place continuously, with the security forces - army and police - making no effort to put an end to the crimes and bring those responsible to justice. Fearing for their safety, the two lawyers left town. On 26th March 2003, the Inter-American Commission on Human Rights (IACHR) invoked Article 25 of its constitution to press the Colombian government to take the necessary measures for protecting the right to live and the personal integrity of the two lawyers.

*Threats against Mr. Daniel Ernesto Prado Albarracín*⁹⁵. On 18th November 2003, on his return to his Bogotá office after an ACADEUM meeting, Mr. Daniel Ernesto Prado Albarracín, a legal adviser to ASFADDES, the Colombian association for the families of missing and imprisoned persons and a member of Colombian defence lawyers' asso-

⁹⁴ See Special Appeal Colombia February 2003 and March 2003.

⁹⁵ See Urgent Appeal COL 007/1103/OBS 064.

AMERICAS

ciation ACADEUM, found that a window had been broken - by gunfire, as he found a bullet on the floor. In the weeks leading up to 18th November, Mr. Prado had been followed by an unknown person and had received strange phone calls both at his office and his home. This was not the first time that Mr. Prado had been a victim of harassment, while the authorities to whom he had complained failed to take any action.

These threats against ACADEUM occurred at a time when the association was involved, together with other legal and human rights organizations, in the national and international campaign for the free exercise of the legal profession and access to justice in Colombia. The campaign took its slogan, «without lawyers there is no justice», from the increase in persecution and threats faced by those working in the legal profession⁹⁶.

Mr. Prado is entitled to protection under the interior ministry's programme for defending human rights, but has received no such protection in any tangible way, despite the dangers and threats with which he is constantly faced. ACADEUM and the «José Alvear Restrepo» Lawyers' Collective have canvassed the Inter - American Commission on Human Rights (IACHR) to order measures for the protection of Prado.

Assassination attempt and threats against CAJAR members

*Assassination attempt and threats against Mrs. Soraya Gutiérrez Arguello*⁹⁷. On 14th February 2003, Mrs. **Soraya Gutiérrez Arguello**, a lawyer with the «José Alvear Restrepo» Lawyers' Collective (CAJAR, Colectivo de Abogados «José Alvear Restrepo»), was intercepted by a vehicle from which several men armed with submachine guns emerged. Mrs. Gutiérrez managed to shake off her attackers but several shots were fired at the windscreen of her vehicle. In the days preceding the attack, Mrs. Gutiérrez Arguello had received anonymous phone calls to her home, consisting either of silence or macabre laughter. Mrs. Gutiérrez Arguello reported the incident to the national police and her vehicle was taken to the security authorities for ballistics tests.

On 20th February 2003, Mrs. Gutiérrez's housekeeper received three phone calls from a man asking where Mrs. Gutiérrez could be found.

⁹⁶ See Special Appeal Colombia May 2003.

⁹⁷ See Special Appeal Colombia February 2003.

HUMAN RIGHTS DEFENDERS HARASSED

On 3rd March 2003, a man phoned Gutiérrez's home and asked the housekeeper what time Mrs. Gutiérrez's daughter got home from school. A few minutes later, when the housekeeper left to get the girl from school, she realized she was being followed by a taxi. Having pulled up alongside, the taxi driver asked her if she was going to get Soraya's daughter. He then parked the taxi and got out. When the girl arrived, the taxi drove off.

On the same day, the porter of the apartment building where Mrs. Gutiérrez lives told her that a man who said he worked for Cablecentro had asked which apartment number she lived in. A check revealed that Cablecentro had not sent anyone to the address in question, and that all its technicians wear a uniform. This extremely worrying development was reported to the Judge of the Nation (Fiscalía General de la Nación), who is responsible for investigating the harassment and threats to which CAJAR members are subjected. By December 2003, Mrs. Gutiérrez had still not been summoned to give testimony.

It would appear that the legal action carried out by Mrs. Gutiérrez on behalf of the communities of Bocayá department has inconvenienced the military hierarchy in the region, which would explain the threats she received.

*Threats against Mrs. Adriana Cuéllar*⁹⁸. On 24th November 2003, between 2.13 and 2.22 a.m., Mrs. **Adriana Cuéllar**, a journalist and communication officer with the action group, received three death threats on her telephone answering machine: «bigmouth... you're going to die, we're going to get your family...». On 25th November 2003, between 8.15 and 10.00 a.m., unknown individuals managed to get into her building and entered her apartment by forcing the lock. They rummaged through documents and stole a television and video but left other valuables (jewellery, appliances etc.). To these threats we can add that on 24th October, as she was walking with a lawyer from the action group, Mrs. Cuéllar was filmed and photographed by unknown individuals near the group's offices⁹⁹.

The CAJAR action group is covered by the provisional measures prescribed by the Inter-American Commission on Human Rights as a

98 See Urgent Appeal COL 008/1103/OBS 065.

99 See Urgent Appeal COL 008/1103/OBS 065.

AMERICAS

result of the number of death threats received by its members, some of whom have even been forced into exile for their own protection.

Mr. Alirio Uribe Muñoz, chairman of CAJAR, received the Martin Ennals Award for Human Rights Defenders in March 2003 for his work on behalf of victims and his efforts to combat the dangers which they face.

Threats against indigenous and rural community leaders

*Threats against Mr. Enrique Pertuz*¹⁰⁰. On 18th March 2003, Mr. **Enrique Pertuz**, who has denounced the rise in human rights violations in Arauca department since its classification as a rehabilitation zone, received a phone call from a person speaking on behalf of the AUC, who told him: «If you have the misfortune to run into a paramilitary road-block you will be killed». Mr. Pertuz had previously issued numerous denunciations of the selective assassination of civilians in the region and the impunity with which these crimes are committed.

*Threats against an indigenous leader*¹⁰¹. On 2nd July 2003 in Coyaima, Tolima department, a group of armed paramilitaries threatened Mr. **Abelardo Tacuma**, a member of the Chenche Zaragoza Centro indigenous council, warning him that if he did not leave the region he would pay with his life. Paramilitary groups make regular incursions into the indigenous villages of Coyaima, threatening the inhabitants and daubing AUC on the doors of houses and schools.

*Persecution of the president of ACA*¹⁰². On 29th July 2003, Mrs. **Luz Perly Córdoba**, president of the Arauca rural association (ACA, Asociación Campesina de Arauca) was harassed by paramilitaries as she was leaving division 18 of the army in Arauca, after having made a two-hour declaration before the judge. The president of the ACA had been called to testify after the arrest of ACA lawyer Apolinar Herrera on charges of insurgency on 5th July.

Paramilitaries well-known in the region followed her by car. They were escorted by a national army vehicle, which provides clear testimo-

100 See Special Appeal Colombia March-April 2003.

101 See Special Appeal Colombia June-November 2003.

102 See Special Appeal Colombia June-November 2003.

HUMAN RIGHTS DEFENDERS HARASSED

ny to the complicity between the armed forces and the paramilitary groups which infest Arauca region. These links have been constantly denounced by community associations and unions, and even by the inhabitants of the region.

*Threats against Mr. Jorge Dicue*¹⁰³. On 28th October 2003, Mr. **Jorge Dicue**, a co-ordinator with the advisory bureau for AIC beneficiaries of the health programme for indigenous leaders of Norte del Cauca (ACIN, Asociación de Cabildos Indógenas del Norte del Cauca), was threatened by telephone by a person who told him: «We give you four days to get out of here, otherwise we send the paramilitaries to shoot you full of lead». In the following days he continued to receive telephone threats. On 4th November, unidentified individuals entered Dicue's house and went through his papers. On 4th, 5th and 7th November 2003, anthropologist Mrs. **Luz Angela Palacios**, who works on the same institution's health programme, also received telephone threats against herself and her family.

Threats against civil servants involved in human rights protection

*Safety concerns for members of the public prosecutor's office and the CTI*¹⁰⁴. The human rights unit of Colombia's public prosecutor's office was founded in 1994. Its purpose is to combat impunity by acting as a specialist unit with specific expertise for investigating the more serious violations of human rights and international humanitarian law within Colombian territory, with legal proceedings, after preparation, referred for judgement by the competent territorial jurisdictions. The members of the public prosecutor's office and the Technical Enquiry Corps (CTI) investigation committee who are involved in inquests into the actions of armed insurgents, and in particular the paramilitary groups and/or military hierarchy, find their personal safety seriously compromised. Justice activists who continue with their endeavours are exposed to threats which can take a variety of forms: the inclusion of their names on the blacklists of armed groups which regularly circulate in Colombia; threa-

¹⁰³ *Idem*.

¹⁰⁴ See Joint international investigation mission report by the Observatory and Avocats sans Frontières/France: *Colombia: Administration of Justice or Impunity?*, March 2003.

AMERICAS

tening telephone calls; or the inclusion in legal cases undergoing preparation of alarming information on execution orders emanating from paramilitary group informers.

*Public defenders*¹⁰⁵. Public defenders defend people who cannot afford to pay a lawyer of their choice. The mechanism was implemented by the Colombian government to fulfil its obligations under Article 14 of the International Covenant on Civil and Political Rights and Article 8 of the American Convention on Human Rights. Public defenders are practising lawyers who sign service contracts of a set term with the State, under which they agree to take on a certain number of cases in exchange for a monthly wage of \$ 600, minus a social security levy of around \$ 50.

Until 2001 the contracts were for a term of one year. They were then shortened, which puts public defenders in an extremely precarious situation. They have not been paid since October 2002, on the grounds that the funds intended for their wages have run out. The State does not seem particularly concerned about this.

*Martha Lucía Rentería threatened and harassed*¹⁰⁶. In July, August and September 2003, Mrs. **Martha Lucía Rentería**, a human rights defender and a member of Citizen Watch¹⁰⁷ from the municipality of Jamundí, in Valle Department, received threats and was harassed by men who followed her in a car on several occasions.

On 26th September 2002, two men had entered the regional office of the people's defender in Cauca Valley and demanded to know the whereabouts of Martha Lucía Rentería. When they received no answer from the staff at the reception, they entered the office of a senior civil servant and said to him in a threatening tone: «Don't worry. We'll find her today, wherever she is».

On 8th, 10th and 25th September 2003, several cars had followed Mrs. Rentería for a number of hours. Previously, on 10th August 2003,

¹⁰⁵ *Idem*.

¹⁰⁶ See Special Appeal Colombia June-November 2003.

¹⁰⁷ The Colombian institution «Citizen Watch» (*veeduría ciudadana*) is a group of citizens actively involved in monitoring State practices to ensure that they are transparent, comply with the legislation, achieve the outcomes announced, etc.

HUMAN RIGHTS DEFENDERS HARASSED

four men had followed her by car to downtown Cali and had called out her using her first name. They had opened all four doors of the car and had got out at the same time in an attempt to abduct or intimidate her. Mrs. Martha Lucía Rentería constantly receives calls on her mobile phone from different people who do not identify themselves but who demand to know who is speaking. On 29th September 2000, an attempt had already been made on her life in Jamundí. The investigation into the attack is in its preliminary phase¹⁰⁸.

CUBA

Human rights defenders jailed¹⁰⁹

On 7th April 2003, 33 of the 79 people arrested between 18th and 23rd March 2003, including several human rights defenders, were sentenced to long jail terms, ranging from 15 to 25 years. They are: Mrs. **Marta Beatriz Roque**, a member of the Assembly to Promote Civil Society and the Institute of Independent Economists, sentenced to 20 years' imprisonment; Mr. **Héctor Palacio Ruíz**, Director of the Centre for Social Studies, 25 years' imprisonment; Mr. **Marcelo López** and Mr. **Marcelo Cano Rodríguez**, respectively the spokesperson and a member of the Cuban Commission for Human Rights and National Reconciliation, sentenced to 18 and 15 years' imprisonment; Mr. **Ricardo Gonzáles**, a representative of Reporters Without Borders in Cuba, sentenced to 20 years' imprisonment, and the independent journalists Mr. **Raúl Rivero**, Mr. **Oscar Espinosa Chepe** and Mr. **Héctor Maseda Gutiérrez**. The detainees also include many dissidents involved in the Varela Project, which consists in circulating a petition calling for a referendum on electoral and political reform. The project has already been signed by 11,000 Cubans.

¹⁰⁸ See Annual Report 2000.

¹⁰⁹ See Urgent Appeal CUB 001/0403/OBS 018 and press release of 30th April 2003.

AMERICAS

All the persons mentioned were prosecuted for «conspiring» with the representative of the United States in Cuba, on the basis of Law 88 on the «Protection of National and Economic Independence». To protest against the sentences meted out to journalists and to demand their release, a group of activists from Reporters Without Borders gathered outside the Cuban Embassy in France on 24th April 2003. The demonstrators were dispersed violently by embassy employees and security staff. A woman, two photographers and an activist from Reporters Without Borders were injured.

On 9th May 2003, the UN Working Group on Arbitrary Detention adopted an opinion considering that their detention was arbitrary and asked for their immediate release.

In early December 2003, the persons sentenced were still in jail in conditions that fall far short of international standards¹¹⁰. Furthermore, between ten and twenty of the detainees have very serious health problems.

Human rights defenders and journalists arbitrarily detained¹¹¹

The majority of the human rights defenders and journalists detained in 2002 are still in jail, although at end-December 2003, no trial had yet been held. They are Mr. **Leonardo Miguel Bruzón Avila**, president of the Human Rights Movement, arrested on 22nd February 2002, and Mr. **Juan Carlos González Leiva**, president of the Cuban Foundation for Human Rights, arrested on 4th March 2002 together with eight other activists and two independent journalists.

110 See Letter to Fidel Castro Ruiz of 23rd May 2003.

111 See Annual Report 2002.

Threats from the White Legion¹¹²

On 15th February 2003, a group called «White Legion» (Legión Blanca) issued a communiqué designating human rights defenders as «military targets» and threatening to eliminate them. The communiqué targets journalists from several alternative media, members of indigenous and farmers' organisations, the religious sector, humanitarian workers, intellectuals and teachers, trade union leaders, and left-wing parties and political movements. The White Legion also «warned» civil servants who represent indigenous people and left-wing elements in the new government, whom it labels «ex-subversives» and «red rebels».

In this communiqué, for the first time the White Legion claimed to enjoy the support of members of the national police and armed forces and the implicit support of the government through its foreign and economic policy decisions (alliance with the United States and the Colombian president, Alvaro Uribe). Unlike previous communiqués, which included the names of the members of the armed forces that had taken part in the mutiny of 21st January 2000, no military personnel are named in this new communiqué.

The White Legion first appeared in July 2001 and sent several e-mail communiqués containing death threats against representatives of Ecuadorian civil society and claiming responsibility for murders and other illegal action (raids, sabotage, etc.).

In its first communiqué, dated 30th July 2001, the group explicitly threatened the following human rights defenders: Mr. **Alexis Ponce**, spokesperson for the Permanent Assembly for Human Rights (APDH, Asamblea Permanente de Derechos Humanos), Mr. **Pablo de la Vega**, coordinator of the Human Rights Documentation Centre, Mrs **Yanet Yanez** and Mrs. **Teresa Orrego**, from the Network of Brotherhood and Solidarity between Colombia and Ecuador, Mrs. **Elsie Monje**, president of the Ecumenical Commission on Human Rights (CEDHU, Comisión Ecuémica de Derechos Humanos), **Inés Espinosa**, executive secretary

¹¹² See Urgent Appeal ECU 003/0108/OBS 073.01 and Annual Report 2001.

AMERICAS

of the Ecuadorian Front for Human Rights (FEDHU, Frente Ecuatoriano de Derechos Humanos), Mr. **Johnny Jimenez**, president of the Peace and Justice Service (SERPAJ, Servicio Paz y Justicia). These people were falsely accused of maintaining direct links with the guerrillas and Colombian «narco-terrorists» from the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN, Ejército de Liberación Nacional) and with bringing weapons into Ecuador from Colombia with the aim of destabilising democracy.

On 20th August 2001, in its fourth communiqué, the White Legion claimed responsibility for several summary executions, in particular the murders of Mrs. **Dilva Stepp**, director of the Pro-Refugee Committee of the Ecuadorian Episcopal Conference (Comité ProRefugiados de la Conferencia Episcopal Ecuatoriana), and her driver committed on 2nd August 2001 in Honduras.

These threats can be set against a background of public declarations against human rights defenders made by the former President of Ecuador, Gustavo Noboa Bejarano, and by several senior army and police personnel. These statements, which could be interpreted as a sign of approval or impunity for acts committed against human rights defenders, have seriously endangered the safety of defenders.

After the first threats, the national police were asked to investigate. Although the public authorities had knowledge of the existence of the para-statal group, no measure has been taken to stop further action or to identify the culprits and bring them to justice. In 2002, the group was silent.

Alexis Ponce harassed¹¹³

Mr. **Alexis Ponce**, spokesperson for the Permanent Association for Human Rights (APDH, Asociación Permanente por los Derechos Humanos) continues to be harassed by the Ecuadorian authorities. On 4th December 2003, in a written document delivered to the office of the APDH, Mr. Ponce was summoned to appear before the Brigade of Crimes of the Judicial Police of Pichincha on 10th December, for alle-

¹¹³ See Annual Report 2001.

HUMAN RIGHTS DEFENDERS HARASSED

gedly destroying public property. The charge, which has been running since 2000, refers to the peaceful occupation of the Supreme Court of Justice on 21st February 2000 as part of a general movement calling for better conditions.

EL SALVADOR

CDHES office raided¹¹⁴

On 7th May 2003, unknown persons entered the office of the Human Rights Commission of El Salvador (CDHES, Comisión de Derechos Humanos de El Salvador) in San Miguel Department, which also covers La Unión, Morazán and Usulután Departments. Documents about human rights abuses, personal information about the volunteers working for the Commission, and equipment were stolen. The incident is probably connected to the activities of the CDHES, which, several weeks earlier, had successfully prevented the eviction of poor families from San Miguel, including 250 families from the El Jagüey community, where the Salvadorian armed forces want to build an Air Force base.

On 21st May 2003, in a public letter, the president of the CDHES, Miguel Montenegro, expressed his concern about the theft of documents, which endangers the lives of volunteers and witnesses. The CDHES urged the National Civil Police (PNC) to open a full enquiry to identify the culprits and bring them to justice.

At the end of December 2003, no investigation has been opened into the case.

¹¹⁴ See Urgent Appeal SLV 001/0503/OBS 022.

AMERICAS

GUATEMALA

Reprisals against GAM*Assassination of Mr. Diego Xon Salazar¹¹⁵*

On 3rd April 2003, Mr. **Diego Xon Salazar**, a member of Mutual Support Group (GAM, Grupo de Apoyo Mutuo), an organisation founded by relatives of victims of human rights abuses in Guatemala, was abducted by armed men from his home in Comanchaj, in Chichicastenango Department. His body was found on 5th April. Before his abduction, Mr. Diego Xon Salazar had complained to the authorities about threats he had received. At end-2003, the outcome of the enquiry, if any, was unknown.

GAM members harassed¹¹⁶

On 7th April 2003, five armed men entered the home of Mr. **Mario Polanco**, a member of GAM, and Mrs. **Nineth Montenegro**, a congresswoman and GAM founder. The men arrived at the home saying they had a package for Mr. Polanco and the housekeeper opened the door. After interrogating him about Mr. Polanco's activities, they searched the house and took computer data and documents. Household appliances were also stolen, apparently to make the raid look like an ordinary robbery.

Mr. Mario Polanco had just returned from the Commission on Human Rights in Geneva, where he had denounced the human rights situation in Guatemala and the lack of protection for people who denounce the groups that continue to commit human rights abuses with impunity.

GAM filed a complaint with the Public Prosecutor's Office, the National Police, the Office of the Human Rights Prosecutor and the United Nations Verification Mission in Guatemala (MINUGUA), but there has been no enquiry and the stolen articles have not been recovered.

¹¹⁵ See Urgent Appeal GTM 001/0403/OBS 019.

¹¹⁶ See Urgent Appeal GTM 001/0403/OBS 019 and GTM 002/0603/OBS 028.

HUMAN RIGHTS DEFENDERS HARASSED

red. Despite the presence of police officers close to his home, Mr. Polanco's security remains precarious.

*GAM harassed*¹¹⁷

On 4th June 2003, while GAM was celebrating its 19th anniversary, a group of armed men fired shots in the air outside a GAM office located in zone 12 of Guatemala City. The incident was reported to the authorities but there was no enquiry. On 10th June 2003, one of the vehicles used by GAM for its programme of assistance for disappeared persons was stolen.

Reprisals against the office of the Human Rights Prosecutor*Assassination of Mr. José Israel López López*¹¹⁸

On 11th June 2003, Mr. **José Israel López López**, a lawyer and assistant to the Office of the Human Rights Prosecutor (PDH, Procuraduría de Derechos Humanos), left his office in Chimaltenango Department to drive to Guatemala City in a vehicle belonging to the PDH. At around 8 p.m., in zone 6 of the city, he was murdered by men who shot him while he was driving. Mr. López López was a renowned criminal lawyer who had only started working for the PDH a short time before he was murdered, but who was known for his work in human rights training. The murder could be a consequence of the much more active role played by the PDH in the past year, particularly the proposal to investigate illegal groups and clandestine security apparatuses. The instigators of the crime have not been identified and at end-December 2003, the enquiry had not produced any results.

*Staff of the PDH threatened*¹¹⁹

On 19th June 2003, a group of unidentified persons attempted to enter the home of Mrs. **Thelma Peláez**, a district judge in charge of the enquiry into the murder of Mr. José Israel López López¹²⁰. She was

117 See Urgent Appeal GTM 002/0603/OBS 028.

118 *Idem*.

119 See Urgent Appeal GTM 002/0603/OBS 028.1.

120 See Urgent Appeal GTM 002/0603/OBS 028.

AMERICAS

warned to «be careful with her investigations». On the same day, another group of individuals came to her home posing as electricians and left the following message: «stop your investigation or you will get a surprise».

On 23rd June, a group of individuals went to the family home of the judge's driver in San Marcos and asked about his itinerary for the coming week. The driver's wife said she did not know his schedule and the individuals told her to pass on the following message: «Tell the judge to stop investigating the death of López». Mrs. Thelma Peláez considers this to be the clearest warning. She only recently joined the unit and the only case that she is investigating in her new position is that of Mr. López. Several days later, using the same strategy as before, the individuals once again entered Mrs. Peláez's home and left the following message: «Be careful with your investigation».

Mr. Sergio Morales, human rights prosecutor, asked the attorney general, Carlos de León, to take the necessary steps to guarantee the security of Mrs. Peláez and her staff.

Since January 2003, 16 of the 31 assistants to the PDH have been harassed. Four of them have received serious threats. They are Mr. **Élmer Guerra** from Jutiapa, Mr. **Waldemar Barrera** from Zacapa, Mr. **Alex Toro** from Chiquimula and Mr. **Luis Ramos** from El Naranjo in Petén. Messrs Guerra and Barrera received constant threats after denouncing human rights abuses perpetrated by the army, the National Civil Police (PNC) and the Anti-Narcotics Analysis and Information Service (SAIA). Mr. Toro, an auxiliary in Chiquimula, was threatened when he was working in Huehuetenango after denouncing abuses of migrants' rights. At end-December 2003, the outcome of any enquiries into these incidents was unknown.

PDH head office raided¹²¹

On 26th August 2003 at dawn, individuals broke into the Office of the Human Rights Prosecutor (PDH), ransacked it and took computers and diskettes. To humiliate the employees, the individuals defecated in the office.

121 See Urgent Appeal GTM 002/0603/OBS 028.2.

HUMAN RIGHTS DEFENDERS HARASSED

These incidents could be linked to the work of the Prosecutor's Office, particularly the denunciation of the implication of government members in human rights abuses. The prosecutor is expected to publish a report on the violence during the «Black Thursday» demonstrations (24th July 2003).

Several employees have received threats, in particular the prosecutor Mr. **Sergio Fernando Morales**, who received a telephone call instructing him «don't get involved in what doesn't concern you». Similar thefts have occurred in the Offices of the Human Rights Prosecutor in Izabal, Escuintla, Petén, Baja Verapaz and Zacapa.

Staff from the investigation unit for human rights defenders pursued¹²²

On 23rd January 2003, Mrs. **Tatiana Morales Valdizon**, special prosecutor for human rights defenders, and members of the technical staff of the Public Prosecutor's Office (Ministerio Público), were followed by several vehicles, when they were returning from the village of Chocón where they met witnesses as part of an investigation into the activities of former members of the Department of Anti-Narcotics Operations (DOAN, Departamento de Operaciones Anti-narcóticos). They managed to lose their assailants and reported the incident to the National Civil Police (PNC). The situation has caused serious concern at the Prosecutor's Office, a unit set up specially in May 2002 after the visit of Hina Jilani, Special Representative of the United Nations Secretary-General on Human Rights Defenders, whose mandate is to investigate violations committed against human rights defenders.

Members of the Rigoberta Menchú Tum Foundation threatened¹²³

Between 26th July and 8th August 2003, employees of the Rigoberta Menchú Tum Foundation (FRMT, Fundación Rigoberta Menchú Tum), in particular its director and founder, Mr. **Gustavo Meoño**

¹²² See Press Release of 12nd February 2003.

¹²³ See Urgent Appeal GTM 003/0803/OBS 038.

AMERICAS

Brenner, were harassed by armed men in uniform from a private security agency, who stationed themselves outside the organisation's office. This surveillance reached such a point that the security agents positioned themselves in front of the office at 7 a.m., when Mr. Meoño Brenner arrived, and remained there until 7 p.m. On 6th August 2003, eight different agents took it in shifts to ensure 12-hour presence. On the same day, a complaint for intimidation was filed with the Public Prosecutor's Office, requesting an enquiry and that the people responsible be prosecuted. On 7th August, the same complaint was filed with the Human Rights Prosecutor.

On 8th August 2003 at around 7 a.m., Mrs. **Rigoberta Menchú Tum**, president of the foundation, was followed from her home to the foundation's office by a white pick-up truck, which tried to crash into her vehicle during her journey. On 10th August 2003 at around 9:25 p.m., Mr. **Francisco Menchú**, in charge of security at the foundation, was assaulted by individuals in a white taxi. The incident occurred after he had parked Mrs. Menchú's car. Two individuals got out of the taxi and placed a gun to his head and another gun in his mouth and forced him to get into the taxi. Inside the taxi, they struck him several times and attempted to take his weapon from him.

On the same day, between 9:55 p.m. and 11 p.m., Gustavo Meoño and Francisco Menchú received two anonymous telephone calls. In the first, they heard a man laughing. Two minutes later, in another call, the same voice left the following message: «Stop causing trouble because we know who you are, where you live and we'll soon be joining you».

The FRMT works to defend the rights of and development for indigenous people, to promote justice and combat impunity. In 1999, it opened a case for torture, genocide and terrorism against several Guatemalan army officers and civilians, including Efraín Ríos Montt, congressional president and former presidential candidate. The FRMT is constantly threatened and intimidated. On 29th April 2002, one of its members, Mr. Guillermo Ovalle de León, was murdered¹²⁴.

124 See Annual Report 2002.

Human rights defenders threatened¹²⁵

On 12th August 2003, an unidentified group sent a letter to several civil society organisations, discrediting and insulting the work of NGOs and threatening many defenders with death, in particular Rigoberta Menchú Tum, representatives of the Civic Front for Democracy (Frente Cívico por la Democracia) and journalists. The words of the letter were the following: «pseudo human rights organisations are leeches, inventing lies to keep their comfortable office jobs. (...) We warn you again to stop your little game because you will pay with your life and anyone who says or writes lies will die with you».

Mr. Bruce Harris trial¹²⁶

Mr. **Bruce Harris**, Regional Director of Latin American Programmes of Casa Alianza, must answer charges of defamation, perjury and slander brought by Susana Luarca de Umaña, a lawyer and the wife of the President of the Supreme Court of Guatemala, Ricardo Umaña. At a press conference in 1997, Mr. Harris spoke about several lawyers involved in dubious practices in connection with international adoptions in Guatemala. In its ruling of 10th February 1999, the Constitutional Court stated that «only journalists are entitled to freedom of expression in accordance with Article 35 of the Constitution of Guatemala» and refused the request that the trial be heard before a jury. If convicted, Mr. Harris could be sentenced to five years' imprisonment in the trial that began on 16th August 2002 in the 12th Criminal Court. In September 2002, Mr. Harris cited the incompetence of the court, an argument that was rejected.

In December 2003, the court notified its decision to proceed with the charges against Mr. Harris and set the hearing for 22nd January 2004.

Mary Robinson, former United Nations High Commissioner for Human Rights expressed her concern at the restrictive interpretation of freedom of expression used in Mr. Harris's case. The Inter-American Commission on Human Rights has taken on the case against the State

¹²⁵ See Open Letter to the Authorities of 14th August 2003.

¹²⁶ See Annual Report 2002.

AMERICAS

of Guatemala for violation of the right to free speech and equality before the law. The ruling is expected in early 2004.

HONDURAS

Reprisals against environmental activists*Assassination of Mr. Oscar Arturo Reyes*¹²⁷

On 18th July 2003, Mr. **Oscar Arturo Reyes**, involved with the Environmental Social Pastoral (Pastoral Social del Medio Ambiente) run by the Catholic Church in Olancho Department returned to his home around 8 p.m. A few minutes later he entered the yard, where he was shot dead by three men who fired six shots and then fled along the canal. In March 2003, Mr. Reyes had been transferred from Guata to Rosario because he had received serious threats. The murder occurred the day after a press conference on 17th July 2003 by the Committee of Families of Disappeared Detainees in Honduras (COFADEH, Comité de Familiares de Detenidos Desaparecidos en Honduras) and the Olancho environmental movement. At the press conference, a list of environmental activists to be assassinated, including Mr. Reyes, was circulated. After the conference, requests for measures to protect the people on the list were sent to the Public Prosecutor's Office, the Olancho police, the Ministry of Security, the environment secretary and the special human rights prosecutor. The Inter-American Commission on Human Rights has also been informed of the situation and requested measures of protection to protect persons in imminent danger.

The situation appeared to be the consequence of the president of Honduras's attitude to the March for Life, which began on 20th June, and of his refusal to listen to the concerns raised by the organisers of the march¹²⁸.

¹²⁷ See Urgent Appeal HDN 002/0703/OBS 035.

¹²⁸ The «March for Life» (Marcha por la Vida), which took place from 20th to 26th June 2003, was a walk from Olancho to the capital, Tegucigalpa. ➡

Assassination attempt against Mr. Gilberto Flores¹²⁹

On 14th July 2003, Mr. **Gilberto Flores**, another figure involved in efforts to preserve the environment and halt deforestation and a participant in the March for Life¹³⁰, was the target of a murder attempt outside the Pastoral Social office in Juticalpa. Armed men arrived in a vehicle with tinted windows and no registration plates. They apparently withdrew because there was a three-year-old child in the vicinity.

On 20th June 2003, in La Venta, Olancho Department, the Ministry of Security withdrew Mr. Flores's police escort, which had been requested by the Organisation of American States (OAS).

Threats against Father José Andrés Tamayo threatened¹³¹

Father **José Andrés Tamayo**, a priest in the municipality of Salamá, Olancho Department, involved in efforts to halt deforestation, was threatened at the beginning of the year by a group of people involved in the timber trade, and was ordered to leave the country by the end of May. The mayor of Salamá apparently said on four occasions on 5th and 6th May 2003 that «Olancho's environmental problems would only be resolved by the murder of Father Tamayo». Father José Andrés Tamayo had already been threatened and harassed because of his campaign alongside rural communities from North Olancho against deforestation and logging in the region. In October 2001, a police officer aimed his gun at the priest during an environmental demonstration. Father Tamayo was also threatened by local criminals who received money to eliminate him.

⇒ 128 The «March for Life» (Marcha por la Vida), which took place from 20th to 26th June 2003, was a walk from Olancho to the capital, Tegucigalpa. The march was organised by religious groups, workers, students and human rights organisations. The participants demanded the suspension of logging in Olancho Department so that a «forestry audit» could be conducted and a plan for sustainable development of forestry resources designed. For more information, see Appeal OMCT HND 230703 ESCR of 22nd July 2003.

129 See Urgent Appeal HDN 002/0703/OBS 035.

130 *Idem*.

131 See Urgent Appeal HDN 001/0503/OBS 024.

AMERICAS

*Orlando Nájera threatened*¹³²

Mr. **Orlando Nájera**, a community leader and campaigner against the construction of a hydroelectric dam in Olancho Department, was intimidated by representatives of the police and local authorities. In one incident, police officers fired their guns opposite his house.

*Father Osmín Flóres threatened*¹³³

On 18th July 2003, in Catacamas, in the department of Olancho, Father **Osmín Flóres**, a priest in the environment movement who was threatened several times, was watched and harassed by armed men who parked behind the presbytery in the parish of Santo Tomás. Noticing their presence, the priest remained in the presbytery until 1 a.m., when he notified the police. One of the police officers who arrived at the scene said he saw the vehicle and considered it suspect, but since no crime had been committed he could not do anything.

CPTRT office raided¹³⁴

On 12th May 2003, the office of the Centre for the Prevention, Treatment and Rehabilitation of Torture Victims and their Relatives (CPTRT, Centro de Prevención, Tratamiento y Rehabilitación de Víctimas de la Tortura y sus Familiares), in the San Rafael district of Tegucigalpa, was burgled. The door was forced and documents and computers containing confidential information were raided. Given that no valuable items were stolen, it was probably not an ordinary burglary but rather an attempt to obtain confidential information and to intimidate the staff of the centre. The act could be linked to the CPTRT's support for Mrs. **María Luisa Borjas**, head of the Internal Affairs Unit of the National Police. In September 2002, Mrs. Borjas denounced the participation of members of the Security Ministry and the National Police in at least 20 unlawful killings of children and youths in Honduras. After these declarations, María Luisa Borjas was immediate-

¹³² Idem.

¹³³ See Urgent Appeal HDN 002/0703/OBS 035.

¹³⁴ See Urgent Appeal HDN 001/0503/OBS 024.

HUMAN RIGHTS DEFENDERS HARASSED

ly the target of threats and intimidation, her staff were reduced and her correspondence was intercepted. Two months later, she was suspended on the grounds that she had failed to provide proof to support her claims. The CPTRT publicly denounced the burglary of its office after informing the police. On 21 May 2003, a private company hired by the director of the CPTRT, Mr. Juan Almendarez, found that five individuals had broken into the centre.

CODEH members harassed¹³⁵

On 20th December 2003, at 11:15 a.m., three armed men entered the home of Mr. **Andrés Pavón**, president of the Committee for the Defence of Human Rights in Honduras (CODEH, Comité para la Defensa de los Derechos Humanos en Honduras). In the house were his wife, Mrs. **Ritzy Xiomara Almendarez**, his eight-year-old son and three friends of the family. After entering the house, the unknown persons threatened those present and forced them to lie face down on the floor. Then they forced open the doors of two bedrooms and rummaged through the bookshelf, dumping books all over the floor. They took a barrister's seal belonging to Mrs. Ritzy Xiomera Almendarez, who also coordinates the legal department at the central office of CODEH, personal documents belonging to Mr. Andres Pavon, the house keys and around \$ 1,500 in cash, as well as some household appliances.

The break-in lasted around seven minutes. After the incident, the criminal investigation division was called, who sent two investigators who began to take fingerprints. Although a complaint was filed that included information about the perpetrators, the enquiry has not yet made any significant progress and the police have not done everything they could to find the suspects.

In August 2002, Mr. **Santos Callejas**, treasurer of the Regional Division of CODEH and coordinator of the Children's Defender's Office in Alcadia in Másica Municipality, Atlántida, had been murdered. Mr. Callejas had denounced impunity for organised crime and violations of social and economic rights committed by large landowners. According to the police, the murder was committed by organised crime.

¹³⁵ See Annual Report 2002.

AMERICAS

However, at end-December 2003, the suspects had not been apprehended and the police claims about them had not been verified.

MEXICO

Director of the CAPISE threatened and harassed¹³⁶

On 1st January 2003, Mr. **Ernesto Ledesma Arronte**, director and founder of the Centre for Political Analysis and Social and Economic Research (CAPISE, Centro de Análisis Político de Investigaciones Sociales y Económicas), received death threats by telephone. A male voice said «We are going to kill you, son of a bitch» after which the caller immediately hung up.

On 3rd January, when Mr. Ledesma arrived at the office of CAPISE, he noticed that the door was open, even though none of his colleagues had arrived yet. No documents were stolen, suggesting that the sole purpose of the break-in was to intimidate members of the centre. A complaint, number AL40/026/03-01 was filed with the Public Prosecutor's Office for Altos Zone and with the Office of the General Prosecutor of Chiapas State, but there has been no progress on the enquiry. CAPISE also requested provisional measures, but these were denied.

Mr. Ledesma had already been harassed in 2002. On 18th November 2002, when returning home, he had smelled a strong odour of gas and noticed that two gas taps were on. CAPISE is active in denouncing human rights abuses committed by the armed forces and paramilitary groups against indigenous communities in Chiapas State.

A member of the LIMEDDH threatened and harassed¹³⁷

On 20th January 2003, Mr. **Arturo López Magaña**, who works for the Mexican League for the Defence of Human Rights (LIMEDDH, Liga

¹³⁶ See Urgent Appeal MEX 001/0103/OBS 001.

¹³⁷ See Urgent Appeal MEX 001/0103/OBS 003.

HUMAN RIGHTS DEFENDERS HARASSED

Mexicana por la Defensa de los Derechos Humanos), was arrested close to his home by officers of the national police of Playa del Carmen, in Quintana Roo State. The officers did not show a warrant for his arrest. They confiscated his vehicle, informing him that they were acting on higher orders. A complaint was filed with the Public Justice Ministry of Quintana Roo State for theft and abuse of authority. However, in December 2003, the vehicle has still not been returned to its owner.

On the next day, 21st January 2003, Mr. López Magaña received a message from Henry Boldo Osorio, chief of police and municipal traffic, asking him to «calm down» because of «instructions to harm him». A patrol of police vehicles parked close to Mr. López Magaña's home was also reported.

It seems that these threats are linked to Mr. López Magaña's environmental activism, in particular advice and support he provided to prevent the construction of a port in Playa del Carmen. In December 2002, before the incident, Mr. López Magaña had received several threats from the State judicial police because of his intervention to help the residents of Colonia Colosio legalise their land and avoid being evicted.

Members of ACAT threatened in Oaxaca¹³⁸

On 1st March 2003, an anonymous letter was found at the office of Christian Action for the Abolition of Torture (ACAT, Acción Cristiana para la Abolición de la Tortura) in Oaxaca, apparently from a member of Santiago Xochiltepec community, containing death threats against Mr. Samuel Alfonso Castellanos Pinon, a lawyer, unless he ceased representing the detainees from Teojomulco in the Agua Fría case. The letter also contained insults and threats directed at Mr. Castellanos Pinon, Mrs. **Béatrice Casas Arellanes**, a volunteer, and Mr. **Carlos Cruz Mozo** and Mr. **Inocencio López Michel**, members of the Indigenous Organisation for Human Rights in Oaxaca (OIDHO, Organización Indígena de Derechos Humanos de Oaxaca).

On the same day, at around 8 p.m. when he returned home, Mr. Castellanos noticed that he was being followed by a man who wal-

138 See Urgent Appeal MEX 003/0303/OBS 011 and MEX 003/0303/OBS 011.1.

AMERICAS

ked very close to him and carried something bulky at his belt. When he came close to the bus stop, he was joined by two other men who drew attention to themselves by showing something at their belts, probably firearms.

In the Agua Fría case, in May 2002, 26 indigenous people were massacred, sparking an outcry. On the next day, the authorities arbitrarily arrested 26 members from the neighbouring communities. Since October 2002, Mr. Castellanos and Mrs. Casas have represented the defendants in the Agua Fría case. They obtained the conditional release of six detainees and appealed for ten detainees who received formal confirmation of their detention.

On 24th February 2003, five days before the threats, the appeal process reached a conclusion. On 26th February, Mr. Castellanos stated to the press that the appeal rulings did not go far enough, because the trial was full of irregularities and violations of individual guarantees. He added that he hoped the detainees would be released on those grounds.

Mr. Castellanos and Mrs. Casas denounced the acts of harassment of which they were victims to the General Prosecutor for the State of Oaxaca and to the State Human Rights Commission.

On 31st March, Alfonso Castellanos received another death threat. On the front door of ACAT's office, an anonymous message to Mr. Castellanos was found, asking him to withdraw from the defence of the detainees from Tejomulco within one month, and threatening to kill him if he did not. The message also named other people who work to defend detainees, in particular members of the OIDHO. Apparently the wording was more aggressive than the message received on 1st March and suggested that the authors knew the daily habits of the persons threatened.

Defamation and threats against organisations for the protection of women, children and youth¹³⁹

The situation of civil society organisations that defend the rights of children and youth, which have been the target of a defamation campaign, notably by religious groups, is particularly worrying. On 28th March 2003, in a paid newspaper advertisement, the Nicaraguan Committee for the Defence of Life called on the Nicaraguan president to expel Mrs. **Violeta Delgado**, the representative of the Women's Network Against Violence and Mrs. **Ana Quiroz**, representative of the Civilian Coordinating Committee (CCER, Coordinadora Civil para la Emergencia y Reconstrucción de Nicaragua), from the National Council for Economic and Social Planning (CONPES, Consejo Nacional de Planificación económica y social), on the grounds that they do not uphold the moral, ethical and cultural values of Nicaraguan society, as they are in favour of abortion and homosexuality. Mrs. Delgado and Mrs. Quiroz reported the incident to the Second Local Criminal Court in Managua. On 4th April 2003, the two women were again defamed in an editorial in the newspaper *La Prensa*.

In addition on 22nd April, Mrs. Violeta Delgado and Mr. **Bayardo Izaba Soliz**, director of defence and denunciation at the Nicaraguan Centre for Human Rights (CENIDH, Centro Nicaraguense de Derechos Humanos), were summoned to appear before the Seventh Local Criminal Court in Managua, to alleged extortion of GOTA Films. The two defenders were working to assist Nicaraguan citizens whose rights had been denied by that company.

On 25th April 2003, GOTA Films withdrew the charges against the two defenders and recognised that the defenders' work consisted in mediation and not extortion.

¹³⁹ See international investigation mission report of the Observatory: Nicaragua: *Polarización política en Nicaragua : escenario de hostigamiento a los defensores y defensoras*, November 2001.

AMERICAS

Maria Luisa Acosta denied justice¹⁴⁰

Mrs. **Maria Luisa Acosta**, the representative of several indigenous communities, suffered persecution and accusations in 2002, following the murder of her husband, Mr. Francisco García Valle, on 8th April 2002. Although, on 6th October 2003, the Nicaraguan Human Rights Prosecutor stated that these incidents were a violation of Mrs. Acosta's rights and recommended to the Supreme Court that it revise the complaint number 362-2002 for denial of justice, at end-2003, the criminal trial into the murder of Francisco García Valle is still open.

PERU

Members of APRODEH assaulted and threatened¹⁴¹

On 27th January 2003, a group of sympathisers of Alberto Fujimori, the former president of Peru responsible for serious human rights violations, assaulted Mrs. **Gloria Cano**, a lawyer and member of the Association for the Defence of Human Rights in Peru (APRODEH, Asociación Pro Derechos Humanos). The assault took place as Mrs. Cano was about to enter the association's office. A group of around 20 people surrounded her and verbally abused her, but the intervention of association staff made them withdraw. A few minutes earlier, the «Fujimorists» had gathered outside the office of APRODEH to demonstrate against the association's activities. They tried unsuccessfully to enter the association's office, which was defended by the staff. They then announced that the demonstration was the beginning of hostilities that they intended to carry out against APRODEH and its members.

A week before this incident, APRODEH had initiated a campaign against impunity and corruption, demanding the extradition of Fujimori

¹⁴⁰ *Idem*.

¹⁴¹ See Urgent Appeal PER 001/0103/OBS 005 and 005.1.

HUMAN RIGHTS DEFENDERS HARASSED

and the conviction of his accomplices. On 23rd January 2003, sympathisers of the former president had torn the campaign posters, had thrown them in front of the association's office and had plastered their own posters over the mural painted by artist Víctor Delfín in the association's entrance.

Mrs. Cano filed a complaint for assault with the police. Mr. Miguel Jugo, executive director of the institution, also asked the competent authorities to take the necessary measures. He said that under Mr. Fujimori's rule, at the time of the denunciation of the La Cantuta murders, the Colina group sent funeral wreaths inscribed with the names of the association's directors and made numerous threats by telephone and sent anonymous letters.

On 17th June 2003, Mr. **Carlos Bocanegra Espinoza**, a human rights activist in Tabalosos, San Martín Department, found a message on the door of his home ordering him to remove the posters calling for Mr. Fujimori's extradition and to desist from his activities with the Truth and Reconciliation Commission. According to Gloria Cano: «The authors are trying to pass themselves off as members of the Shining Path by using the hammer and sickle symbol on the poster they left at Mr. Bocanegra's home. However, we have every reason to suspect sympathisers of Mr. Fujimori, who are irritated by Mr. Bocanegra's actions».

Mr. Bocanegra cooperates with Amnesty International in collecting signatures for the extradition of Alberto Fujimori. He put up several posters for the campaign, prepared by APRODEH, in his street. He is also involved in the campaign to find the disappeared, on the initiative of the Truth and Reconciliation Commission. On 17th June, Mr. Bocanegra went to the police station and the town hall to report the incident and ask for assistance. APRODEH also asked the competent authorities to take the necessary measures.

None of the assailants has been identified and no case has been opened against them. In the case of Mrs. Cano, the authorities have granted police protection for APRODEH's office. In the case of Mr. Bocanegra, they offered their protection.

AMERICAS

VENEZUELA

Assassination of Mr. Joe Luis Castillo González¹⁴²

On 27th August, Mr. **Joe Luis Castillo González**, a lawyer and former coordinator of the Office of Social Action of the Episcopal Vicariate in Machiques (Oficina de Acción Social de Vicariato Apostólico de Machiques), was murdered in the Tinaquillo housing scheme in Machiques, in Zulia State. Mr. Joe Luis Castillo González was driving home with his wife and 18-month-old son, when two individuals rode up on a motorcycle and fired 13 shots into their car. Mr. Castillo González was killed and his wife and child were injured. Mr. Castillo González had worked for more than five years with his wife, also a lawyer at the Office of Social Action of the Episcopal Vicariate in Machiques. The Office is part of the «Forum for Life» and runs activities for the promotion and defence of human rights, in particular those of indigenous peoples in the region and Colombian refugees. Mr. Castillo González had also coordinated projects with the Office of the United Nations Higher Commissioner for Refugees (UNHCR) for Colombian refugees displaced from border departments to places such as Machiques, El Cruce and Río de Oro. Mr. Castillo González was planning to move shortly to Mérida State to take up a new position. On 28th August 2003, the Forum for Life asked the Public Prosecutor's Office to appoint a special prosecutor to investigate the murder.

COFAVIC members threatened¹⁴³

From the beginning of April until May 2003, several threatening and insulting e-mails were sent to the office of the Committee of the Relatives of the Victims of 27th February 1989 (COFAVIC, Comité de Familiares de Víctimas del 27 de febrero 1989). The messages accuse members of COFAVIC, in particular the director, Mrs. **Liliana Ortega**, of treason, because of their work to document violations committed bet-

¹⁴² See Urgent Appeal VEN 002/0903/OBS 043.

¹⁴³ See Urgent Appeal VEN 001/0503/OBS 023.

HUMAN RIGHTS DEFENDERS HARASSED

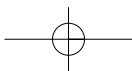
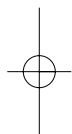
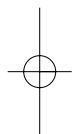
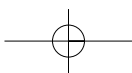
ween 11th and 13th April 2002, during the attempted coup, and violations perpetrated in Falcón State. For example, on 21st and 22nd May 2003, several messages arrived from a group called «Analysis Unit, Cyanide Drops» attacking the COFAVIC's work and insulting its members.

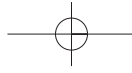
In the second half of 2003, the members of COFAVIC continued to suffer harassment and receive threats in the form of telephone calls, intimidation, insults and information published in the national media. After the increase in these threats, COFAVIC had to close its premises three times in July, August and September for fear of direct attacks.

COFAVIC has spent 14 years documenting cases to solve crimes of political violence and murders committed by para-police groups in several states of Venezuela. Its members have been harassed and intimidated since 2001, through threatening e-mails, anonymous phone calls to the organisation and to the mobile phones of its members, personal attacks and defamation in the media that liken members of the association with putschists or instigators of an international campaign against the government.

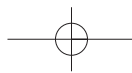
In response to this situation, on 19th April 2002 the Inter-American Commission on Human Rights had called for the adoption of urgent measures to protect Ortega Mendoza, Yris Medina Cova, Hilda Pérez, Maritza Romero, Aura Liscano, Alicia de González and Carmen Alicia Mendoza. On 14th October 2002, the Commission had extended the measures for six months because of threats made between May and September 2002. On 27th November 2002, the Inter-American Court of Human Rights had adopted provisional measures to protect the persons mentioned, and had asked the State to inform the petitioners about the measures adopted and to investigate the reported incidents to find and punish those responsible. On 21st February 2003, the court issued a new resolution declaring that the State had not applied these measures effectively and asking for their application. Mrs. Liliana Ortega received protection from the metropolitan police, but she considers it insufficient.

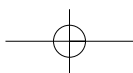
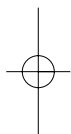
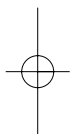
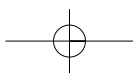
The threats were duly denounced, but at end-December 2003, no enquiry had been opened.





ASIA





THE SITUATION OF HUMAN RIGHTS DEFENDERS

Following the 11th September 2001 attacks and the bombing in Bali in October 2002, the fight against terrorism was still, in 2003, one of the major concerns of Asian governments. This is reflected in the motto of the 9th Summit of the South East Asian Nations (ASEAN) held in Bali, Indonesia, in October 2003: «Towards an ASEAN economic and security community». During the summit ASEAN and India adopted a joint Declaration on co-operation in the fight against terrorism. Earlier, in January 2003, the 14th meeting of the European Union (EU) Ministers of Foreign Affairs and ASEAN also adopted a joint Declaration on co-operation in the fight against terrorism. Lastly the South Asian Association for Regional Co-operation (SAARC) adopted a protocol on terrorism at the Summit of Heads of State held in January 2004. This legitimate concern for security has however given rise to abuses, with respect for human rights being considered of secondary importance.

In such a particularly repressive context, it is increasingly difficult for the women and men who defend human rights to denounce violations committed by the authorities. In 2003, on the Asian continent, defenders were victims of assassination (*Indonesia, Nepal, Philippines*), violence and intimidations by the Police or armed groups (*India, Pakistan*), arrests under national security or State security legislation (*China, Iran, Laos and Vietnam*), solitary confinement (Vietnam), or prosecution without arrest (*Pakistan, Malaysia*).

In addition to the unfavourable context defenders are confronted with, they are at risk in countries weakened by internal conflicts, such as *Indonesia, Nepal* or the *Philippines*. In *Afghanistan*, the Taliban have assassinated staff members of intergovernmental and non-governmental organisations, who have become targets, in the same way as any persons, even Afghans, working with those organisations¹.

¹ On 27th March 2003 Mr. Ricardo Munguia, an International Committee of the Red Cross (ICRC) delegate, was assassinated by the Taliban in the Uruzgan province. On 16th December 2003, Mrs Bettina Goisard, working for the United Nations High Commissioner for Refugees, was killed by the Taliban at Ghazni (south-west of Kabul).

ASIA

There are still several countries in Asia where it is impossible for Human Rights defenders to work, such as *North Korea, Bhutan, Laos and Burma*. It should be noted that during his mission to Burma, which was considered to be a sign of the country's opening up, the United Nations Special Rapporteur on the human rights situation in Burma cut short his visit when a microphone was discovered hidden in the room in which he interviewed political prisoners². The arrest on 31st May 2003 of the Secretary General of the National League for Democracy (NLD), Aung San Suu Kyi, and the brutal attack on her convoy is another sign of the deterioration of the human rights situation in the country³.

In countries such as *Vietnam and China* defenders manage - with extreme difficulty and at enormous risk - to circulate information on Human Rights violations committed by the authorities. In these countries however, in addition to arrests and prison sentences inflicted on defenders, the authorities impose stringent controls on new information technology, and thereby on the circulation of information itself.

Lastly, the international human rights NGOs still have no access to a certain number of Asian countries (*China, Bhutan, North Korea, Iran, Laos, Vietnam*).

The fight against terrorism and erosion of rights

The multiplication of so called security policies, laws and procedures, or measures related to the fight against terrorism, has had a considerable impact on the action of Human Rights defenders in Asia. In this context defenders are faced with a climate in which the defence of the right to a fair trial, the presumption of innocence or the prohibition of torture are considered by a certain number of States as being beside the point. Security considerations easily outweigh the requirement to respect rights and principles. It is far more difficult for defenders to get across a message of peace and justice in a climate in which positions are more radical, more community-oriented, and where repression is increasing.

² See United Nations document A/58/219, 5th August 2003.

³ As a result of the brutal attack on the convoy there were nearly 80 people killed and at least 150 missing.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

In *Malaysia* in particular, the government has submitted to Parliament for adoption amendments to the Penal Code and the law against money-laundering that bear on «terrorism-related offences». Under these amendments, the penalties incurred for «terrorist» acts can range from seven years' prison sentences to life sentences, and the death penalty. The provisions concerned are couched in vague terms and cover acts that range from «serious bodily injury to a person» to those that «cause prejudice to national security or to public safety».

In *Indonesia*, on 6th March 2003, Parliament promulgated the «Perpu» anti-terrorist decrees n° 1/2002 and n° 2/2002. These two decrees were adopted by the government following the terrorist attack on 18th October 2002 in Bali. «Perpu» n° 1/2002 allows individuals to be detained for up to six months without being charged and without trial. Powers of investigators are increased, in that they can open personal mail and record telephone conversations, or any other communication, for a period of up to one year. Reports by the secret services can henceforth be used as legal evidence, which bestows considerable power on those services. As for the terrorist activities, they are very broadly defined, to the extent that political activities and legitimate opposition to the government can be considered to be terrorist activities.

In the *Philippines*, two anti-terrorist laws - H.B. 5923 and S.B. 2540 - are presently being examined by the two chambers of Congress. Whereas in law H.B. 5923 the maximum penalty is a life sentence, law S.B. 2540 carries the death penalty. These laws are couched in imprecise terms, as was stressed by the United Nations Committee on Human Rights during the examination of the report presented by the government of the Philippines in October 2003⁴. Furthermore the Committee noted that the definition concerning terrorism was also vague and imprecise, which could have a negative impact on the realisation of the rights guaranteed by the International Covenant on Civil and Political Rights.

In *Singapore*, the Computer Misuse Act was amended in November 2003 in order to authorise preventive action against computer terrorism; in other words, threats to the computer system that could imperil natio-

4 See United Nations document, CCPR/CO/79/PHI, 1st December 2003.

ASIA

nal security, essential services, defence or the external relations of the nation. Before this, the security forces could only intervene after an electronic attack had taken place. Many voices were raised in Singapore to express concern over the possibility of the law being used abusively as an instrument of oppression.

Freedom of expression, of assembly and of association

In certain Asian countries, the exercise of the freedoms of expression, of assembly and of association is so restricted that human rights defenders have practically no possibility of getting organised, and sometimes none at all: such is the case in *Burma, China, North Korea, Laos* and *Vietnam*⁵. In other countries, the capacity to organise is hindered to varying degrees.

In *India*, the restrictive provisions of the Foreign Contribution Regulation Act (FCRA), which require any organisation or individual seeking to receive funds from abroad to obtain prior authorisation from the Ministry of the Interior, or the requirement that any NGO wishing to organise a meeting at which foreign participants would be present must first get permission from the Ministry of the Interior and any other Ministry concerned, are examples of the many difficulties that human rights defenders are up against.

In *Singapore*, an array of restrictive legislation - including the Public Entertainment and Meeting Act (PEMA), and the Societies' Act, which governs inter alia the setting up of NGOs -, makes it more difficult for independent Human Rights organisations to operate.

In *South Korea*, on 19th November 2003, the National Assembly Committee on Domestic Affairs approved a draft revision of the legislation on meetings and demonstrations, considerably restricting freedom of expression, of assembly and of association. This draft revision - which in particular gives the police the power to oppose assemblies whenever they think fit - is presently being examined by the Legal-Judicial Committee.

In *Pakistan*, NGOs can register either under the law on registration of companies (1960), or under the Ordinance on the registration and

⁵ See Compilation of cases below.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

control of welfare organisations (1961). The mission sent by the Observatory and the FIDH to Pakistan in October 2003 was told that since 2002 a draft bill on NGOs has been in preparation in the Pakistani Centre for Philanthropy (PCP), but has not yet been submitted to Parliament. The PCP is an organisation set up in order to assist the government in promoting and regulating social activities in the country.

The NGOs seen by the mission expressed the fear that the new law would strengthen government control over their activities, forcing them to de-register and re-register subsequently, and imposing a limited, and therefore restrictive list of activities open to NGOs. This draft bill, which has been in preparation since 2002, is like a sword of Damocles suspended over the heads of Human Rights defenders.

In practice, Human Rights defenders continue to be subjected to various forms of harassment and repression in Pakistan, while at the same time a certain number of trade unions, in particular in public sector enterprises, are still banned. The situation is particularly difficult in the North West Frontier Province (NWFP), where NGOs are threatened, at times violently, by extremist Islamic groups⁶.

In *Bangladesh*, the conservative and nationalist government is less and less tolerant towards criticism of its policies, perceiving critics as being supporters of the Awami League, an opposition party subjected to vigorous repression. This trend has been accompanied by a strengthening of the power of the military, in particular in the framework of the Clean Heart operation, organised from October 2002 to January 2003; the aim was to eradicate crime, but political opponents and Human Rights defenders were also targeted.

In 2003 the authorities made increasing use of the libel law in order to prevent publication of articles criticising government policy. The numerous restrictions to trade union freedoms are still in place, and NGOs have often been subjected to pressure and intimidation. The government has banned all NGOs dealing with women's rights, supposedly because they do not conform to Islamic values.

The exercise of freedom of expression, of assembly and association has felt the full force of the consequences of the restrictions imposed by

⁶ *Idem*.

ASIA

legislation on national security and the fight against terrorism. Governments have used such legislation to justify censorship of information on Human Rights and for taking retaliatory action against defenders. The following are among the charges made: «libel and slander against the authorities», «spreading false information of such a nature as to disturb the public peace», «insulting the police», «attack on the image or reputation of the State», and «sedition». All these charges are linked to national security concerns.

New information technology is another area in which freedom of expression has been seriously restricted in some Asian countries. In *China* and *Vietnam* several cyber-dissidents were arrested and imprisoned in 2003 for having spread human rights information on the Internet⁷. In *Malaysia*, the independent newspaper *Malaysiakini*, which so far has been spared government censorship, was subjected in 2003 to a police investigation under the 1948 Sedition Act, for freely circulating on the Internet. This Act is part of the legislative repressive arsenal developed by the authorities for restricting fundamental freedoms - in the name of national security. Journalists working for the newspaper are regularly subjected to threats and persecution⁸.

When reports are published revealing Human Rights violations in certain countries, acts of reprisal are regularly committed against the defenders and NGOs that wrote them. These acts are committed by government agents or militias linked to the authorities. Following the publication of a report that contained allegations of ill-treatment of migrant workers in *Malaysia*, the director of the NGO responsible for the publication was charged in 1995 with having «published false information with intent to harm», under the 1994 Printing, Press and Publication Act (PPDA). At the end of the longest trial ever held in Malaysia, on 14th October 2003 she was sentenced to 12 months' imprisonment⁹. In *Pakistan*, it was also shortly after the publication of the annual report of the Human Rights Commission of Pakistan (HRCP) that the co-ordinator of one of its regional offices was arbitrarily arrested¹⁰.

⁷ *Idem.*

⁸ *Idem.*

⁹ *Idem.*

¹⁰ *Idem.*

THE SITUATION OF HUMAN RIGHTS DEFENDERS

In *Indonesia*, the National Commission for Human Rights - a national institution - received threats¹¹.

In *Thailand*, Burmese democrats and non-governmental organisations, whose presence in Thailand has traditionally been tolerated by the Thai authorities, ran into difficulties at the end of 2002, which continued in 2003¹².

A positive evolution regarding freedom of expression has however taken place in the Hong Kong administrative region of *China*. The Chinese government, following considerable mobilisation at the national and international level, was compelled to withdraw its draft «anti-subversive» bill, implementing Article 23 of the Fundamental Law. This bill purported to replace the existing offence of treason by a new definition; to establish the offence of secession from the People's Republic of China; to reactivate and redefine the offences of sedition and issuing of seditious publications; to establish the offence of subversion; to broaden the present provisions concerning the theft of official secrets; to extend the provisions on «foreign» political organisations endangering national security, and to increase the powers of the police in matters of access to, searching for and seizure of evidence without the authorisation of a court. If the proposed legislation had been adopted, it would have violated both the international provisions concerning freedom of opinion and expression, and the right to peaceful assembly and the freedom of association.

Defenders in a context of general violence: in times of armed conflict

In *Indonesia*, following the failure of the peace negotiations and the collapse of the fragile Agreement for the cessation of hostilities (COHA) in May 2003, putting an end to a six months' truce between the Free Aceh movement (GAM) and the security forces, the Indonesian government declared a State of Emergency in the province; this in fact permitted the launching of military operations against the GAM, to the detriment of the civilian population. Under the martial law, the military

¹¹ *Idem.*

¹² *Idem.*

ASIA

control, inter alia, all means of communication, including radio broadcasts and telephone communications, and of publication. They can also detain a person for up to 20 days - the period can be extended to 50 days -, without having to level any charge. The martial law was initially supposed to be in force for six months, but it was extended to 2004. In this context, the situation of Human Rights defenders is extremely dangerous and precarious. They receive threats, and are victims of disappearances and assassinations. Others have had to leave the province¹³. Aceh is de facto banned from the national and international press, and from contact with humanitarian and Human Rights organisations.

In *Papua*, similar events to those concerning Aceh are taking place, such as an increasing military presence and the gradual closing of the province. Human Rights defenders have been subjected to increasing pressure on the part of the Indonesian armed forces for having investigated Human Rights violations and shown the direct responsibility of certain members of the Indonesian army and of the police¹⁴.

In *Nepal*, since the breaking off of the peace negotiations in August 2003, the number of cases of extra-judicial executions, forced disappearances, torture and arbitrary arrests, has considerably increased. A sign of the deterioration of the Human Rights situation in the country is the fact that the Nepalese government has sought to undermine the independence of the National Commission for Human Rights by proposing the setting up of a parallel human rights unit controlled by the Prime Minister.

In the *Philippines*, human rights defenders are in the front line when they document and denounce the serious human rights violations perpetrated in the context of the anti-insurgency campaign waged by the government against the New Popular Army (NAP), the armed branch of the communist party. On 21st April 2003, Eden Marcellana, Secretary general of the Tagalog-South office of the Alliance for Advancement of People's Rights (KARAPATAN), and Eddie Gumanoy, President of the

¹³ *Idem*.

¹⁴ Declaration under the auspices of Survival International and the International League of Women for Peace and Freedom, 59th session of the Commission for Human Rights,
<http://www.survival-international.org/fr/papua%20un.htm>.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

KASAMA-TK peasant group, were found dead shortly after being kidnapped when they were investigating human rights violations committed in the eastern province of Mindoro. The presumed authors of these assassinations are armed men acting with the support of the 204th infantry brigade of the army of the Philippines, commanded by Colonel Jovito Palparan Jr. At the end of December 2003, the preliminary enquiry was not yet finished.

Economic, social and cultural rights

Legislation on trade union rights is still very restrictive in several countries in Asia, where the right of workers to organise freely is strictly controlled, and where anyone voicing a claim is often sacked, arrested, imprisoned and subjected to ill-treatment¹⁵.

In *South Korea*, dozens of trade unionists are still in prison for having called for an improvement of their working conditions. Although Mr. Dan Byung-ho, President of the Korean Confederation of Trade Unions (KCTU) was released in April 2003, on 18th March 2002 he had been sentenced by the court of first instance of Seoul to two years' imprisonment for having co-ordinated a general strike¹⁶. During the demonstrations and protests organised by the trade union Equality-migrant worker section (ETU-MB), in response to the repressive measures inflicted on migrant workers in South Korea since 24th October 2003, several members of ETU-MB have been the victims of aggression, arrest or deportation. Such was for instance the fate of Mr. Khademul Islam Bidduth, leader of the trade union, who was arrested during a demonstration on 26th October and deported on 30th December 2003 to Bangladesh.

In *Bangladesh*, *Pakistan* and *India*, restrictions to the freedom of association and to the right of collective bargaining remain a matter for concern.

In *Burma*, *China*, *North Korea*, *Laos* and *Vietnam*, independent trade unions are strictly banned, and any attempt to exercise an independent trade union activity is very severely repressed. By way of example, two

15 For more information, see the annual report for 2003 of the International Confederation of Free Trade Unions (ICFTU) at <http://www.icftu.org>.

16 For more information, see annual report for 2001.

ASIA

Chinese trade union activists who were arrested in March 2002 during workers' demonstrations were transferred on 8 October 2003 to a prison known for being one of the most brutal in China. Those inmates are deprived of necessary medical treatment, which is contrary to Chinese legislation¹⁷.

The situation of human rights defenders who try to obtain recognition of the rights of indigenous communities in Asia is still precarious. In India for example, in June 2003, Mrs. Medha Paktar, a member of the Narmada Bachao Abndolan organisation, which defends the rights of the Adivasis communities affected by the construction of the Sardar Sarovar dam, went on a seven day hunger strike to protest against the refusal of the Maharashtra government to grant adequate compensation to the Adivasis families whose houses were in danger of being submerged. The government gave her the assurance that the persons concerned would obtain reparation¹⁸. At the end of December 2003 however, the Maharashtra government had as yet taken no concrete steps.

Mobilisation for the national, regional and international protection of defenders

The civil society

On 28th November 2003, in Tamil Nadu, in *India*, the first conference on Human Rights defenders organised by eleven NGOs, including People's Watch-Tamil Nadu¹⁹, was attended by defenders and victims of Human Rights violations. In its final resolutions, the conference called in particular for the setting up of a Human Rights defenders bureau in Tamil Nadu, charged with recording and verifying Human Rights violations, drawing up a report on them and taking all appropriate steps with the governments of Tamil Nadu and India, the national Human Rights institutions and the Special Representative for Human Rights Defenders, in order to afford protection to the defenders.

¹⁷ See Compilation of cases below.

¹⁸ See Urgent appeal OMCT IND 040603.ESCR and 040603.1 ESCR.

¹⁹ This conference was organised following a police raid on the premises of this small organisation on 5th November 2003. See Compilation of cases below.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

A regional conference entitled «Asian consultation on Vienna + 10, 10 years after the 1993 Vienna World Conference on Human Rights» was held in Bangkok on 15th and 16th December 2003. The final declaration of the conference called in particular on the governments of Asia to: «Recognize the important role of NGOs in the promotion and protection of all human rights at all levels in the light of the Declaration on Human Rights Defenders and to co-operate with the Special Representative of the UN Secretary General on Human Rights Defenders».

International organisations

During the 59th session of the Commission on Human Rights, in April 2003, the Special Representative of the UN Secretary General on Human Rights Defenders presented her report for 2002. In response to an invitation from the Thai government, she visited the country from 18th to 27th May 2003. She received answers to her requests for an invitation from the governments of Singapore and Indonesia, the latter having declined to invite her. She also sent requests for an invitation to the governments of Bhutan, India, Malaysia, Pakistan and Nepal.

In her report, the Special Representative stressed her concern at the rapid multiplication of «security», or «anti-terrorist» policies, laws and procedures that could have an impact on the action of Human Rights defenders, or which could be diverted from their aim so as to hinder such action, or which even sometimes targeted the defenders directly. This concern was analysed at greater length in her report to the General Assembly, in which she addressed the use of security legislation against human rights defenders, and the role of human rights defenders in emergency situations²⁰.

Commonwealth

From 22nd to 23rd October 2003 in Colombo, (Sri Lanka), the Human Rights Unit of the Commonwealth Secretariat organised, with the South Asian Human Rights Documentation Centre and the Lawyers for Human Rights and Development in Sri Lanka, organized a seminar on the United Nations Declaration on Human Rights

20 United Nations document, A/58/380, 18th September 2003.

ASIA

Defenders in Asia. The seminar, the first of its kind, was attended by the national Human Rights commissions and representatives of the civil society in Bangladesh, India, Malaysia, Singapore and Sri Lanka, as well as by international NGOs such as FIDH and OMCT. The final declaration of the seminar called in particular for better co-operation between the various national, regional and international players involved in the issue of human rights defenders²¹.

European Union

The European Parliament addressed the question of human rights defenders in several resolutions.

In its resolution on the situation in the Indonesian province of Aceh, it noted the attack perpetrated by the army and the police on 19th October 2003 against the training programme on human rights monitoring organised by the National Commission on Human Rights (Komnas Ham).

Lastly, the European Parliament passed two resolutions on freedom of expression and religion in Vietnam²², which address in particular the situation of the Unified Buddhist Church of Vietnam (UBCV), and which call on the government of Vietnam to «repeal decree 31/CP²³ and all the other laws that repress peaceful activities on the grounds that they constitute a threat to national security²⁴».

In the framework of the Common Foreign and Security Policy in 2003, the Council of the European Union welcomed in particular the reduced prison sentence of Mr. Pham Hong Son, a Vietnamese cyber-dissident²⁵.

20 United Nations document, A/58/380, 18th September 2003.

21 See the official Commonwealth website,

http://www.thecommonwealth.org/news/oct2003/story3_wk4.htm.

22 See Resolutions of the European Parliament on the freedom of expression and religion in Viet-Nam, P5_TA (2003) 0225 and P5_TA (2003) 0526.

23 See Compilation of cases below.

24 Resolution of the European Parliament on the freedom of expression and religion in Viet-Nam, P5_TA(2003)0225, item 8.

25 See Compilation of cases below and «European Union's Statement in Mr. Pham Hong Son's case», 11th Septembre 2003.

HUMAN RIGHTS DEFENDERS HARASSED

CHINA

Mr. Zheng Enchong's sentence²⁶

On 6th June 2003, Mr. **Zheng Enchong**, a Shanghai lawyer involved in the defence of economic and social rights of displaced persons, was arrested and led to the Shanghai Public Security Bureau Detention Center. He was assisting displaced families in more than 500 cases relating to Shanghai's urban redevelopment projects. Mr. Zheng's first family visit occurred on 20th August only. His house was searched at least twice. During the searches, Public Security police warned his wife, Ms. Jiang Meili, not to speak to the foreign media or other parties outside of China.

On 28th October 2003, Mr. Zheng Enchong was sentenced to three years in prison and deprivation of his political rights for one year, on charges of «illegally providing state secrets to entities outside of China» (article 111 of the Criminal Law of the People's Republic of China) by the Shanghai Second Intermediate People's Court.

Mr. Zheng Enchong was accused of sending two communications to Human Rights in China (HRIC). The first one referred to a message from Mr. Zheng Enchong about the fact that 500 policemen surrounded more than 500 workers who were on strike on 9th May 2003 following

²⁶ See Urgent Appeals CHN 001/0803/OBS 041, 041.1, 041.2 and 041.3.

ASIA

the announcement that three-quarters of Shanghai Yimin Food Product n° 1 factory's workers would be laid-off. The second document was a copy of an internal article of Xinhua News agency entitled «Reporters covering conflict sparked by forced removal come under attack». However HRIC never received this article from him and the Court acknowledges that this document never reached the organisation. Both communications were considered as «state secrets» by the Shanghai State Secrets Bureau.

Mr. Zheng Enchong had been tried behind closed doors on 28th August 2003. Mr. Zheng Enchong's wife, Mrs. Jiang Meili, and other observers had been barred from the court on the grounds that the case involved state secrets. Represented in court by his lawyers, Mr. Enchong had pleaded not guilty in the trial.

On 19th November 2003, Ms. Jiang Meili and her sister, Ms. Jiang Zhongli, while in Beijing to meet with Zheng Enchong's lawyer, Mr. Zhang Sizhi, about Zheng Enchong's planned appeal, were abducted by officials of Shanghai's Letters and Petitions Bureau and immediately put on a train for Shanghai. Mrs. Jiang Meili's sister was released upon their return to Shanghai. Mrs. Jiang Meili herself was held a little longer, but was finally allowed to return home at around 3 p.m. on 20th November.

On 18th December 2003, the Shanghai appeal court upheld the three-year sentence of lawyer Zheng Enchong on charges of circulating state secrets. He remains imprisoned at the Shanghai Detention Center.

Alarming prison conditions for labours activists²⁷

On 8th October 2003, two labours activists, Mr. **Yao Fuxin** and Mr. **Xiao Yunliang**, imprisoned since March 2002, were transferred from the Jinzhou Prison to the Lingyuan Prison, considered to be one of the most brutal prisons in China. Lingyuan Prison is a huge penal colony, located in Liaoning Province close to the border of Inner Mongolia. The transfer was made despite the extremely poor health of both prisoners. Mr. Yao Fuxin and Mr. Xiao Yunliang's health has rapidly deteriorated since their transfer to Lingyuan prison, due to the lack of proper medical facilities available in that prison.

²⁷ See Urgent Appeal CHN 002/1103/OBS 060, 060.1 and Annual Report 2002.

HUMAN RIGHTS DEFENDERS HARASSED

In December 2003, Yao has been sent to the prison hospital after losing consciousness twice due to a heart condition and because is also suffering from hearing loss and partial paralysis. Xiao is suffering from pleurisy and is almost entirely blind. He has oedema throughout his body, and his hands are numb from prolonged use of handcuffs. Both men are kept in isolation and surveillance around the clock, and other prisoners are not allowed to speak with them. Yao and Xiao's families have requested that they be released for medical treatment outside of the prison system, a right that is provided for in Chinese law. But prison officials notified Yao's family that their request had been denied because of the «special circumstances» of Yao's case. As of December 2003, Xiao's family is still awaiting a decision regarding their request.

Mr. Yao Fuxin and Mr. Xiao Yunliang had been arrested as the leaders of a mass workers demonstration, that took place in March 2002 against corruption and unpaid benefits in the city of Liaoyang, Liaoning Province. They had been tried in January 2003 on charges of «subverting state power» (Article 105 of the criminal law) and on 9th May 2003, they had been sentenced to seven and four years in prison respectively. Their appeals had been subsequently rejected by a higher court.

Cyber-activists in jail²⁸

The circulation of information relative to human rights on the Internet can be sanctioned on grounds such as inciting the overthrow of state power, toppling the socialist system, destroying national unity, promoting «cults» (interpreted to mean groups such as the Falungong spiritual movement) or supporting the independence of Taiwan or Tibet. Sophisticated filtering technology enables government officials to monitor international traffic and block news, political sites, certain human rights NGOs websites and Tibetan and Taiwanese sites. The majority of the Web sites concerned are Western based.

As of December 2003, the following human rights defenders, who had used the Internet to promote human rights and democracy in China were still in jail:

²⁸ See Open Letter to the Chinese authorities of the 3rd December 2003 and annual report 2002.

ASIA

On 27th November 2003, Mr. **Jiang Lijun** was condemned to four years in prison. Mr. Jiang Lijun had been arrested on 6th November 2002, then transferred to Beijing's Qincheng Prison because he had posted political views in favour of democracy on the Internet. He was tried on 4th November 2003 on charges of «incitement to subvert state power».

Mr. **Ouyang Yi**, a political activist criticizing the Chinese government and using the Internet to spread his demands for democratic reforms was tried on 16th October 2003. He had been arrested on 4th December 2002 and charged on 7th January 2003 with «incitement to overthrow state power» by the Chengdu Public Security Bureau. The Court has not rendered a decision yet, although he faces up to 15 years in prison. Mr Ouyang Yi is currently being detained at the Sichuan Province n° 1 Detention Center.

Mr. **Yan Jun**, another Internet activist, was detained on 2nd April 2003 and formally arrested on 9th May. His trial began in closed proceedings on 27th October and his sentence has not been announced yet. While in detention, he has been constantly beaten by other prisoners under the encouragement of Public Security Police.

Internet activist Mr. **Li Zhi**, from Dazhou city, Sichuan province, was formally arrested on 3rd September 2003 on charges of «conspiracy to subvert state power». He was detained since 8th August. Mr. Li Zhi had frequently expressed his views in Internet bulletin boards and chat rooms. Under those charges, Mr. Li Zhi could be sentenced to up to 15 year in prison.

Mr. **Jin Haike**, Mr. **Xu Wei** and Mr. **Zhang Honghai** founded the New Youth Society in May 2000, a study group that discussed political and democratic reforms, and published its findings and theoretical ideas on the Internet. On 13th March 2001, the Beijing state security bureau detained them along with Mr. **Yang Zili**, another New Youth Society member. On 28th August 2001, they were tried by the n° 1 Intermediate People's Court on charges of «incitement to subvert state power», and found guilty of the charges on 28th October 2003. Mr. Jin Haike and Mr. Xu Wei were each sentenced to ten years in prison at the Beijing State Security Bureau Detention Center. Mr. Yang Zili and Mr. Zhang Honghai, were sentenced to eight years each. On 4th November 2003, a Beijing Court heard their appeals, but they were rejected on 11th November 2003. The four men have repeatedly complained to the n° 1 Intermediate People's Court that they have been

tortured in prison, but the Court has refused to initiate an investigation.

Mr. **Huang Qi**, an Internet activist and web master who gained notoriety for publishing several articles about the 4th June massacre on his Tianwang web site, was detained on 3rd June 2003. He was arrested on charges of «organizing national separatism, destroying national unity, (...) organizing, plotting or carrying out activities aimed at subverting state power» and «overthrowing the socialist system» on 5th June 2003. He is currently serving a five-year sentence at Chengdu Public Security Bureau n° 1 Detention Center. According to some information, Huang would have been tortured while in prison.

Mr. **Tao Haidong**, released in January 2001 from Reeducation Through Labor to which he had been condemned for publishing a book, was arrested again on 9th July 2002, while he was posting articles on web sites in China and overseas. On 8th January 2003, he was tried in secret at the Urumqi People's intermediate court and found guilty of «incitement to overthrow state power», for which he received a seven-year prison sentence. He is being held at the Urumqi Dadaowan Detention Center.

Mr. **Wang Daqi** was arrested on 24th January 2002, and sentenced on 19th December 2002 to one year in prison on charges of «inciting the overthrow of state power» because of articles he had published in his magazine Ecology. He is being detained at the Hefei Luosigang Detention Center in Anhui province.

Mr. **Jiang Lijun** was arrested on 6th November 2002, then transferred to Beijing's Qincheng Prison because he had posted political views on the Internet. He was tried on 4th November 2003 on charges of «incitement to subvert state power». Mr Jiang Lijun's crime was to publishing essays and comments on political issues in China. He was condemned on 28th November 2003 to four years in prison.

Mr. **Luo Yongzhong** was detained by public security officials on 13th June 2003 at his apartment in the Northeastern city of Changchun, Jilin province. Mr. Luo Yongzhong had published more than 150 articles online on topics such as the plight of the disabled and the need for constitutional reform. He was charged with subversion and sentenced to three years imprisonment and two years of deprivation of his political rights upon release on 14th October 2003.

In a positive development, on 28th November 2003, Mr. **Li Yibin**, editor of the online magazine «Democracy and Freedom», detained

ASIA

since November 2002, was released as well as Ms. **Liu Di**, known by her Internet pen name as «the Stainless Steel Mouse», who was released on bail. Mrs. Liu Di was ordered not to speak to journalists. Moreover, Mr. **Du Daobin** and Mr. **Luo Changfu**, who had organised a campaign in favour of her release were arrested in October 2003. Mr. Luo Changfu received a three-year prison sentence in November 2003. As of December 2003, Mr. Du Daobin is still awaiting trial.

INDIA

Threats against family members of Mr K. G. Kannabiran²⁹

On 2nd October 2003, at about 9.00 p.m., Dr. **Kalpana Kannabiran**, the daughter of Mr. **K.G. Kannabiran**, lawyer and President of the National People's Union for Civil Liberties (PUCL) in Andhra Pradesh (A.P), and a well known women's rights activist, received an anonymous telephone call warning her that her two young daughters would be kidnapped and killed. On the same night, she immediately lodged a written complaint with the Tukaram Gate Police Station.

On the following day at about 11.00 a.m., two youths came to the residence of Mr. K.G. Kannabiran under the pretence of selling cane furniture. When they attempted to enter the house, they were stopped by Ms. **Vasanth Kannabiran**, the wife of Mr. K.G. Kannabiran and a renowned women's rights activist and writer, who got them to leave. When they left the house, Ms. Vasanth Kannabiran saw them, getting on a motorcycle whose front head lamp had the word «Police» printed on it.

These threats targeting Mr. K.G. Kannabiran and his family appear to be linked to PUCL's condemnation of the attempt on the life of Mr. Chandrababu Naidu, Chief Minister of Andhra Pradesh near Tirupati, on 1st October 2003. Human rights activists have indeed been

²⁹ See Urgent Appeal IND 001/1003/OBS 051.

the victims of reprisals in the past, due to their denunciation of the use of violence following the injuring or the killing of police officers or political personalities in Andra Pradesh.

Attack on People's Watch-Tamil Nadu premises³⁰

On 5th November 2003, at about 7.30 a.m., several uniformed policemen and women, without name badges, barring one inspector, Mr. Vellaiyan, made a sudden entry into the People's Watch-Tamil Nadu (PW-TN) office. They stated that they were authorised to search the premises by an order of the Judicial Magistrate of Sivakasi, allegedly for harbouring a criminal. They made a videotape of the premises without any prior notice with the aim of searching a person accused in connection with crime n° 129/2003 of Mr. Puthupatti Police Station within the jurisdiction of Sivakasi Taluk of Viruthunagar District of Tamilnadu. The police made a video both inside and outside of the People's Watch office. They refused to give the copy of the search warrant to Mr. **Henri Tiphagne**, Executive Director of PW-TN, wherein he claimed that no accused was found on the premises of PW-TN. On the following night, a sub-inspector of police came to the premises of PW-TN and asked for the Director.

These events against PW-TN and his Director, who is also serving within the National Core Group on NGOs of the National Human Rights Commission (NHRC), may be linked to their activities in the public hearings recently conducted by the National Commission for Women (NCW) and the State Commission for Women in Virudhunagar, Madurai on 27th and 28th October 2003. PW-TN was one of the main human rights organisations which facilitated the depositions of numerous victims concerning police abuses before the NCW panel. It is reported that, during the hearing, Mr. Henri Tiphagne was personally threatened by some senior police officers who were present because PW-TN presented several cases of police excess including sexual abuses, kidnapping of children, of witnesses, etc. They threatened him saying that he and his staff would face serious trouble if they continue such exposure.

³⁰ See Urgent Appeal IDN/ 002/1103/OBS 061.

ASIA

INDONESIA

Obstacles to the work of the National Human Rights Commission of Indonesia (KOMNAS HAM)³¹

On 20th May 2003, 1 000 civilian militias arrived at the headquarters of the National Human Rights Commission of Indonesia (KOMNAS HAM) and threatened its members with violence if the organisation continued to investigate into the 1965 massacre. Indeed, during the 1965 massacre, the Suharto Government is thought to have been responsible for the extermination of an estimated 1 million unarmed civilians, the political imprisonment and torture of 200,000 political opponents and the life-long exclusion and discrimination of anyone with suspected links to Communism. Nothing has as yet been done by the authorities concerning this massacre. The investigation team of KOMNAS HAM was to present its first report on 15th May 2003, which had been rescheduled for 6th June 2003.

On 20th October 2003 at 3 p.m., around 20 troops and 20 police officers came to the Seulawah pavilion where the National Human Rights Commission of Indonesia (KOMNAS HAM) was holding a training session³². They turned off the lights in order to sabotage the training programme. The members of the military and the police tried to come in, but Mr. **Billah**, the head of KOMNAS HAM's Aceh team, prevented them from doing so. They asked for the lists of participants, but Mr. Billah refused to give the lists and also refused to stop the meeting, leading to an exchange of words and negotiations with the police who wanted to take him to headquarters for questioning. In the morning session, two military representatives from the regional martial law authority (PDMD) had been included in the training programme, based on their request to be included as «participants». Both of them had left the training session by 3 p.m.

On 21st October, PDMD troops still occupied the Seulawah pavilion. The police members denied that they had been informed about the

31 See Urgent Appeal IDN 001/0503/OBS 026.

32 See Press Release 21st October 2003.

training course and members of the military said that permission was needed to hold the training.

Before this training course, KOMNAS HAM had informed the PDMD and also Polresta, the Police authority in Banda Aceh, that they would be holding this course. Furthermore, as part of the government, KOMNAS HAM clearly does not require permission to hold such a session. The training session could eventually proceed but under miserable conditions.

KONTRAS and the Association of Law and Human Rights Advocates attacked³³

On 26th May 2003, during the commemoration of the International Week of the Disappeared, about 30 people from the Pemuda Panca Marga (PPM, The Youth of the Veterans) with paramilitary uniforms, demonstrated in front of the office of the Commission for Missing Persons and Victims of Violence (KONTRAS). They attacked KONTRAS, and in particular its founder Mr. **Munir**, for their criticism against the Indonesian government's policy in handling the Aceh problem.

On 27th May 2003, 150 PPM members again attacked the office of KONTRAS while a press conference was conducted in relation to the International Week of the Disappeared. They insulted employees by forcing them to sing the national anthem and mocking them as pseudo-nationalists when they refused to sing it. Worse still, they physically assaulted them resulting in physical injuries and eventual hospitalisation. Furthermore, these people entered into the office premises and violently destroyed office equipment and paraphernalia. The PPM members left and then went to the office of the Association of Law and Human Rights Advocates (PBHI). They wounded one of the PBHI's staff members, who succeeded in forcing the assailants to leave.

During these attacks, the police were present, but did not intervene. Later the police said that the group of persons was too large to control. Three members of KONTRAS were wounded in the attack.

³³ See Urgent Appeal IDN 001/0503/OBS 026.

ASIA

KONTRAS filed a case concerning this attack. The police launched an investigation but as far as December 2003, no progress was made.

The office of KONTRAS had already been raided in March 2002 by over 100 civilians, members of the «Families of the victims of Cawang 1998». During that raid, Mr. Munir had been attacked, two other members of the organisation beaten up, many computers destroyed and documents on human rights violations in Indonesia were stolen. The attack on KONTRAS had certainly aimed at putting pressure on the organisation to stop its investigation into the deaths of students during the 1998 clashes in Cawang (department of East Jakarta) and during the 1998 and 1999 events of Trisakti and Semanggi³⁴.

Assassination and disappearance of two Human Rights volunteers³⁵

Mr. **Abdussalam Muhamad Deli**, a 23 year old volunteer of the Human Rights and Legal Aid Post (PB-HAM) East Aceh, an NGO that carries out advocacy through data collection, campaigning and legal assistance, has been missing since 11th May 2003. He was travelling from Central Langsa on a small public bus to visit his family's village. The bus was stopped by unknown men in civilian clothing on the main road between Banda Aceh, the capital of Aceh, and Medan. They forced him out of the bus into a «Kijang» car with dark windows and drove away in the direction of the city of Langsa. Volunteers from PB-HAM East Aceh have asked about Abdussalam's whereabouts to the police and authorities of East Aceh.

On the same day, Mr. **Raja Ismail**, a 50-year-old volunteer of PB-HAM East Aceh, was reportedly abducted outside Langsa. According to the information received, Mr. Raja Ismail left his house in Kuala Simpang, Aceh Tamiang district, to bring some data on victims of violence to the office of PB-HAM in Langsa. On the night of 11th May 2003, he had still not returned to his house. On 13th May, his body was found in the Titi Kembar River in Langsa Lama village, East Aceh district. The corpse showed signs of strangling and there were knife wounds and bruises.

³⁴ See Urgent Appeal IDN 001/0302/OBS 020.

³⁵ See Urgent Appeal IDN 001/0503/OBS 026.

Attack on the Legal Aid Institution³⁶

On 28th June 2003, in Banda Aceh, at 1.05 p.m., seven plain clothed members of the security forces turned up at the office of the Legal Aid Institution (LBH). The men, who drove up in a Panther vehicle, are thought to be members of the Police Mobile Brigade (Brimob). They entered the LBH office where they met Mr. **Afridal Darmi SH**, the director of the LBH and asked him where **Asiah**, the coordinator of the investigation division of KONTRAS Aceh, was. They left after Mr. Afridal Darmi had informed them that KONTRAS, which had previously shared an office with LBH-Aceh, had recently moved to another office. It is believed that the police was looking for Asiah because of her role in gathering information on human rights violations collected by KONTRAS volunteers in the field.

At 2.00 p.m., the same group of men came to the LBH office again and asked to speak to Mr. Afridal Darmi and to Mrs. **Syarifah Murlina**, a lawyer from LBH's litigation staff, but they were not in the office. Having failed to locate the two lawyers, they then entered the LBH office and carried out a search. They kicked down the door of the litigation room and threw books off of the shelves. They tried in vain to open the filing cabinet in the database room. They threatened to return later. As of December 2003, LBH and its members have not faced any new attacks. However, they are working under very difficult conditions, as LBH can not travel to another area in Aceh under martial law. Their activity is only focused in the capital town of Aceh (Banda Aceh). Moreover, Mrs. Syarifah Murlina feels that she is under military surveillance. Regarding Asiah, she has been evacuated to another province as the situation was becoming too dangerous for KONTRAS Aceh volunteers in the field.

³⁶ See Urgent Appeal IDN 001/ 0503/OBS 026.1.

ASIA

IRAN

Release after completing sentence³⁷

In December 2002, a court of appeal confirmed the sentencing of Mr. **Mohammad Ali Dadkhah** to five months' imprisonment, but cancelled the ruling forbidding him to exercise his profession as a lawyer for ten years. Mr. Dadkah was released in May 2003 after having completed his sentence, but is still forbidden to leave the country. A member of the Teheran bar, Mr. Dadkah had been prosecuted owing to his pleading in court in defence of several journalists and political prisoners, in November 2001.

The four months' prison sentence against Mr. **Abdolfattah Soltani**, handed down on 9th July 2002, was confirmed by the court of appeal, while the ruling depriving him of the right to exercise his profession was reversed. Mr. Soltani served his prison sentence and was released in June 2003. He had been convicted for having, in his defence pleadings, stressed the fact that his clients had been subjected to ill-treatment during their interrogation.

Prosecution and detention of Mr. Zarafchan³⁸

Mr. **Nasser Zarafchan** is still in prison, and several requests that his sentence be suspended for medical reasons have been ignored. On 25th November 2003 the High Court rejected his appeal. Mr. Zarafchan is Mrs. Sima Pouhandeh's lawyer; she is the widow of Mohammed Djafar Pouhandeh (writer and Human Rights defender, assassinated in 1998). Mr. Zarafchan was sentenced to three years' imprisonment by the Teheran military court in November 2001 for «possession of firearms and alcohol». He was also sentenced to two further years' imprisonment and fifty whiplashes on account of statements he had made during a press interview on the assassination of Iranian intellectuals.

Mr. Zarafchan lodged an appeal. On 15th July 2002 the Teheran military court confirmed the initial verdict. As the appeal to the Supreme

³⁷ See Annual Report 2002.

³⁸ See urgent appeal IRN 004/0012/OBS 125.03.

HUMAN RIGHTS DEFENDERS HARASSED

Court is not suspensive, Mr. Nasser Zarafchan was arrested on 7th August 2002, and is presently detained in the Evin prison. His lawyer has in vain called for the suspension of his sentence owing to his worrying medical condition. The Supreme Court rejected his appeal in November 2003.

As the United Nations Working Group on Arbitrary Detention indicated in the report it drew up following its visit to Iran in February 2003 (E/CN4/2004/3/Add2, paragraphs 49 and 50): «The Group has noted that lawyers have been prosecuted or sentenced simply for having, as a legitimate part of their role as defence counsel, drawn the attention of the court to the ill-treatment suffered by their clients or malfunctions in the system of justice. As an aggravating circumstance, these lawyers have for the most part been tried by revolutionary tribunals, and even, in one case {Zarafchan}, by a military tribunal, rather than initially being submitted to the authority of the lawyers' disciplinary panel provided for by law».

Detention in prison³⁹

In December 2003 several intellectuals and journalists were still in prison for having exercised their right to freedom of expression. Such is in particular the case of two journalists, Mr. **Akbar Ganji** and Mr. **Hassan Youssefi-Eshkevari**. Akbar Ganji, of the daily newspaper *Sobh-é-Emrooz*, was arrested on 22nd April 2000, sentenced to ten years' imprisonment in January 2001, and is still in prison. He is accused of having revealed details concerning the murder of intellectuals and opponents to the regime at the end of 1998, and of having accused certain politicians of being involved. Hassan Youssefi Eshkevari was arrested in August 2000 and sentenced to seven years' imprisonment in October 2002. He is still in prison.

Legal proceedings⁴⁰

Mr. **Mohammad Seyfzadeh**, Mr. Soltani's lawyer, was sentenced in 2002 to four months' imprisonment and three years' deprivation of the

³⁹ See Annual Report 2002.

⁴⁰ *Idem*.

ASIA

right to exercise his profession. His appeal is still pending. If his appeal is rejected, he can be arrested at any moment.

Threats⁴¹

Mrs. **Shirin Ebadi**, lawyer and Human Rights defender, was awarded the Nobel Peace Prize in October 2003. On 3rd December 2003, militiamen linked to Hezbollah prevented Mrs Ebadi from entering the premises of the university where she had been invited to deliver a speech on women's rights. The militia men blocked the entrance shouting slogans such as «death for Shirin Ebadi» and «Shirin Ebadi agent from the US, agent from the West». Mrs. Ebadi had to hide in the university's cellar and was subsequently escorted back home.

LAOS

Legal restrictions⁴²

Article 31 of the Laos Constitution states that «Lao citizens have the rights and freedom of speech, press and assembly; and have the right to set up associations and to stage demonstrations which are not contrary to the law». Nevertheless, these rights are limited by the Lao Penal Code which forbids slandering the State, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the State and participation in an organization for the purpose of demonstrations, protest marches, or other acts that cause «turmoil or social instability», providing for imprisonment of between one and five years.

⁴¹ *Idem* and Urgent Appeal IRN 005/1203/OBS 067

⁴² See Open Letter to the Prime Minister of the Lao People's Democratic Republic on 20th August 2003.

Human rights movements

These legal restrictions impede freedom of expression of Lao human rights defenders. Indeed, any person who dares express positions that are contrary to official positions or ask for democratic reforms faces systematically risk of arrest and detention.

In October 1999, five members of the «Lao Students Movement for Democracy of 26th October 1999», Mr. **Thongpaseuth Keuakoun**, Mr. **Khamphouvieng Sisaath**, Mr. **Seng-Aloun Phengphanh**, Mr. **Bouavanh Chanhmanivong** and Mr. **Keochay** who were among a group of people who had attempted to publicly call for the respect of human rights, the release of political prisoners, a multi-party political system and elections for a new National Assembly, were arrested and sentenced to 20 years imprisonment for «generating social turmoil, endangering national security». They are currently detained in Samkhé's prison, in the province of Vientiane.

Other people who participated in similar gatherings have simply «disappeared» as is the case with 15 people arrested during a demonstration in Champassak Province, in November 2000, and whose whereabouts remain unknown⁴³. This is also the case with about 20 civil servants, teachers and students who took part in a pro-justice and pro-human rights gathering, in Paksé (Champassak Province), in October 2001. After being detained in a detention center of the special police, they were led to an unknown place and no more information has since been available concerning their case.

Moreover, setting up human rights defence groups is still impossible. Although the Constitution provides citizen with the right to organize and join associations, in practice this right is severely restricted. The Government registers and controls all associations and prohibits associations that are critical of the government.

43 Savath Khanthong, Visiane Bouaphanh, Bounma Thavisay, Somchay Phiseth, Somphone Vongphanh, Khamphanh Nanthavong, Khampha Panya, Phetphongphanh, Khamphanh Khaosaat, Bay Vongsay, Say Kéosavang, Bounmy Namdy, Touy Vongsavang, Bounnong Vankham.

ASIA

Social movements

Despite Lao's signature of the International Covenant on Economic, Social and Cultural Rights in 2000, trade union freedom still does not exist. The Laos authorities have taken no action regarding the two core International Labour Organisation (ILO) Conventions on freedom of association (n° 87 and n° 98).

Even though the 1994 Labour Code states that «workers and employers shall have the rights to organize and belong to any mass and social organization that has been formed lawfully» the practice shows that the government does not register worker's organizations that are not affiliated to the Lao Federation of Trade Unions (LFTU), the single national centre, which is directly controlled by the Lao People's Revolutionary Party (LPRP).

MALAYSIA

Raid in a newspaper's offices⁴⁴

On 20th January 2003, 10 police officers from the Kuala Lumpur Dang Wangi District Police Station and the Computer Crime Department of the Bukit Aman National Police Headquarters raided the offices of the *Malaysiakini*, the online daily newspaper which has been in operation since 1999. This raid was launched in connection with a police complaint lodged by the youth wing of the United Malay National Organisation (UMNO) on 17th January 2003 concerning a letter published by *Malaysiakini*, which the UMNO youth claimed to have seditious content for questioning the Malay special rights and instilling hatred towards the government and non-Malay Malaysians.

The police officers confiscated 15 computers and 4 servers in Malaysiakini's office and had therefore full access to all confidential information. The police also took away the organisational chart of

⁴⁴ See Open Letter to the Prime Minister of Malaysia on 21st January 2003.

HUMAN RIGHTS DEFENDERS HARASSED

Malaysiakini and Mr. Steven Gan, editor-in-chief was asked to record a witness statement at the Dang Wangi District police station on 21st January 2003. According to the police, the raid was conducted under the Sedition Act, which provides power to the police to seize materials in order to preserve evidence⁴⁵.

As of December 2003, the police have concluded their investigation into the case and the decision lies with the Attorney-General as to whether to institute criminal proceedings⁴⁶.

During its international mission of inquiry conducted in March 2002⁴⁷, the Observatory had been informed about pressure exerted on the online newspaper that had previously benefited from a loophole in the legislation. Although the government has launched a project to establish an «Asian Silicon Valley» and pledged freedom of information on the Internet⁴⁸, government officials have repeatedly threatened to prosecute the newspaper if it «endangered national security». Publicly vilified for its supposedly defamatory articles on Malaysia, journalists of *Malaysiakini* have been subjected to discrimination, e.g. an unofficial «ban» for interviews from all government officials, which is however not strictly enforced.

45 The Sedition Act (1948) contains a very broad definition of seditious acts including acts that bring hatred or contempt or excite disaffection against any ruler, the government or the administration of Justice. It also prevents the questioning of the special position of Malays and citizenship rights of the non-Malays. A violation of the act is punishable by up to three years in prison. This law forms part of a framework of very repressive legislation, in particular concerning what is perceived as a threat to the National Security, like the Internal Security Act, which is at the disposal of the authorities to restrict fundamental freedoms. For more information see the Mission report of the Observatory: *Malaysia: Human Rights Defenders Under Close Surveillance*, March 2003.

46 See Suara Rakyat Malaysia's Executive Summary 2003.

47 See Mission report of the Observatory: *Malaysia... op.cit.*

48 The MultiMedia Super Corridor (MSC) was one of Dr Mahathir's pet projects. In order to attract foreign investors he pledged in section 3 of the Communications and Multimedia Act complete freedom of information on the Internet.

ASIA

Obstacles to freedom of circulation⁴⁹

On 18th August 2003, Ms. **Cynthia Gabriel**, Executive Director of the human rights organization Suara Rakyat Malaysia (SUARAM), was denied entry into Sarawak by Immigration officers at Miri Airport. Ms. Cynthia Gabriel was to attend a workshop entitled «Workshop on Globalisation and its Impact on Indigenous Peoples in Malaysia» in Miri, Sarawak. Immigration officers at the airport told Ms. Gabriel that she was denied entry as her name was blacklisted since 1998. The officers kept her passport and booked a return ticket for her on 19th August, to Kuala Lumpur. Upon negotiation, she was allowed to stay overnight and was told to be back at the airport at 5.30 a.m. She was then given back her passport and took the plane. Ms. Cynthia Gabriel has still not been officially informed of the reasons why she had been denied entry and no official explanation was given about the black list.

On 8th September 2003, indigenous rights activist, Mr. **Colin Nicholas**, coordinator of the Centre for Orang Asli Concerns (COAC) was similarly refused entry on the grounds of the black list while trying to enter Sarawak for a conference⁵⁰.

Ms. Irene Fernandez's sentence⁵¹

On 16th October 2003, Ms. **Irene Fernandez**, Director of Tenaganita, an NGO working with migrant women, was sentenced to 12 months in prison by the Magistrates Court 5B, in Kuala Lumpur. She was granted bail for RM 3000 and she filed an appeal to the High Court on 17th October. However, the High Court has not rendered its decision yet⁵².

49 See Open Letter to the Minister of Home Affairs of Malaysia on 20th August 2003.

50 Sarawak has a different set of immigration rules from those used in Peninsular Malaysia as a result of an agreement signed during the formation of Malaysia in 1963. Sarawak retains exclusive control over who enters the state. Malaysians living in other states must go through immigration checks. See Suara Rakyat Malaysia's Executive Summary 2003.

51 See Press Release of 15th October 2003, Press Release of 17th October 2003 and the report of the mission of the Observatory, *Malaysia... op. cit.*, March 2003.

52 See Appeal Update 27th November 2003, Tenaganita.net

HUMAN RIGHTS DEFENDERS HARASSED

The judgement was initially due to take place on 17th March 2004, once the submission from the defence and the prosecution would have been gathered. However, on 7th October 2003, the Magistrate, Ms. Juliana Mohamed, requested the use of the Court for the decision on Ms. Irene Fernandez's trial and on 9th of October 2003, Ms. Irene Fernandez's lawyers received a letter from the Magistrate requesting them to send the written submissions by 11th October. Since Mrs. Irene Fernandez's senior counsel for the trial, Mr. Pura Valen, was not in the country at that time as he had left Malaysia on 7th October to conduct a two-week investigation mission in Pakistan mandated both by the FIDH and the Observatory, the sudden change of date put Ms. Fernandez in a difficult situation regarding her defence. The Observatory expressed its concern that the new date might have been set up on purpose in order to profit from the absence of Ms. Irene Fernandez's senior counsel for the trial.

Ms. Fernandez had been charged in 1995 with «publishing false information with malevolent intentions» under Section 8A of the Printing, Presses and Publications Act following the publication of a report entitled «Memorandum on abuses, acts of torture and inhuman treatment towards migrant workers in detention camps». This report contained allegations of ill-treatment of migrant populations, based on Ms. Fernandez's interviews with over 300 migrant workers. Ms. Fernandez's trial began in 1996 and is known as the longest trial thus far in the history of Malaysia.

In November 2003, the Malaysian Magistrates Court, without adequate explanation, denied Mrs. Fernandez the right to travel to important human rights and HIV/AIDS meetings in the U.S. and Canada, including a meeting with the UN Acting High Commissioner for Human Rights at the Carter Center. On 5th December, Irene Fernandez's second attempt to attend human rights events abroad failed again when the Kuala Lumpur magistrate's court rejected her application for the return of her passport. The rejection has forced Fernandez to forego attending a «hearing» for human rights defenders in Germany on 10th December, an event organised by German parliamentarians.

Mrs. Fernandez had surrendered her passport to the court in October as part of her bail condition and has since then not retrieved it.

ASIA

Release after expiry of the detention order⁵³

2003 was highlighted by the release of six « reformasi » leaders after the expiry of the two-year detention order. They had been accused of attempting to topple the government in April 2001 and had been detained under the ISA (Internal Security Act): **Tian Chua**, vice-president of the Keadilan Party (National Party of Justice), labor and student activist, **Saari Sungib**, a leader of the Keadilan Party, **Mohamed Ezam Mohd Noor**, Youth Chief of the Keadilan Party, **Hishamuddin Rais**, film-director, **Lokman Adam**, Youth leader of the Keadilan Party, and Dr. **Badrulamin Bahron**, Central Committee member of the Keadilan Party.

NEPAL

Killing of Mr. Chet Prakash Khatri⁵⁴

Mr. **Chet Prakash Khatri**, a human rights defender working in the Binauna Village Development Committee (VDC) of Banke district, was killed on 24th December 2003, at approximately 3.30 p.m., by a group of unidentified individuals in Sarragaon (Phattepur VDC-7), in the Rapti River, an area close to the Indian border, on his way home from Gangapur VDC. The victim's body had a mark of a cord on his broken neck and a wound on his chin.

Some media blamed the killing on Maoist rebels. However, the Secretary of the CPN-Maoists Paban issued a press statement on 28th December 2003, condemning the accusation as «unsubstantiated». Also, five Nepalese political parties, the Nepali Congress, the CPN-UML, the People's Front, the Nepal Peasants' and Workers' Party and Nepal Sadbhawana Party (Anandi Devi), issued a joint press statement condemning the government's unwillingness to investigate the case. The victim's family members filed a complaint with the District Police Office of Nepalgunj in Banke District.

⁵³ See Annual Report 2002.

⁵⁴ See Urgent Appeal NPL 001/1203/OBS 072.

HUMAN RIGHTS DEFENDERS HARASSED

Mr. Khatri was working as a facilitator for a Peace Programme launched by INSEC in that area. He was training students and locals on safety measures during conflicts. Mr. Khatri was also working on children rights and was affiliated to Bheri Environmental Excellence Group (BEE Group), an NGO.

Trial of Mr. S. K. Pradhan⁵⁵

On 19th September 2001, Mr. **S.K. Pradhan**, Secretary General of the People's Forum for Human Rights and Democracy (PFHRD), a Bhutan organisation based in Nepal, was arrested and charged with complicity in the murder of the President of the Bhutan People's Party (BPP), Mr. R.K. Budahathoki - killed in Damak on 9th September 2001. On 20th September 2001, Mr. Pradhan was transferred to the Chandragai prison in Jhapa. He was arrested following a complaint filed by Mr. Balaram, Secretary General of the BPP. However, it seems that Mr. Pradhan was not in Damak at the time of the crime, but 500 kilometres away, in Katmandu. He was returning from the UN World Conference on racism in South Africa. On 5th February 2002, Mr. Pradhan sent a petition to the Supreme Court of Nepal in Katmandu, asking for his release on bail. His petition was turned down on 20th February. The Supreme Court upheld the rulings of the Court of Appeals and the Court of the Chandragari District, saying that according to Nepalese law, Mr. Pradhan is a refugee and therefore cannot be released on bail. On 5th September 2002, the Regional Court of Chandragari reopened Mr. Pradhan's case and the cases of people jailed for Mr. Budahathoki's murder. Nine Bhutan refugees and a Nepalese chauffeur were also charged. One of the refugees, Mr. Pemba Sherpa, committed suicide on 17th October. Witnesses for the defence were summoned from 23rd September to 2nd October 2002; witnesses for the accusation from 14th to 26th November. However, only 3 out of the 13 witnesses appeared before court, thus slowing down the proceedings. On 29th January 2003, the Jhapa district court finished hearing the statements of all the witnesses and eyewitnesses produced by the prose-

⁵⁵ See Annual Reports 2001 and 2002.

ASIA

cution including the testimony of Balaram Poudyel, the complainant. However, four witnesses failed to turn up at the court.

After the completion of legal formalities on 8th April 2003, the case was handed over to several judges and the final verdict, which was postponed on various occasions, has still not been set. More than two years after the crime, Mr. Budahathoki's murderers have not been brought to justice and there are serious doubts as to Mr. Pradhan's involvement. He has been in jail since 19th September 2001.

PAKISTAN

Bomb attack against a women's NGO⁵⁶

On 8th January 2003, there was a bomb attack on the premises of Khwendo Kop. The authorities then provided security guards, but withdrew them later. The activities of the NGO are regularly criticised by extremist groups, as being contrary to the values of Islam. Khwendo Kop is a very active NGO in the field of women's rights in the tribal zones (NWFP, North West Frontier Province).

Banning of a project in favour of women⁵⁷

In January 2003, in the North West Frontier Province (NWFP), the conservative government in Peshawar forced an NGO to give up a project for the well-being of women (*Mera Ghar*). This was a joint project by the Aurat Foundation and a German NGO. The Aurat foundation had received funds to create a centre for receiving women without any resources. The clergy denounced the project as being an attempt to distance the women from the traditional values of Islam, and the NWFP government decided to put an end to the project.

⁵⁶ See the information gathered by the Observatory's international investigative mission to Pakistan, November 2003.

⁵⁷ *Idem*.

Kidnapping of a Human Rights activist⁵⁸

On 23rd March 2003, Mr. **Akhtar Baloch**, co-ordinator of the Hyderabad office of the HCRP, Human Rights Commission of Pakistan, was kidnapped. He had left the annual meeting of the HRC in Hyderabad with a colleague, who was driving him back home. Around 7 p.m. their car was immobilised by two armed men on motor cycles. A car then arrived on the scene. Three other armed men got out, and threatened the driver, telling him to go away. Mr. Baloch was forcibly bundled into the vehicle and taken to an unknown destination. He was released several days later, in front of a Gulfishan wedding room, in Hyderabad. He had been abducted despite the fact that there was no charge against him, nor any official enquiry concerning him. He has stated that he was on numerous occasions during his detention questioned about the activities of the HRC and how it was financed. Before releasing him, his kidnappers warned him not to make the facts known publicly. At his own request, he has been transferred from Hyderabad to Karachi.

According to Mrs. Asma Jahangir, former President of the HCRP and Special Rapporteur of the United Nations Commission for Human Rights on extra-judiciary, summary or arbitrary executions, the action could have been designed to intimidate the HRC, which had criticised the action of the State and denounced Human Rights violations committed by the Pakistani government. The HRC had published its annual report at the beginning of March. The HRC has requested that the authors of this arbitrary detention, in which the secret services are involved, be prosecuted and brought to trial.

Ban on leaving the country⁵⁹

On 14th October 2003 the name of Mr. **Shahbaz Bhatti**, President of the All Pakistan Minorities Alliance, a non-governmental organisation comprising all the religious minorities, was added by the authorities to the Exit Control List. This prevents him from leaving the country. For

⁵⁸ See urgent appeal PAK 001/0303/OBS 015.

⁵⁹ See the Observatory's investigative mission to Pakistan.

ASIA

a year, Mr. Bhatti had received threats on several occasions, and warnings that he should cease his activities (telephone calls and visits to the organisation's offices). Mr Bhatti expressed opposition to laws and policies that discriminated against religious minorities, including laws on the Huddud and on blasphemy.

SOUTH KOREA

Trade union leader released⁶⁰

On 2nd April 2003, Mr. **Dan Byung-ho**, Chairman of the Korean Confederation of Trade Unions (KCTU), was released before the term of his sentence. Mr. Dan Byung-ho had been sentenced on 18th March 2002 in Seoul, to two years in prison for coordinating the general strike of 21st June 2001. He had been found guilty of the five charges against him and in 15 of the 16 cases laid by the Prosecutor's Office counsel. He had been convicted for «conspiracy and interference in private economic affairs» (Article 314 of the Criminal Code, used on a regular basis by the Korean government to declare strikes illegal), «obstruction to security forces» and «breach of the law on industrial relations».

THAILAND

Threats against Dr. Cynthia Maung's Mae Tao Clinic⁶¹

On September 29th, the Mae Tao Clinic, which provides healthcare service to asylum seekers and migrants on the Thai-Burmese border,

⁶⁰ See Urgent Appeal KOR 001/0302/OBS 022 and Annual Report 2002 and 2001.

⁶¹ See Urgent Appeal THA 001/1003/OBS 049.

was inspected by Thai authorities. The authorities told Dr. **Cynthia Maung**, the director of the Clinic, that she should prepare for the arrest and deportation of medics and school teachers who had previously been registered as migrant workers with the Ministry of Labour.

In November 2003, a short term solution was found and Dr. Cynthia herself and up to a 100 co-workers were given six-month work permits. As of December 2003, discussions are still taking place in order to find longer term solutions and ways of avoiding the closure of Mae Tao Clinic, as well as the deportation of its employees.

VIETNAM

Cyber-activists arrested⁶²

On 17th March 2003, Dr. **Nguyen Dan Que**, a Vietnamese dissident and human rights activist, was arrested in front of his house in Ho Chi Minh City at approximately 8 p.m. The spokesman of the foreign office of the Socialist Republic of Vietnam declared that Dr. Nguyen Dan Que was caught in the act of violating the law because he was going to a cybercafe to «send information abroad» which under Vietnamese national security laws constitutes a crime of espionage. The police also searched his house and confiscated his computer, his mobile phone and numerous documents. As of December 2003, he is still in detention in the office of the central department of internal affairs in Ho Chi Minh City, awaiting for his trial which date remains unknown. Dr. Nguyen Dan Que had published, on 13th March 2003 a written statement, denouncing infringements on the freedom of expression and of the press in Vietnam.

Dr. Nguyen Dan Que had already spent more than 18 years in prison because he had advocated democratic reforms. In 1991, he had been sentenced to 20 years imprisonment, but was released in 1998 as part of

⁶² See Urgent Appeal VTN 001/0303/OBS 013 and annual report 2002.

ASIA

an amnesty with the condition that he resettle in the United States. Having refused to leave Vietnam, he had been under heavy surveillance and had regularly faced police harassment.

The use of the internet to call for political reform has led to the arrest of various citizens. Mr. **Nguyen Vu Binh**, a journalist arrested on 25th September 2002, was sentenced on 31st December 2003 to 7 years in prison for «spying» (Article 80 of the Criminal Code) because he had disseminated on Internet a text called «Some Thoughts on the China-Vietnam Border Agreement». Mr. **Pham Hong Son**, a doctor arrested on 27th March 2002, was sentenced to 13 years in prison for «spying» because he had translated articles on democracy downloaded from the US Embassy website (Article 80 of the Criminal Code) on 18th June 2003. However, under international pressure, his sentence was reduced to 5 years imprisonment. He is being detained in Prison B14 near Hanoi.

On 20th December 2002, Mr. **Nguyen Khac Toan** was sentenced to 12 years in prison and to 3 years probation by the People's Court of Hanoi also for «spying» (Article 80 of the Criminal Code). He had been arrested in a cyber cafe in Hanoi and the police had searched his house and confiscated various documents⁶³. The real reason under his arrest seems that he had been helping farmers to file complaints to the National Assembly about State corruption and confiscation of land, and sending copies of these complaints overseas.

Retired Colonel **Pham Que Duong**, a respected Communist Party veteran and military historian, arrested in December 2002 for filing an application to set up an independent anti-corruption association and calling for democratic reforms, is awaiting his trial, as scholar **Tran Khue**, also arrested in December 2002.

Religious leaders in detention

In 1981, the Government of Vietnam declared the Unified Buddhist Church of Vietnam (UBCV), as illegal. For many years, monks from the UBCV have been subjected to systematic repression on the part of the Vietnamese authorities because of their commitment to religious free-

⁶³ See Annual Report 2002.

dom, human rights and democracy⁶⁴. These acts of repression have continued in 2003, despite a landmark meeting on 2nd April 2003, between Prime Minister Phan Van Khai and UBCV Patriarch Thich Huyen Quang and the temporary release of Thich Quang Do on June 28th 2003, from administrative detention, which had raised hopes that Vietnam might move towards greater religious tolerance.

*Detention of Mr Thich Tri Luc*⁶⁵

In April 2002, Mr **Thich Tri Luc** (49), member of UBCV, fled to Cambodia to escape religious repression and harassment by the Vietnamese police. He was granted refugee status by the United Nations High Commissioner for Refugees (UNHCR) in Cambodia on 28th June 2002. However, on the night of 25th July 2002, Mr. Thich Tri Luc disappeared after an unidentified Vietnamese man came to the house where Mr. Thich Tri Luc was staying and took him away in a car.

On 1st August 2003, his family, who was not aware of his whereabouts since then, received a summons from the Ho Chi Min City Court inviting them to attend his trial, initially planned for the same day. It appeared that Mr. Thich Tri Luc had been forcibly repatriated in Vietnam, in spite of his refugee status and held incommunicado for a year, which is contrary to the Vietnamese law (Article 67 of the Penal Procedure Code)⁶⁶. His family has only been allowed to see him once in the presence of a policeman, since they found out he had been arrested.

On 12th September 2003, the spokesman of the foreign office of the Socialist Republic of Vietnam, Le Dung, announced that Thich Tri Luc had been «arrested at a border post in the province of Tay Ninh, (...) running away abroad to contact organizations with the aim of undermining the Vietnamese government, on 26th July 2002», and that he was pursued for «fleeing abroad or defecting to stay overseas with view to opposing the people's administration» (Article 91 of the Criminal Code). As of December 2003, Mr Thich Tri Luc is detained in the Centre 237 Nguyen Van Cu, 1st district, in Ho Chi Minh City, awaiting

64 See Urgent Appeals VTN 001/0909/OBS 061, VTN 001/0105/OBS 042, Annual Report 2001 and 2002.

65 See Urgent Appeal VTN 002/0903/OBS 048 and annual report 2002.

66 See Annual Report 2001 and 2002.

ASIA

his trial, which has been adjourned *sine die*. Mr. Thich Tri Luc faces a prison sentence of 3 years to life imprisonment.

Thich Tri Luc had already been arrested in 1992 and held without trial for 10 months after condemning ill-treatment inflicted on Buddhist monks and calling for reform. He took part in the humanitarian mission of the Buddhist Church in 1994 (led by Thich Quang Do) and was sentenced to two and a half years in prison and five years administrative detention. After his release, he was under house arrest, he had no identity documents and he was subjected to constant questioning and harassment by security agents, leading him to flee Vietnam in 2002.

*Wave of arrests*⁶⁷

In early September 2003, a wave of interrogations and harassment of UBCV monks occurred, after police were informed that Venerables Thich Huyen Quang and Thich Quang Do had called a special UBCV Assembly on 16th-19th September to reorganize UBCV structures and appoint a number of monks to new functions.

On 8th October 2003, security police intercepted UBCV Patriarch **Thich Huyen Quang** (86), and his deputy **Thich Quang Do** (75), as they were leaving the Nguyen Thieu Monastery, in Binh Dinh province, to travel to Ho Chi Minh City. At 5.00 a.m., the two UBCV leaders had just set off in a mini-van along with other UBCV monks, when security police suddenly appeared along with a group of about 40 people. The police blocked the road, intercepted the monks' vehicle and banned them from leaving the Monastery. Thich Huyen Quang, who has been under house arrest since 1982, with the exception of some journeys he recently made under the surveillance of the authorities, and Thich Quang Do, who was released from administrative detention in June 2003, strongly protested and refused to move.

At 10.00 a.m., police drew up a report claiming that the vehicle was «disturbing public order». They ordered the UBCV monks to sign the report, but the monks refused. The police declared that they would tow the van back to the Nguyen Thieu Monastery. Deeply distressed, local Buddhists and monks from the Nguyen Thieu Monastery gathered

⁶⁷ See Urgent Appeal VTN 003/1003/OBS 059 and annual report 2002.

HUMAN RIGHTS DEFENDERS HARASSED

around the van to protect them. By 2.00 p.m., 200 monks and 1,000 Buddhist followers had formed a human chain around the van and the convoy was able to continue its journey after 10 hours of immobilization by the police.

Following this incident, Thich Huyen Quang and Thich Quang Do were placed under house arrest and their monasteries were subjected to constant surveillance. Since then, they both have been held in total isolation, respectively at the Nguyen Thieu Pagoda, in Dinh Binh Province, and the Zen Thanh Minh Monastery in Ho Chi Minh City and have been denied access to medical care. Phone lines to many UBCV Pagodas have been cut and mobile phones confiscated in a widespread campaign to isolate UBCV supporters and prevent them from reorganizing the banned UBCV.

On 9th October 2003, the spokesperson of the Ministry of Foreign Affairs stated that the two monks were accused of «carrying state secrets» (Articles 263/ 264 of the Penal Code). As of December 2003, they have still not been cleared of these accusations.

Moreover, on 11th October 2003, three other Buddhist monks who were traveling with the two UBCV leaders, **Thich Tue Sy**, vice-President of Vien Hoa Dao, the UBCV's Institute for the Dissemination of the Faith, **Thich Thanh Huyen**, head of its Youth Department and the UBCV treasurer **Thich Nguyen Ly**, were sentenced to two years administrative detention by the Ho Chi Minh City People's Committee Chairman, who invoked «national security» legislation (Article 27 and Decree 31/CP)⁶⁸.

Between 14th and 19th October, several other senior UBCV monks, all new appointees to the UBCV Executive Committee, were «orally» sentenced to house arrest by security police. They include Venerable **Thich Thien Hanh**, Secretary-general of the UBCV's Institute of the Sangha in Hue; **Thich Thai Hoa**, head of the UBCV's Religious

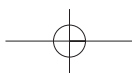
⁶⁸ Decree 31/CP of 14th April 1997 is among «national security» legislation strongly denounced by the UN Human Rights Committee as being totally incompatible with international human rights law. In fact, this legislation allows individuals who are regarded as a danger to State security to be sentenced, without being charged and without trial, to penalties of up to two years' imprisonment.

ASIA

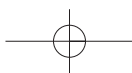
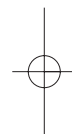
Instruction Department in Hue; **Thich Dong Tho**, the UBCV Patriarch's personal assistant, in Binh Dinh province; **Thich Nguyen Vuong**, personal assistant to Venerable Thich Tue Sy, at Gia Lam Pagoda in Ho Chi Minh City. Moreover, Venerable **Thich Phuoc An**, newly-appointed head of the UBCV's Cultural Department, was summoned for «working sessions» at the People's Committee in Khanh Hoa Province and ordered by Bui Huu Thanh, a Religious Security Police official, to give up this function.

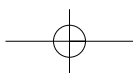
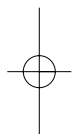
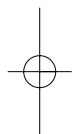
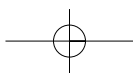
On 17th October 2003, Venerable **Thich Vien Dinh**, the new Vice-President of the UBCV's Institute for the Dissemination of the Faith, who was arrested during the 9th-10th October incidents and who is as of December 2003 under effective house arrest in Ho Chi Minh City, called on the Vietnamese leadership to grant urgent medical access to Thich Huyen Quang and Thich Quang Do, who are in very poor health. This request was not given any response.

On 21st October 2003, the Head of the Binh Dinh Provincial Security Police came to the Monastery and pressured Patriarch Thich Huyen Quang to resign from his position as Fourth Supreme Patriarch of the UBCV. He threatened Thich Huyen Quang with serious reprisals if he did not break off all contact with Venerable Thich Quang Do and the UBCV.



EUROPE AND THE COMMUNITY OF INDEPENDENT STATES





THE SITUATION OF HUMAN RIGHTS DEFENDERS

The year 2003 was marked by a new upsurge in human rights violations in this region, notably in the Caucasus and Central Asia.

The particularly high level of violence against human rights defenders in the area was not uniform however, and two trends emerged, both of which unfortunately seem to be growing worse.

Certain states, like *Uzbekistan* and *Turkmenistan*, continued to openly resort to direct police violence: this year again, human rights defenders have been under constant threat of arrest and arbitrary detention, during which they are regularly victims of torture. They and their relatives have frequently been subjected to intimidation and physical attacks as a punishment for their work.

At the same time, the large number of laws restricting freedoms of association, assembly and speech adopted in 2003 reveals a strategy of gradual neutralization and paralysis of civil society (*Russia*, *Uzbekistan*, *Belarus*, etc.). This strategy also involves an increasing number of legal proceedings against associations and their members, which can be seen as an evidence of the growing use of the judicial system to repress human rights defenders in this region. In *Belarus*, one independent human rights organization after another has been forced into liquidation and as a result, freedom of association has been progressively suppressed.

These two trends reflected an abuse of the «security-first» concept, particularly in the context of the international fight against terrorism. Accusations of «terrorism» increased this year, leading to the adoption of many restrictive laws targeting «political extremism». The wording of these laws is often vague, leaving the authorities a dangerous margin of interpretation and posing a real risk that the activities of human rights defenders will be more and more criminalized. Certain religious communities (mainly Muslim) and their defenders have been repressed on this basis, particularly in *Uzbekistan* and *Russia*. Moreover, the reference

EUROPE AND THE CIS

to terrorism in areas of conflict, such as *Chechnya*, creates further pressure on the civilian population and the rare human rights defenders operating in this region. In September 2003, the Special Representative of the president for human rights and freedoms in Chechnya, appointed by the President of the Russian Federation, accused human rights NGOs of supporting Chechen terrorists by «disseminating their propaganda via peace conferences».

The erosion of rights and freedoms was accompanied by a strengthening of executive and arbitrary power, which became particularly obvious during electoral periods. In 2003, the principles of free and democratic elections were frequently violated in most of the countries concerned - legislative and presidential elections in *Armenia*, legislative elections in *Russia* and *Georgia*, presidential elections in *Azerbaijan* and a referendum in *Chechnya*. Tainted by irregularities, voting was also scarred by pre- and post-electoral violence, whose victims included human rights activists.

In general, access to information and free expression is strictly limited. Activists experienced great difficulty publicizing their activities and the results of their work, either because of general censorship affecting all media or because of the pressure and threats carried out during the publication of reports and newsletters.

All of these restrictions have further contributed to the fragmentation and weakening of civil society. While certain openly repressive regimes are now blacklisted by international institutions, other states are given a blank check¹.

Abuse of «security-first» concept

In *Georgia*, the parliament was scheduled to vote in December 2003 on a bill mandating «the suspension of activities, liquidation and banning of extremist organizations», approved in April 2003 by the Georgian Security Council. This bill was abandoned following the recent political changes in the country. An original bill authorizing «the suspension of activities, liquidation and banning of extremist organizations and foreign-controlled organizations» had been considered on 18th February 2003 by the Ministry of Justice. This bill was planning to give the minister the authority to close or ban any foreign-controlled organization, or any organization «acting against the country's interests», without any possibility of appeal to the national courts.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

The bill, however, did not precisely define actions «contrary to Georgian interests» nor the criteria for defining an organization as «terrorist or extremist». It should be recalled that in March 2002, the highest Georgian authorities had officially equated NGO activities with those of terrorist groups, and called for strict financial control¹. Confronted with protests and pressure from civil society and international experts, the Ministry of Security amended the bill in September 2003, eliminating the measures concerning «foreign-controlled organizations». Furthermore, Article 4 of the bill authorized the Ministry to ban any organization whose activities or statements exhibited signs of extremism, called for a new government, or constituted a threat to Georgia's sovereignty or territorial integrity. According to Article 5, after a first warning the case would be referred to the Constitutional Court and after a second warning to the Supreme Court of appeal, and the Ministry could refer the case to the court without prior notice «in case of emergency».

The Georgian bill presents similarities with the law on political extremism adopted by *Russia* in June 2002. In the absence of any clear definition of «political extremism», this law can be arbitrarily used against human rights defenders and opposition members. Individuals accused of «extremism» or «calling for political extremism» can be immediately imprisoned for five years, and organizations, trade unions and religious groups suspected of «extremism» can be closed by order of the prosecutor or any other judicial institution.

In *Moldova*, the parliament passed a law on extremist activities in March 2003. There too, application of the law is problematic because of its imprecise terminology and the absence of any clear definition of extremism. For example, «threats to the security of the Moldavian State» (Article 1-a2), «incitement to social hatred» and «attacks on national dignity» (Article 1-a7) are equated with extremist activities and could be invoked to ban the creation of new organizations, as well as the holding of demonstrations. Moreover, the media and religious groups are expressly targeted by this law (Articles 1,3,6, and 7).

Finally, in *Turkmenistan*, the assassination attempt against President Niyazov in November 2002, presented as a threat to state security, pro-

¹ See Annual Report 2002.

EUROPE AND THE CIS

voked a massive wave of arrests of political opponents and human rights defenders. For example, Mr. Farid Tukhbatullin, a human rights and environmental activist, was accused of illegally crossing the Uzbek border and participating in the planning of the assassination attempt against the president. After a four-hours trial, he was sentenced by the Ashgabat court to three years of prison. The judges also reproached him for participating in a conference organized by the International Helsinki Federation for Human Rights and the Russian organization Memorial in November 2002. Under international pressure, Mr. Tukhbatullin was released in April 2003, after being forced to write a confession and apology, which were published in all the country's newspapers. He has been living in exile in Austria since September 2003.

Defending human rights during armed conflicts

The case of *Chechnya* exemplifies the spurious use of the fight against terrorism and the difficulties faced by human rights activists in conflict areas. Three major obstacles hinder their work. First, access to the Chechen Republic is strictly limited. NGOs and journalists trying to gather information or help the civilian population, experience great difficulties gaining access to the country. On 7th January 2003, for example, German journalist Mr. Günter Wallraff was turned back at the Moscow-Sheremetyevo airport while on his way to Chechnya with the director of a humanitarian organization and the former German minister of Employment. The Russian ministry of Foreign Affairs justified this decision by stating that it was trying to prevent «a new anti-Russian smear campaign in the German media» over human rights violations in Chechnya.

Inter-governmental organizations also have limited access to Chechen territory. In 2003, the OSCE's mandate in the region was not extended after representatives of the organization expressed their desire to continue observing the human rights situation rather than limit themselves to a humanitarian role. Despite resolutions adopted in 2000 and 2001, the only UN representative able to visit Ingushetia and Chechnya was Mr. Francis M. Deng, Special Representative of the UN Secretary General on internally displaced persons, who went there in September 2003.

In addition, human rights defenders working in the field are exposed to great risks. The branch of Memorial in Grozny, whose president

THE SITUATION OF HUMAN RIGHTS DEFENDERS

Mrs. Lida Yusupova received the Martin Ennals Award for Human Rights Defenders in 2003, for her efforts and courage, was regularly searched and its members threatened. In 2003, abductions, disappearances and assassinations continued. In May 2003, Mrs. Zoura Bitieva, known for her peace and human rights work, and three members of her family were killed at her home by a group of soldiers in uniform². For the first time on 16th January 2003, the European Court for Human Rights ruled receivable a complaint filed by six Chechen civilians against Russia; the individuals who lodged these complaints have since been subjected to constant intimidation and threats.

Peace organizations in the rest of the country also face hostility and violence. In September 2003, during their weekly demonstration against the war in Chechnya, members of Soldiers' Mothers of Saint-Petersburg were violently attacked by a group of individuals who were obviously acting on behalf of the authorities³. The Sakharov Museum in Moscow faced constant pressure by the police and authorities for hanging a banner on its facade that read «The War in Chechnya: Enough!».

In *Nagorno-Karabakh*, the dormant conflict aggravated the difficulties encountered by human rights defenders in the exercise of their work. Since the self-proclaimed independence of this Armenian-majority Azerbaijani region and despite the 1994 ceasefire, Azerbaijani and Armenian territorial claims have still not been politically resolved. Despite encouraging statements by Nagorno-Karabakh authorities, there are few or no human right organizations in the region. Concerned about legitimacy, the population practices self-censorship and does not express any criticism towards the government. In Azerbaijan, the Nagorno-Karabakh issue returned to the fore during the pre-electoral season. Those who support a peaceful compromise with Armenia are immediately accused of being «enemies of the people». In April 2003, the chairman of the Human Rights Centre of Azerbaijan (HRCA), Mr. Eldar Zeynalov, was the victim of a massive smear campaign that questioned his neutrality and claimed he was of Armenian background⁴.

² See compilation below.

³ *Idem.*

⁴ *Idem.*

EUROPE AND THE CIS

In *Turkey*, the human rights defenders who advocate for a peaceful settlement of the conflict in the south west of the country and who continue to defend the rights of the Kurdish population continue to be subjected to recurrent legal proceedings⁵.

Freedom of association and assembly

The year 2003 was also marked by the passing of several laws restricting the right to assembly and to hold meetings. Rather than risking the criticisms of the international community by openly repressing the opponents and human rights defenders, the governments of Belarus, Russia and Georgia in particular, have set up an entire legal arsenal allowing them to suspend or close down associations considered to be a hindrance while seemingly acting within the law.

In *Russia*, federal laws passed since 1995 had already paved the way for a heavy control of associations' activities. It was only between 2000 and 2002 that these laws had been strictly applied and reinforced by the adoption of new restrictive legislations. In the year 2003, this trend had been strengthened.

The amendment of Article 251 of the tax code, adopted in May 2002, which came into effect on 1st January 2003, imposes a 25% tax on NGOs' incomes, which deprives them of a large share of their resources and significantly reduces their means of action. According to the law on «charitable activities» adopted in 1995 and re-examined in 2002, associations defending human rights do not feature in the list of cultural and social activities exempted from tax. If the authorities consider that the activities of associations listed by this legislation do not compete with the state's area of competence, on the other hand, they claim a stranglehold on the protection of human rights. Various NGOs have thus found been denied registration because the terminology of «human rights protection» appeared in their name. According to the Department of Justice, this label is superfluous as the protection of human rights is the responsibility of the State...

In addition, a new bill on the right to assembly and demonstration has been approved by the government on 21st March 2003. This bill

⁵ *Idem.*

THE SITUATION OF HUMAN RIGHTS DEFENDERS

plans to subject all meetings to a prior authorisation. As the deadline for requesting this authorisation is very short, and the procedure rather complex and demanding strict criteria for participation and location, it will potentially allow authorities to prohibit any kind of demonstration if adopted by the Duma. For instance, meetings close to administrative buildings, schools as well as embassies and premises of international organisations are prohibited, without any precision provided on the control perimeter, which is a decision left to the discretion of authorities.

In *Belarus*, spring 2003 was marked by the beginning of a huge campaign of liquidations of NGOs dealing with human rights protection under lame excuses. The strict application of legislations in the domain of registration has allowed authorities to suspend the activities of many associations quite legally. Decree n° 13 signed by President Lukashenko in April 2003 prohibits NGOs from representing individuals during civil trials and therefore deprives the population of a significant recourse against the arbitrariness of Power.

In *Turkmenistan*, a new bill on «citizens' associations» accepted by the government in August 2003 subjects NGOs to a tight control from the authorities. The government from then on is able to order the liquidation of an association after two warnings for minor bureaucratic reasons. Furthermore, the bill gives the government substantial power to interfere in the activities of associations, authorising it, for instance, to send representatives to meetings and conferences held by civil society. On the other hand, this bill strictly prohibits «interference of NGOs in activities of the country's institutions».

In *Uzbekistan*, the constraints on freedom of assembly apply to local associations as well as big international institutions. In May 2003, the annual conference held by the European Bank for Reconstruction and Development (EBRD) was jeopardised by the non-access to the premises of the Conference - a hotel in Tashkent - which had previously been reserved for the occasion. Furthermore, on 5th December 2003, the seminar on death penalty organised by the Association of Mothers against Torture and Death Penalty, where several diplomats and representatives of international organisations were expected to participate, was cancelled. The manager of the premises where this meeting was supposed to be held was put under enormous pressure by the authorities and the Minister of Foreign Affairs recalled that the Association was not registered.

EUROPE AND THE CIS

In addition, the decree of the Council of Ministers requires all the media to re-register in the beginning of 2004. For the first time, this requirement has been extended to NGOs' publications. This breaches the terms of the national legislation, which specifically authorises the free publication of newsletters. Since the law on mass media, passed in May 2002, had already severely restricted freedom of the press, the population is now losing one of the only independent sources of information. The ministerial decree also applies to electronic media which until then were loosely supervised and thus gives the authorities a tight control on everything that is published in the country.

Finally, a new legislation passed in December 2003 requires all inter-governmental organisations and foreign NGOs to «re-register» with the ministry of Foreign Affairs, which until then was the only institution to manage these registration requests, and with the ministry of Justice before 1st March 2004.

The new legislations have reinforced the movement aimed at clamping down all civil initiatives. In the absence of parliamentary intermediaries, human rights defenders remain subjected to a reinforced and increasingly arbitrary executive power.

Besides the passing of these restrictive laws, replacing members of the Board of directors of an existing organisation with persons close to the government without any preliminary consultation, is another means of hampering the free exercise of freedom of assembly. In August 2003, VTsIOM, a polling agency in Russia, was informed that the election of a new board, which would be in charge of designing new strategies, would take place. However, VTsIOM members have been able to reform a new association, the Analytical Service VTsIOM (VTsIOM-A) in September. In *Kyrgyzstan*, the Kyrgyz Committee for Human Rights (KCHR) was victim of this type of ploy for the second time since 1999. In September 2003, the Department of Justice registered a new board which arbitrarily dismissed the legally elected president, Mr. Ramazan Dyrlydaev. Even though several international institutions and organisations, including the Observatory, did not recognise the new KCHR and its managers, Mr. Dyrlydaev's and his collaborators' work has been severely paralysed since these events.

Marginalization and criminalization of civil society

Attacks, Violence and reprisals

The attacks and direct violence against human rights defenders have established a regime of terror in some countries of Central Asia and the Caucasus, which marginalises and criminalises civil society.

Direct pressures, in the form of threats, physical attacks or torture, arrests and arbitrary detentions, are especially blatant in *Uzbekistan*, *Azerbaijan* and *Kyrgyzstan*. In addition to the attacks targeted at the defenders themselves, one of the most striking features of this repression is an extension to threats and attacks aimed at their close relatives. In *Azerbaijan*, members of Mr. Eldar Zeynalov's family were severely beaten by their neighbours in April 2003 following the smear campaign orchestrated by the authorities against Mr. Zeynalov⁶. In *Uzbekistan*, members of the Alimov family, close relatives of Mr. Norboyev Kholzigitov, president of the Ichtkhan section of the Human Rights Society of Uzbekistan (HRSU), were arrested in January 2003 with a deceptive motive in mind, after Mr. Kholzigitov made public statements on human rights violations in this region.

These direct attacks were accompanied by professional sanctions which undermine the economic and social situation of the defenders and their close relatives. In *Kyrgyzstan*, the brother of Mr. Ramazan Dyrlydaev, president of Kyrgyz Committee for Human Rights (KCHR) lost his job this year. His daughter, whose husband was made redundant in 2002, has been unemployed for four years. In *Uzbekistan*, the secretary of HRSU in Zarbdor was forced to publicly denigrate the president of this section before resigning in December 2003, so that his daughter could be employed again. In *Azerbaijan*, several people who have signed a petition calling for the President's resignation have been made redundant, as well as their close relatives⁷.

These reprisals are also often aimed at sanctioning the broadcast of information on human rights, thus isolating the human rights defenders from the rest of the population. In *Bosnia-Herzegovina*, following the publication of a report exposing the abuses of law enforcement officials,

⁶ *Idem.*

⁷ *Idem.*

EUROPE AND THE CIS

Mr. Mladen Milicanin, president of the Citizens' Association in Milici received several threats urging him to suspend his activities. On the 26th March 2003, he was brutally attacked and beaten by a group of individuals. His injuries have left him handicapped⁸.

Judicialisation of repression

The significant increase of judiciary procedures against human rights defenders is one of the characteristic features of repression in this region.

In many countries, trials are totally made up, as in *Kazakhstan* or *Uzbekistan*. Two human rights activists and journalists, Mr. Serguei Duvanov (Kazakhstan) and Mr. Ruslan Sharipov (Uzbekistan) were respectively condemned to three and a half years and four years of prison after being accused of raping minors. They had both exposed the acts of corruption in their country. In a letter written in prison and addressed to the General Secretary of the United Nations, Mr. Kofi Annan. Mr. Ruslan Sharipov has drawn up a damning list of tortures inflicted on him during his detention.

In *Turkey*, in spite of positive legislative reforms adopted within the context of its application to the European Union, these new measures remain weak in their implementation. The defenders fighting for the rights of the Kurdish population, exposing the situation in prisons as well as the violent actions carried out by the police, are regularly prosecuted. Some of them are subjected to dozens of legal proceedings each⁹.

Electoral context

The run-up to elections is very a tensed situation which favours the criminalisation of human rights defenders, who are then often accused of being «troublemakers» or «enemies of the people». The authorities tend to liken them to political opponents and thus to silence them. In Armenia for instance, where no human rights defender had been arrested since 1998, Mr. Arthur Sakunts, coordinator of Helsinki Citizens' Assembly (HCA) in Vanadzor, was condemned to 10 days of administrative detention for organising a public meeting about the presidential

⁸ See International Helsinki Federation for Human Rights.

⁹ *Idem*.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

elections which took place on 5th March 2003, though this meeting, which had been prohibited by the local authorities, was finally not even held.

After the election of Mr Ilham Aliev to the presidency of *Azerbaijan* on 15th October 2003, several deputies close to power called upon the government to take measures against human rights defenders on television. As for the Deputy president of the parliamentary Commission on Human Rights, she asked for their exile. Mid-January 2004, 128 people, 100 of whom are defenders, have been imprisoned following the unrest in Bakou on 16th and 17th October. It should be noted that most of them were arrested far after these events. The first trials were expected to start end of January 2004.

In *Georgia*, several violations have been noted during the legislative elections on 2nd November 2003. Human rights defenders who exposed them were under extreme pressure, especially in the Autonomous Republic of Adjara, where several observers were arrested, as for instance Mr. Giorgi Mahvenieradze, a representative of the Georgian Young Lawyers Association¹⁰.

International and regional mobilisation

United Nations

Mrs Hina Jilani, Special Representative of the United Nations Secretary General on Human Rights Defenders, asked for an invitation from the Albanian, Belarusian, Turkish and Uzbek authorities. The only affirmative response she has received so far is from Turkey. Though Mrs. Jilani was to visit the country beginning of December 2004, this visit was however cancelled a few days before her departure, with no later date being set. Mrs. Hina Jilani made a visit to the ex-Republic of Macedonia from 26th to 30th January 2003 upon an invitation by the authorities of this country.

During the 59th session of the Commission on Human Rights, a resolution was passed on 16th April 2003 on the human rights situation in Turkmenistan. The Commission expressed its grave concern «at the

¹⁰ *Idem*.

EUROPE AND THE CIS

suppression of independent media and freedom of expression, at attempts to restrict access of the international media and at restrictions to seek, receive and impart information». The commission called upon the government of Turkmenistan to remove restrictions on NGO's activities and the activities of the main organised forces, particularly those involved in human rights or civil society. It «called upon the Special Rapporteurs [...] on freedom of opinion and expression [...] and the Special Representative of the UN Secretary General on human rights defender to seek invitations from the government of Turkmenistan to visit the country».

The Commission also passed a resolution on human rights in Belarus, stating its concern «about persistent reports of harassment of non-governmental organisations, opposition political parties and individuals engaged in opposition activities and independent media». It also urged the government «to release journalists and other individuals detained for politically motivated reasons and to cease harassment of non-governmental organizations and political parties» and to cooperate fully with all the mechanisms of the Commission on Human Rights, including through extending invitations to «[...] the Special Rapporteur on freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders».

European Union

The European Parliament has this year paid more attention to the issue of protection of human rights defenders, as reflected in the increasing number of resolutions and interventions - taking position on specific defenders' cases for instance.

The European Parliament has this year adopted several resolutions aimed at protecting human rights defenders who are being threatened.

In its resolution of 13th February 2003¹¹, focusing on human rights in Kazakhstan and Central Asia, the Parliament specifically asked for Mr. Sergei Duvanov's immediate release and denounced the conditions of his trial.

¹¹ P5_TA(2003)0064.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

In its resolution of 23rd October 2003¹² on Turkmenistan and Central Asia, the Parliament condemned the acts of harassment against human rights defenders in the region and asked the «Turkmen authorities to allow non-governmental organisations and civil society activists to carry out their peaceful activities free from harassment and persecution and to register and operate freely». In this same resolution, the Parliament urged the Uzbek government to «end the climate of persecution and fear affecting human rights activists, to respect the principles of freedom of speech and expression and to release Mr. Ruslan Sharipov immediately».

In its resolution of 3rd July 2003, following the visit of the *ad hoc* delegation of the Parliament in Chechnya from 15th to 17th July 2003, it asked for the release of Mr Arjan Erkel, a member of Médecins Sans Frontières (MSF), abducted while conducting his activities.

Finally, the European Parliament condemned the attacks against the offices of the Human Rights Association of Turkey (IHD) in a resolution passed on 15th May 2003¹³, and expressed «its support for the activities and campaigns to raise public awareness, conducted by the IHD and by other Turkish human rights organisations». The Parliament also urged «the Turkish government to take concrete measures to prove its commitment to respecting human rights and to review its legislation with a view to guaranteeing the protection of democracy, transparency and human rights in Turkey».

Besides these resolutions supporting individuals or specific countries, the Parliament also dealt with the theme of human rights defenders and civil society in a broader sense.

The Parliament's annual report published on 16th July 2003 thus reported the will of the institution to reinforce the «links and contacts with the NGOs» and was «concerned with situation of the human rights defenders who are themselves often victims of human rights violations».

In its resolution of 4th September 2003¹⁴ on human rights in the world, the Parliament noted that «the human rights situation in the

12 P5_TA-PROV(2003)0467.

13 P5_TA(2003)0218.

14 P5_TA(2003)0375.

EUROPE AND THE CIS

Middle East, North Africa and in parts of Asia was further aggravated in the name of 'combating terrorism', and that «clampdowns upon freedom of expression and assembly, and the intimidation of human rights defenders proliferated». In addition, the parliament called for the setting up of human rights working parties who would collaborate closely with representatives of civil society and NGOs. It also highlighted «the important role of defenders and their need to be protected» especially when they act as witnesses for international institutions.

Finally, on 11th June 2003, the European Parliament organised a hearing around the theme «defending the defenders» in which the Observatory participated. Following this hearing, the Observatory insisted on the need for the European Parliament to join forces in order to protect the defenders and to support their activities. The Observatory insisted that priority must be given to the creation of a working party, which would follow individual cases identified and treated by the parliament. The working party could also ensure a better coherence amongst the different initiatives of the European Parliament such as the Sakharov Prize, Passport to freedom, resolutions on human right defenders and the various activities of the Committees of the Parliament,...

The Observatory has asked the European Union that the issue of human rights defenders and freedom of assembly be systematically included in its external relations, that the European Commission delegations in the third countries work in close cooperation with the delegations of member states to ensure their mobilization in terms of forces and their support to defenders. It also asked that the member States adopt the national measures of protections of human rights defenders, for example through the resolutions of national parliaments. In this respect, the Observatory favorably accepts the parliamentary motion, which was presented on 25th November 2003, entitled «protection of human rights defenders under threat».

This joining up of forces by the Parliament must though find an echo among the other institutions' policies. Regrettably, the annual report of the European Union, adopted by the EU Council on 13th October 2003, once again features the topic of human rights defenders in the last position in its list of priorities. In this context, the declarations of the Irish Presidency (from 1st January to 31st June 2004) give hope of a reversal of this situation. Indeed, the Irish Presidency claimed its desire to work towards the elaboration at an European scale of an

THE SITUATION OF HUMAN RIGHTS DEFENDERS

institutional instrument aimed at defending the defenders in the context of EU's external relations.

Finally, it is to be underlined that the EU favorably accepted Mrs. Hina Jilani's report during the 59th session of the Commission on Human Rights, and requested for the protection of «judicial space necessary for the defenders to undertake their activities». During the session, all the EU member states have furthermore co-promoted a resolution project, presented by Norway and passed without any votes, expanding the mandate of the Special Representative of the UN Secretary General on Human Rights Defenders for another three years.

Organisation for Security and Co-operation in Europe (OSCE)

The Observatory intervened during the OSCE Implementation Meeting on Human Dimension, which took place in Warsaw from 6th to 17th October 2003, to denounce the numerous violations of the defenders' individual and collective rights in the OSCE zone. The Observatory specifically asked for a regional monitoring and follow-up mechanism, which would be mandated to appeal, question and respond to the States, as well as assess the legislations relating to freedom of assembly.

The Observatory welcomes the decision of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to set up a specific programme on freedoms of assembly and association within the CIS zone. This programme plans specific types of monitoring intended for organisations within civil society, aims at collecting information on provisions and applications of laws relating to freedoms of assembly and association. This program, which extends over the period of 2004-2005, has a budget of 75,000 euros.

European Bank of Reconstruction and Development (EBRD)

In March 2003, the EBRD established a list of human rights criteria in the context of its national strategy for Uzbekistan. More specifically included in these criteria are the registration and the free operation of independent groups of civil society. The bank gave the government a one year deadline to implement these objectives.

EUROPE AND THE CIS

Civil Society

The Observatory participated in the second platform of human rights defenders, organized by Frontline from 10th to 12th September 2003 in Dublin. This conference brought together 119 human rights defenders from 72 countries, including Mrs. Hina Jilani and Mr. Bertrand Ramcharan, acting High Commissioner for Human Rights. This seminar has particularly allowed the reinforcement of the human rights defenders' network across the world.

HUMAN RIGHTS DEFENDERS HARASSED

ARMENIA

Interference with the freedom of association and demonstration¹⁵

On 13th March 2003, following the second ballot of the presidential elections of 5th March 2003, Mr. **Arthur Sakunts**, local coordinator of the Helsinki Citizens' Assembly (HCA) in Vanadzor, and editor of the newspaper *Civil Initiative*, announced his intention to organize a public information meeting about the election proceedings. This meeting was forbidden on March 14th by decree of the mayor, claiming security reasons. Such decrees however, had already been invalidated on several occasions by the Court of Appeal, considering that they constituted an infringement on the freedom of speech and diffusion of information.

On 14th March, HCA premises in Vanadzor were broken into and the office set on fire. The fire was rapidly confined.

Mr. Arthur Sakunts was arrested by local authorities on 15th March . He was arraigned immediately without the presence of his lawyer. Mr. Sakunts was sentenced by the Court of First Instance to 10 days of imprisonment on the basis of article 182 of the Code of Administrative Offences (disobeying the orders of police authorities) in relation to the organisation of the 14th March meeting. However, as this meeting did not take place, the reference to article 182 is groundless.

¹⁵ See Open Letter of 28th March 2003.

EUROPE AND THE CIS

Between the months of February and March 2003, nearly 200 people were arrested on the basis of this same administrative code. This occurred during peaceful demonstrations organized by the political opposition to protest against the way elections were being conducted. Although most of these people were quickly released upon payment of a fine, about fifty others received detention sentences.

Mr. Sakunts, who is the first human rights defender to be sentenced in Armenia since 1998, was released on 25th March after serving his time. Thanks to international pressure, he was treated in accordance with the law and suffered no ill treatment. He introduced an appeal against the decision of the Tribunal of First Instance. The Court of Appeal having rejected the procedure and confirmed the decision of 25th March, Mr. Sakunts appealed before the Supreme Court of Appeals on 18th April 2003. The court rejected this appeal on 23rd May.

The HCA premises, in the middle of reconstruction after the events of April 2003, were once again vandalized during the night of 4th May 2003 by a group of individuals who forced the front door and broke the windows.

The police had concluded that the 14th March fire in the HCA offices was due to an electrical short-circuit. On 31st March, Mr. Sakunts requested that the public prosecutor open an in-depth investigation. Ministry of Justice experts noticed traces of gasoline in the offices and concluded that the fire was set with criminal intent.

A first complaint against person or persons unknown was lodged on 16th May in relation to this fire, and a second one on 19th May, concerning the 4th May attack. The two dossiers were closed on 16th and 19th June respectively, for lack of information.

Finally, as of March 2003, HCA was cut off from the help of the media in diffusing its information. Until then, not only regional journalists, but also the national radio and television stations allowed HCA members to participate in their programs, broadcast reportages, or organize debates to keep the population informed of their activities. No official explanation was provided to HCA concerning these restrictions, which began just after the release of Mr. Sakunts, at the height of the election campaign. For several months, HCA had to carry out a public sensitisation and information campaign. By early January 2004, this campaign seemed to have borne fruit, and the HCA regained access to the media.

Attacks, threats, and harassment against Mr. Eldar Zeynalov and Mrs. Leyla Yunus¹⁶

Mr. **Eldar Zeynalov**, president of the Human Rights Centre of Azerbaijan (HRCA) and Mrs. **Leyla Yunus**, director of the Institute for Peace and Democracy, became victims of attacks and acts of harassment in April 2003.

Between 20th and 23rd April, Mr. Zeynalov was in Nagorno-Karabakh accompanied by his wife, Mrs. **Zaliha Tahirova**, coordinator of Amnesty International-Azerbaijan, to attend a seminar on the management of NGOs in this region. Nagorno-Karabakh, an autonomous region of Armenian majority, is the main source of conflict between Azerbaijan and Armenia, and represents a particularly sensitive subject in every election period. It so happened that in April, the campaign for the presidential elections scheduled for October had already begun. During Mr. Zeynalov's stay in this region, the authorities launched a broad defamation campaign against him, accusing him of working against the interests of the country, and of having ethnic Armenian origins.

Thus on 22nd April 2003, during a program aired on a state-run television station, members of a pro-government organisation for the defence of human rights accused Mr. Zeynalov and Mrs. Yunus of being «enemies of the people». After broadcasting the personal address information of Mr. Zeynalov, they called on the audience to take action.

On 23rd April 2003, when Mr. Zeynalov had returned to Baku and following this televised program, about forty men attacked the HRCA office with eggs and chemicals. The assailants accused Mr. Zeynalov of treason before burning his effigy in front of the premises. When HRCA staff called the police for help, it seems that one of the officers explicitly asserted his support of this attack. Moreover, a member of the Organisation for the Liberation of Nagorno-Karabakh who participated in this assault declared that the HRCA office could be the target of a suicide attack, and made death threats against Mr. Zeynalov.

¹⁶ See Urgent Appeal AZE 001/0403/OBS 021.

EUROPE AND THE CIS

On 24th July, during a televised speech, the Minister of the Interior threatened Mr. Zeynalov with criminal charges if he continued his activities, and he repeated the accusations of treason.

On 25th April, HRCA was again attacked by unidentified individuals and members of the President's party. In view of the total failure of the police to react despite his repeated requests for protection, Mr. Zeynalov decided to hire bodyguards. On 29th April, the latter resigned, apparently under pressure from the Minister of National Security.

On 28th April, some forty members of the party of President Haïdar Aliev attacked the premises of the Institute for Peace and Democracy, and ordered the Director of the Institute, Mrs. Leyla Yunus, to leave the country. This attack had been announced in advance on television. Despite the specific request for police protection, no police officer was in place when the attack occurred.

Relatives of Mr. Zeylanov were also harassed. Several of them were required to show their marriage certificates to authorities who were attempting to prove their ethnic Armenian origins. In addition, on 28th April 2003, Mr. Zeynalov's sister-in-law and father-in-law, Mrs. Zemfira Yusif-Zade and Mr. Isakh Tahirov, 84 years of age, were severely beaten by their neighbours, who demanded that they leave the country. The police refused to ensure their protection.

It should be noted that no investigation was opened concerning the personal attacks led against Mrs. Yunus, Mr. Zeynalov or their relatives. Furthermore, on 13th May, the police officially announced the closing of the preliminary investigation into the attacks led against HRCA premises on 23rd and 25th April.

Intimidation and acts of harassment following a petition

On 23rd April 2003, the Amal Committee (committee of intellectuals) launched a petition demanding the resignation of President Haïdar Aliev. It was signed by 126 members of the Committee, including several well-known Azeri intellectuals.

Pro-government media immediately launched a vast defamation campaign against the Amal Committee and the petition signatories. During a parliamentary session on 6th May, Mr. Shahlar Asgaro, the president of the parliamentary commission of the party in power, publicly criticized and denounced the Committee's activities and its members.

HUMAN RIGHTS DEFENDERS HARASSED

As for the signatories, they were threatened of losing of their jobs unless they publicly repudiated their participation in the petition. The board of directors of the University of Baku, for example, set up a special commission charged with the task of examining the files of professors having participated in the Amal Committee initiative. As a measure of reprisal, several of their relatives were fired, even personally threatened. The son of the poet Mr. **Musa Yaqub**, a petition signatory, was thus dismissed from his job.

Professor **Ahmad Ibrahimov**, who had also signed the petition, was dismissed from his position at the State Oil Academy. A group of prominent individuals, including Mr. **Ilqar Altay**¹⁷, members of the Federation of Human Rights Organizations of Azerbaijan, set up a Support Committee to demand his reinstatement. On 6th June, the committee members met with the dean of State Oil Academy, without any incident having been reported at the time. A few days later however, the dean stated that the delegation had vandalized his office, and lodged a complaint with the police. The members of the Committee for the Defence of Mr. Ibrahimov were accused of acts of vandalism based on article 233 of the Criminal Code. As of the beginning of January 2004, the procedure was still pending.

Intimidation and arbitrary detention during presidential elections¹⁸

Following the ballot of 15th October 2003, Mr. Ilham Aliev, son of the outgoing President Haïdar Aliev, was elected President of the Republic. Many national and international observers denounced the irregularities of this election, particularly the repeated acts of intimidation against opposition candidates. In reaction, numerous demonstrations were organized, notably in the days following announcement of the results. Many acts of violence were noted, emanating first of all from the police and pro-government hooligan groups. Several hundred people were arbitrarily arrested. The human rights defenders who had

¹⁷ See Annual Report 2002 and below.

¹⁸ See Urgent Appeal AZE 002/1003/OBS 058.

EUROPE AND THE CIS

denounced these violations and taken a stand in favour of a democratic government, were also victims of repression.

On 16th October 2003, Mr. **Azer Hasret**, president of the Journalists' Trade Union of Azerbaijan, was beaten by the police. At the time, he was recording a conference protesting against the election results that had been prohibited by the authorities.

On 17th October, Mr. **Azer Mammedov** and Mr. **Ramil Djarchiyev**, two activists from the Qazakh Human Rights Resource Center, were arrested in Qazakh. Mr. Mammedov was released a few days later, whereas Mr. Djarchiyev was still in detention at the end of December 2003, and is being prosecuted on criminal charges.

On 18th and 19th October, Mr. **Mehdi Mehdiyevn**, chairman of the Human Rights Centre in Baku, a grouping of eleven NGOs acting for the protection of human rights, was summoned by the police. Mr. Mehdiyevn having ignored this summons, police in plain clothes tried to break into his home during the night of 20th October. They threatened him with imprisonment and torture if he refused to make televised statements about the supposed «criminal actions» of opposition leaders.

On 21st October a group of police officers went to the home of Mrs. **Nushaba Mammedova**, HRCA coordinator in Gandjabasar and founder of the only independent newspaper in the *Gencebasar* region. Mrs. Mammedova was away from home at the time. The same day, her brother, a famous member of the opposition, had suffered harassment by the police, and her nephew had been arrested.

In the context of the autumn parliamentary session that began on 17th October 2003, several members of Parliament close to government circles repeatedly made public statements targeting human rights defenders. Thus, during interviews aired on pro-government television stations, the MPs Messrs. Huseynova and Muradova called on the government to take «measures against the defenders». In turn, Mrs. Rabiyyat Aslanova, vice-president of the parliamentary Commission on Human Rights, demanded «their exile». Moreover, on 22nd October, following the violent disturbances that occurred in Bakou on 16th and 17th October, the ministry of the Interior spokesman, Mr. Sadiq Gozalov, accused human rights defenders of defaming the forces of law and order.

Legal proceedings and harassment of DEVAMM¹⁹ members

On 16th October, Mr. **Ilqar Ibrahimoglu**, coordinator of the Center for the Protection of Conscience and Religious Freedoms (DEVAMM) and general secretary of the International Religious Liberty Association (IRLA) in Azerbaijan, was accused of having actively participated in the disturbances that arose in the aftermath of the presidential election. This was part of a vast smear campaign in the electronic media and pro-government newspapers. DEVAMM had taken part in the work of the democratic coalition Bizim Azerbaidjan (Our Azerbaijan), which brings together some thirty political parties and NGOs, and defends religious freedom without regard to race, sex or nationality.

On 17th October, police forces occupied the Juma Mescid Mosque of Baku in order to arrest Mr. Ibrahimoglu and Mr. **Azer Ramizoglu**, president of DEVAMM. Mr. Ramizoglu was arrested and held in police custody. He was released upon expiration of the legal three-hours time limit after being subjected to various intimidation efforts by the police. Mr. Ibrahimoglu on the other hand, was able to escape arrest and take refuge in the Norwegian Embassy of Baku from 17th to 19th October.

On 1st December, Mr. Ibrahimoglu was again arrested. On 3rd December, following a hastily conducted hearing, the District Court of Nasimi in Baku sentenced him to 3 months of preventive detention pending his trial for «disturbing the peace» (article 200-1 of the Criminal Code) and «refusing to comply with the authorities» (article 315-2).

On 4th December, the members of DEVAMM and IRLA created a Committee to protect the rights of Mr. Ibrahimoglu. The evening of that same day, the local police searched the homes of Mr. **Seymur Rashidov**, head of the DEVAMM press service, and Mr. **Shahin Gasanov**, the association's driver. As Mr. Rashidov was absent at the time, the police called him on his mobile phone and asked him to appear at the 27th police station of the Yamasal District no later than the next morning. Given the lack of any arrest warrant or official summons, Mr. Rashidov refused to go to the police station. Summoned by the Public Prosecutor on 11th December, and accompanied by Mr. Ibrahim-

¹⁹ See Urgent Appeal AZE 002/1003/OBS 058 and AZE 003/1203/OBS 068.

EUROPE AND THE CIS

oglu's brother, Mr. **Najaf Allaverdiev**, he was released after a few hours of questioning focused on committee activities.

As of early January 2004, Mr. Ibrahimoglu was still being held in the prison of Bayil, where he has been allowed visits from his lawyers as well as from representatives of OSCE and foreign embassies in Baku.

Continued harassment of Mr. Ilqar Altay²⁰

On 17th October 2003, the deputy Iqbal Agazade, leader of the Umid (Hope) party, was arrested. A Committee for the protection of Mr. Agazade's rights was established on 18th October, presided by Mr. **Ilqar Altay**. This independent legal expert has participated in many investigative missions, including that mandated by the Federation of Human Rights Organisations of Azerbaijan (FHROA) concerning the events that occurred in Nardaran²¹ in 2002. On that occasion, Mr. Altay had been harassed, before being dismissed from his position at the International University of Azerbaijan on 11th November 2002.

Mr. Altay was arrested on 18th October 2003, and then released after 5 days. He is being prosecuted for resisting the authorities.

BELARUS

Ever since the re-election of President Alexandre Lukachenko in September 2001, associations for the defence of human rights have been increasingly submitted to State control. The judicial observation mission mandated by the Observatory in October was able to observe that in 2003, yet another step had been taken towards the neutralisation of civil society, with the strengthening of a restrictive law applied to freedom of association, and the liquidation in great numbers of NGOs working for the defence of human rights.

²⁰ See Annual Report 2002.

²¹ On 3rd June 2002, the police intervened to suppress a social protest movement in the village of Nardaran, resulting in one death and twelve people wounded.

Restrictions on the rules governing associations

Registration system

In 1999, the adoption of a presidential decree «on certain measures on regulation of the activity of political parties and associations» (n° 2) deeply changed the registration system applicable to associations, until then a mere formality. All human rights organisations and associations, including those already registered legally, were obliged to use this new registration system, with its particularly restrictive measures, or risk being disbanded or banned from activity. The Republican Commission responsible for registration includes the Prime Minister, directors of the presidential administration and of the Security Council. It may examine the content, the association's tasks and working methods, and reject registration when it «does not comply with legislation». Presidential decree n° 11 of September 2003 extended the registration system to «associative unions».

For instance, on 24th December 2003, the Supreme Court of Belarus confirmed a Ministry of Justice decision to refuse registration to the Assembly of democratic NGOs, Belarus' largest associative network. Registration was applied for in 2002, then rejected in October 2003 by the Ministry of Justice on the recommendation of the Republican registration commission, on the grounds that the Assembly failed to submit its legal address to the Commission. In a hearing of 24th December, Ministry of Justice official Mrs. Natalia Kebikava stressed that several founding organisations of the Assembly had been disbanded since the registration application.

The legal address requirement is one of the system's insidious points. A large share of property is handled by the State. At the same time, private owners are pressurised by authorities not to accept this type of tenants. In reality, the authorities control access to housing, a pre-requisite to registration and re-registration of organisations. This is one of the main reasons given by the ministry of Justice in association dissolution procedures.

Monitoring of symbols used by associations is another way authorities use to restrict the creation of associations or to break up existing

EUROPE AND THE CIS

ones. The last decree on this matter, dating from 7th August 2002²² makes it compulsory for the Heraldic Council of State to validate associative logos, and for them to be registered in the State heraldic register. Failing to do so, the association will be disbanded. National symbols, particularly, were prohibited following the referendum of 1995, re-establishing the symbols of soviet Belarus.

The role of associations regarding legal representation

In light of the repression suffered by a number of opponents and the general violation of human rights in Belarus, several associations have been created to provide legal aid to the country's citizens. In April 2003, the adoption of a new presidential decree (decree n° 13)²³ restricted the right to legal assistance for associations. The decree provides that, «representatives of non-governmental organisations may only represent physical persons in civil suits in general courts if the law authorises them to represent and defend the rights and interests of members of these associations and other persons before the courts». This decree violates article 62 of the Belarus Constitution that guarantees citizens the right to legal assistance to defend their rights before a court. It also goes against article 73 of the Civil Procedure Code that restricts this right to minors, disabled or partially disabled persons, judges, investigating magistrates and public prosecutors. Commenting on this decree, the president's press service reasoned that «the representation of citizens' interests in court requires professional training».

In his speech to Parliament on 16th April 2003, President Lukachenko said that the representation of citizens' interests by NGO was detrimental to the profession of lawyers. Decree n° 12 of 3rd May, 1997 regarding the work of lawyers and solicitors obliges lawyers to «be members of a centralised State college overseen by the ministry of Justice, with the competence to authorise or refuse the right to exercise by issuing temporary licences». However, article 72 of the Civil

22 Decree n° 441 «On the formation of the Heraldry Council under President of the Republic of Belarus and some measures aimed to improve the adoption & state registration of medals, orders & official heraldic symbols».

23 «On some questions regarding civil legal procedures», See open letter to the authorities, 8th August 2003.

Procedure Code enables each party to be represented and/or aided by a «civil representative» in court; a large number of jurists therefore assist persons tried in court for civil and administrative matters, whereas criminal matters are left to lawyers.

To illustrate, on 5th September 2003, the NGO «Legal aid to the population» was disbanded by the town court (ruling confirmed by the Supreme Court on 13th October 2003) based on the Associations law and presidential decree n° 13. The association was accused of providing legal aid without a compulsory licence. The Ministry of Justice took the licence away in the spring of 2000. The NGO provided legal assistance to families of missing political opponents. Its director, Mr. **Oleg Voltchek**, represents the family of Iouri Zakharenko, former minister of Interior, who disappeared in May 1999.

Foreign assistance to NGOs

On 28th November 2003, President Lukachenko signed a decree regarding the use of foreign humanitarian aid (decree n° 24). The decree introduces measures to monitor foreign aid and stipulates that such aid may not be used «to organise political meetings, demonstrations, pickets, to prepare and distribute propaganda or to hold seminars or other forms of political work with the population». Any NGO in breach of this decree may be disbanded. The decree follows decree n° 8, adopted in March 2001, which introduced a sharp authorisation system overseen by the President for foreign financing of work undertaken by human rights NGOs, associations, independent media and political parties²⁴. The decree specifies that any form of aid must be certified for registration by the Department of humanitarian aid, under the responsibility of the President. It also provides that free foreign aid may not be used to prepare or conduct political or social events. Currently in Belarus, most associations and independent media, as well as opposing political parties are run with the help of foreign organisations and foundations.

²⁴ On this subject, see *Belarus: A caricature of autocracy. Civil society in a stranglehold*. Observatory international investigation mission, September 2001, p. 16.

EUROPE AND THE CIS

The institution of state associations

In parallel to the procedure to limit the freedom of associative work, Belarus authorities have introduced a process to encourage associations that are loyal to the State, such as the Republican Youth Union, which benefits from advertising on television and which actively participates in the youth ideology programme. On 30th July 2003, President Lukachenko issued a decree (n° 335) on State republican associations, creating a new status for «associations aimed at meeting significant objectives defined by the State». It is therefore probable that Belarus leaders profit from the dissolution of State-resistant associations by replacing them with docile associations that can benefit from administrative or financial advantages from the State. As repressed human rights activists protest, these new associations may well exploit information collected during inspections of disbanded associations' premises.

Dissolution procedures

Until 2001, associations could be disbanded for three reasons (Associations Law):

- if their activities advocated «a change to the Constitution by violent means, violated the integrity and security of the State, incited propaganda of war, violence, racial, national and religious hatred, or if they were detrimental to the physical and mental health of citizens» (art. 3);
- if the association receives a written warning twice in one year (art. 29);
- if, upon registration, the association's founders are in breach of the Associations law (art. 29).

Since the amendments to Art. 29 of the Associations law of 1994 (n° 213-3) were adopted on 26th June 2003, associations may be disbanded on a court ruling if the «association has at any time been in breach of the legislation on gatherings». This decision followed a series of measures taken since 1997 to drastically limit the freedom of meetings and pacific gatherings for NGO²⁵. According to the amendment to the law

25 See *Belarus: A caricature of autocracy. Civil society in a stranglehold*. Observatory international enquiry mission, September 2001, p. 23.

HUMAN RIGHTS DEFENDERS HARASSED

on gatherings adopted 4th December 2003, an application must be made to authorities for the organisation of any gathering of any form no later than 15 days before the date of the event. Organisers may not organise any publicity before official authorisation is given, i.e. no later than five days in advance. The amendment also introduces strict limitations as to the place of gathering, and establishes prohibited perimeters around official or public buildings. Local authorities are entitled to modify the time and place of the event and, in several cases, they reject the application arbitrarily. The measures taken result in a number of offences. For example, those participating may be charged with taking part in an unauthorised gathering, of obstructing the work of the police, using unauthorised symbols or chanting anti-president slogans. Since the amendment was adopted, highway costs, costs for maintaining order and for emergency services - firemen, hospitals - are borne entirely by the organisers. In light of the heavy estimates presented to them, many organisations are unable to pay.

Massive liquidation of NGOs

On 17th June 2003, the NGO «Civil Initiatives» was disbanded, among other reasons, for distorting its name and unjustified use of equipment donated. The association filed a complaint to the United Nations Commission on Human Rights following its disbandment.

On 9th July 2003, the Varuta resource centre in Baranovitchi was disbanded after two warnings from the Ministry of Justice for using an abbreviation of its name on internal documents and using the word «organisation» rather than «association» on its headed paper. Varuta provided assistance in the publication of bulletins, journals and magazines. It developed training and education programmes.

On 31st July 2003, the regional court of Vitebsk ordered the dissolution of the Kontur youth initiative centre on the grounds that its head office address had changed since August 2000 and no longer corresponded to the address shown on the association's registration form. The court also based its decision on the fact that Kontur used foreign financial help without the appropriate authorisation.

In August 2003, the Helsinki committee received a warning from the Ministry of Justice for use of headed paper and a stamp failing to comply with the statutes of the association.

EUROPE AND THE CIS

On 9th October 2003, the Supreme Court of Belarus ordered the dissolution of the «Women's answer» association for violating the regulations on the use of its legal registration address.

The same day, the court also disbanded the Belarus fund Cassiopeia on the request of the Ministry of Justice, following warnings concerning an incorrect legal address (registered in private premises) and the use of wrongly headed paper.

On 16th October 2003, the Supreme Court of Belarus disbanded the Lutskevitch brothers fund for breaking the registration law (incorrect address and stamp).

The Minsk Independent Association of Juridical Research received two warnings issued by the ministry of Justice on 10th July and 29th August 2003 for granting non-registered NGOs legal consultations, and for representing the interests of sued NGOs during their trial. After the Association published some articles in the newsletter of the Democratic NGOs Assembly, which was denied registration, a third warning was issued on 5th September that by law instigated a liquidation lawsuit. The Association lodged an appeal against these warnings that was dismissed by the Minsk City court on 5th November. On 29th January 2004, the court ruled the dissolution of the Association on the basis of Article 72 of the Civil Procedure Code, considering that this article forbids any legal representation of one of the parties during a trial.

On 11th November 2003, the Supreme Court requested the dissolution of the «Association of young entrepreneurs» that offered legal advice and organised training to young entrepreneurs, due to irregularities upon the association's re-registration in 1999.

On 24th November 2003, the Supreme Court ordered the dissolution of the association «The hand of support» for similar reasons.

Viasna targeted

The trial for the human rights protection association «Viasna» took place on 22nd, 23rd, 24th and 28th October 2003, following the request for the association's dissolution from the Belarus Ministry of Justice. The Observatory's representatives were able to sit in at the one-judge hearings and observe the trial.

Charges

On 2nd September 2003, the ministry of Justice referred a dissolution procedure to the Supreme Court of Belarus accusing the association:

- of submitting registration documents containing forged signatures (violation of article 13 of the Associations law, of point 3 of the Presidential decree of 26th January 1999 and of point 2 of decision n° 108 of the ministry of Justice of 15th May 1995);
- of presenting an inadequate number of members (8 instead of 10) for the regional structure of Mogilev (violation of ruling of Republican association registration and re-registration commission of 24th March 1999);
- of breaching its own statutes by not collecting membership fees and not creating a local structure in Minsk (violation of points 3.1, 4.5 and 5.1 of Viasna statutes, of article 4 of the Associations law and of article 48 of the Civil Code);
- of breaching the electoral regulation by sending non-member observers (ruling from central electoral commission of 8th September 2001);
- of seeking to legally defend non-members of the association (violation of article 72 of the civil procedure code, article 22 of the Associations law and point 2.1 of Viasna statutes).

The trial was conducted in accordance with international human rights protection standards. The defence could present point by point the arguments it had prepared.

On 28th October, the judge ordered the dissolution of Viasna and a fine of 82,500 Roubles (35 Euros), a clearly political verdict. Four of the five charges were rejected for lack of proof as to the forged signatures, for insufficient legal grounds as to non-compliance to the registration procedure and for failing to adhere to regulations regarding assistance of private persons in civil trials. The only charge accepted was therefore the breach of the electoral regulation.

After hearing the ruling, the association's chairman, **Ales Bielatski**, defence counsellors **Vladimir Labkovitch** and **Valentin Stefanovitch** and five members present to support Viasna refused to leave the courtroom. The police arrested them and they were kept in police custody. On 29th October, they were released but were fined \$ 40 to 80 for «refusal to comply» (article 166 of the administrative Code).

Viasna appealed the Supreme Court's ruling. The trial will be held in the same court, this time with several judges.

EUROPE AND THE CIS

Detention of Mr. Bandazhevski²⁶

The authorities have refused to meet the Observatory's request, renewed regularly since 3rd December 2002, to allow an international enquiry mission into the detention conditions of Mr. **Yuri Bandazhevski**.

Mr. Bandazhevski, a renowned international scientist, specialising in medical nuclear radioactivity-related research and former director of the Gomel State Institute of Medicine, revealed in his research work the harmful effects of the catastrophe in Chernobyl on the population of Belarus, contradicting official claims from authorities. He also criticised the misuse of Health Department funds, which he said should have been used for research in this area.

On 18th June 2001, Mr. Bandazhevski was sentenced to eight years of strict detention on the pretext that he sought bribes from parents of pupils at the Institute. In light of his deteriorating physical and mental health, the Observatory referred the matter to the United Nations Working Group on Arbitrary Detention.

On 7th July 2003, the United Nations Commission on Human Rights declared Mr. Bandazhevski's complaint to be admissible, on account of the Protocol option in relation to the International Pact on civil and political rights. The Commission requested that Belarus, having signed the Protocol, provide written explanations and notify it of measures taken.

²⁶ See Annual Report 2002, Press Release of 17th April 2003 and Open Letter to authorities of 8th August 2003.

Procedural irregularities during the trial of the man charged with murdering Giorgi Sanaya²⁷

On 9th July 2003, Grigol Khurtsilava was sentenced to 13 years in prison for the murder of Mr. **Giorgi Sanaya**. Mr. Sanaya was a journalist for the TV channel *Rustavi 2*, and frequently exposed the regime's corruption. He was murdered on 26th July 2001. Although Mr. Khurtsilava, a former State Security officer, pleaded guilty and denied any political motive for the murder, this version of events is doubtful. He notably asserted during his trial that he had mistaken his target and did not know who Mr. Sanaya was. It appears, moreover, that witnesses were subjected to a lot of pressure during the trial.

Harassment against TV channel *Rustavi 2* continues²⁸

In 2002, on *Rustavi 2*'s «60 Minutes» programme, Mr. Akaki Gogichaishvili, the programme's editor and presenter, exposed the corruption of the head of Georgian Railways, Akika Chkhaidze. Mr. Chkhaidze brought defamation charges.

In August 2003, the regional court of Tbilisi ruled that *Rustavi 2* should pay a million lari (nearly 450,000 euros) in damages and interest to Mr. Chkhaidze. During the trial, the journalists were not permitted to produce the evidence on which they had based their accusations.

The political changes of December 2003 enabled this decision to be cancelled.

On 29th December 2003, a rocket was fired at the premises of *Rustavi 2*. The building was damaged but no one was wounded. An anti-tank rocket launcher was found close to the TV channel's offices and a sabotage investigation was opened.

²⁷ *Idem.*

²⁸ *Idem.*

EUROPE AND THE CIS

Constraints on the freedom to demonstrate²⁹

On 17th September 2003, the Union of Environmental Protection and Animal Rights (Lobo) organized a demonstration against the construction of a new oil pipeline in the Borjomi region. The association highlighted the risks of flooding the valley and the threat posed by the pipeline to the region's ecosystem. On the orders of the governor, Gedevan Popkhadze, some 20 demonstrators were attacked and beaten by police officers.

The complaint brought by the head of the organization, Mrs. **Lasha Chkhartsvili**, came to nothing.

Constraints on the activities of the Monitoring Council of the Prison System³⁰

The Council for Public Monitoring of the Prison System was established by the Justice Ministry. It enables representatives from NGOs and the civilian community to enter prisons freely and carry out checks.

On 25th January 2003, a revolt broke out in Tbilisi's Prison 5; it was rapidly brought under control by special forces from the Ministry of Justice, but more than 30 prisoners were injured. On 28th January, representatives from the Monitoring Council were prevented from gaining access to the hospital or the prison, on the pretext that the prison authorities could not guarantee their safety.

On 3rd May 2003, a member of the Council, **Giorgi Lagidze**, and a journalist from the *Sakartvelos Respublika (Georgian Republic)* were refused entry into the young offenders' section of Tbilisi prison. When they asked for a list of the people in charge of overseeing the department, they were insulted and beaten by the director of punishments and security, Mr. Gogoshvili. Mr. Lagidze registered a complaint and Mr. Gogoshvili was dismissed from his post.

²⁹ See Open Letter to the Authorities, 21st October 2003.

³⁰ *Idem*.

Attack on the Fund of Georgian Human Rights Defence³¹

In April 2003, the offices of the Fund of Georgian Human Rights Defence in Sachkhere, were attacked by a group of unidentified individuals. The assailants stole IT equipment and a number of documents intended for the publication of a report on violent incidents perpetrated by the forces of order.

In 2003, the premises of the Sachkhere branch of the Foundation were burgled four times.

Detention and conviction of Giorgi Mshvenieradze³²

On 2nd November 2003, Mr. **Giorgi Mshvenieradze**, representative of the Association of Young Lawyers of Georgia in Kutaisi and an observer during the last parliamentary elections, led parallel vote-counting operations in Kobuleti and in the village of Dagvi in the Autonomous Republic of Adjara. During these operations, Mr. Mshvenieradze noted significant abuses of the electoral process at polling stations. When he asked members of the Electoral Commission to make a written note of these irregularities, he was beaten by officers of the regional prosecutor and then arrested.

Mr. Mshvenieradze was, at first, accused of obstructing the electoral process and the activities of the Electoral Commission, in accordance with articles 162 and 163 of the Penal Code. On 4th November, however, these charges were altered, and he was accused of acts of vandalism using «a firearm or any other object that might be used as a weapon» (article 239.3 of the Penal Code) and resisting the representatives of the forces of order and of the government (article 353); the charge of obstructing the electoral process was maintained.

On November 5th, 2003, Mr. Mshvenieradze was sentenced by the Regional Court of Kobuleti to three months preventative detention, after which he will be retried

At the end of the elections, the OSCE declared that the Autonomous Republic of Adjara was one of the Regions where irregu-

³¹ *Idem.*

³² See Urgent Appeal GEO 001/1103/OBS 063.

EUROPE AND THE CIS

larities had been most flagrant. Several NGO representatives were attacked, notably in Kobuleti, and 51 observers were prevented from carrying out their vote-counting operations under pressure from members of the Electoral Commission.

ITALY

Outcome of the prosecutions of Italian militants³³

In December 2002, the district court of Cantanzaro in Calabria ordered the release of, and the lifting of arrest warrants relating to, some twenty militants of the Rebellious South network, the alternative COBAS trade unions and n° Global, arrested in November 2002 in connection with events during the G8 Summit in Genoa in 2001. The charges against them (political conspiracy) were not dismissed and the file was sent to Cantanzaro's court of appeal. The case was heard on 24th October and 6th November 2003 and ended positively for the militants, since the court upheld the decision to free them. However, some of them have to sign a document every week at the police station. Their telephones and computers are still bugged.

At the same time, the trial has still not been held of 77 police officers charged with brutality in January 2003, in connection with the events in Genoa and, in particular, with a raid on a school.

³³ See Annual Report 2002.

Release of Mr. Sergei Duvanov³⁴

Mr. **Sergei Duvanov**, editor-in-chief of the news bulletin *Human Rights in Kazakhstan and the World*, published by the Kazakhstan-based International Bureau for Human Rights and the Rule of Law (KIBHRL), was arrested in October 2002 as he was on his way to the United States for a conference on the human rights situation in Kazakhstan³⁵.

Charged with the rape of a minor, Mr. Duvanov was sentenced to three and a half years imprisonment (based on article 20-2 of the Criminal Code) by the Karasai district court on 28th January 2003. A few days before the verdict, Mr. Duvanov had dismissed his lawyers and denounced the judges' blatant lack of independence. He appealed against his conviction.

On 28th January 2003, the OSCE criticized irregularities in the trial and the lack of prosecution evidence. They requested that the Court of Appeal should take account of these omissions when giving its verdict. Moreover, the European Parliament, in a resolution dated 13th February 2003, demanded Mr. Duvanov's immediate release.

On 11th March, the Court of Appeal upheld the verdict of the Karasai district court and confirmed Mr. Duvanov's sentence. International observers sent to attend the trial were refused access while the verdict was announced.

Mr. Duvanov was released on probation on 29th December 2003, having served two thirds of his sentence and without having been proved guilty. He was admitted the same day to the Almaty penal colony.

Kazakh penal colonies come under article 125 of the Criminal Code, and constitute a form of incarceration less strict than prison. Detainees are not locked up nor kept under guard and may move freely around the colony during the day. They may also take up a job outside the colony, or even live with their families inside the colony if permitted to do so

³⁴ See Urgent Appeal KAZ 001/0802/OBS 053.02.

³⁵ See Annual Report 2002.

EUROPE AND THE CIS

by the penal administration. On condition that they register with the administration at least four times a month, they may be given the right to reside outside the colony. In addition, detainees can receive unlimited parcels and visits.

On 29th December, at the time of Mr. Duvanov's release, his colleagues at KIBHRL had prepared all the necessary paperwork to obtain the administration's permission for him to live outside, especially in view of his poor state of health, and to resume his activities with KIBHRL. This permission was, however, refused. Moreover, in total violation of the colony's own rules, Mr. Duvanov was forbidden to use his mobile phone, and was allowed no visits whatsoever between 5th January and 12th January.

On 12th January 2004, with his health worsening, Mr. Duvanov asked to be admitted to hospital for treatment. When the wardens of the colony took him to hospital in Almaty, a doctor asked him to return the next day, because there were no free beds. As soon as he returned to the colony, Mr. Duvanov was met by an officer of the National Security Committee (KNB), who informed him that charges laid against him in July 2002 for attacking the dignity of the president³⁶ had been dropped.

On 13th January, he was getting ready to go back to the hospital when he was forbidden by the administration to leave the colony. In the face of protests from members of KIBHRL, this prohibition was finally lifted. No hospital in Almaty would agree to treat him, however, due to orders from the authorities. Mr. Evgeny Zhovtis, a member of KIBHRL and Mr. Duvanov's lawyer, immediately contacted the KNB, who said that they knew nothing about it and that they respected Mr. Duvanov's work. Mr. Duvanov, on his return to the colony, announced his intention of embarking on a hunger strike.

On the evening of 14th January, after Mr. Duvanov had again been refused permission to receive visits, the authorities announced his release. Mr. Duvanov was able to leave the colony on 15th January and resume his work at KIBHRL. He will have to register with the penal administration four times a month.

³⁶ *Idem.*

Harassment of KCHR continues³⁷

On 12th, February 2003, while the European Parliament was in session, Mr. **Ramazan Dyryldaev**, president of the Kyrgyz Committee for Human Rights (KCHR), criticized the President of the Kyrgyz Republic. Following his declarations, the pressure exerted on Mr. Dyryldaev and the KCHR increased significantly.

Thus, on 26th March 2003, former members of the Committee, accompanied by uniformed officers from the Ministry of the Interior and National Security, burst into the offices of the KCHR in Bishkek. The employees who were present in the offices were able to prevent them from taking away computers and files.

From 29th March to 10th April, Mr. Dyryldaev's office and home were placed under surveillance, as were the homes of family members where he had taken refuge. On 21st April, after former members of the KCHR had accused the Committee President of embezzlement, officers from the Organized Economic Crime Unit (GUBEP) burst into the home of Mr. **Vladimir Tihonov**, member of the KCHR, and asked him about Mr. Dyryldaev's whereabouts.

Moreover, on 13th August, in a letter signed by the Deputy Minister of Justice, Mr. Alymbaev, the Minister ordered the KCHR to file a new application for registration within ten days. The Minister, in fact, stated that certain clauses in the Committee's Charter, which had been registered in August 1999, contravened both the new Constitution adopted on 2nd February 2003 and the law concerning «non-commercial organizations», adopted on 15th October 1999.

On 25th August 2003, during a press conference which neither the activists nor the members of the KCHR board of directors attended, Messrs. Tynaliev, Mombekov and Jakishev³⁸, all three former members

37 See Urgent Appeals KGZ 001/0403/OBS 020, KGZ 002/0803/OBS 044, KGZ 002/0803/OBS 044.1 and KGZ 002/0803/OBS 044.2.

38 Mr. Tynaliev voluntarily left the KCHR in 2002. Messrs. Mombekov and Jakishev were dismissed.

EUROPE AND THE CIS

of the Committee, announced Mr. Dyrlydaev's dismissal from his position as president of the KCHR. Without any consultation and despite the fact that Mr. Dyrlydaev had been duly re-elected on 11th May 2003 by the active members of the association, Mr. Tynaliev was appointed president of the KCHR.

At the end of that press conference, Mr. Tynaliev violently attacked Mr. Dyrlydaev's son, Mr. **Giyaz Tokombaev**, before calling him at home and threatening to kill him. He stated that he enjoyed the support of the Solicitor General, the presidential administration and the secret services and added that, with this support, he would confiscate all of Mr. Dyrlydaev's belongings.

On 24th September 2003, the deputy minister of Justice, Mr. Alymbekov, informed the KCHR that the new board of directors, consisting of Messrs. Tynaliev, Jakishev and Bulatov, had been recognized by the minister. This newly constituted KCHR was officially registered on 28th November 2003.

Since the authorities have taken the KCHR in charge, Mr. Dyrlydaev and his colleagues have been receiving intimidating letters on a regular basis and have been the targets of recurring campaigns of defamation and harassment intended to discredit them both within the country and on an international scale. For example, during the OSCE annual conference on the implementation of human dimension, which was held in Warsaw from 6th-17th October 2003, he was publicly accused of embezzlement and corruption by the false KCHR management. On 16th November, that same false management also accused the general assembly of the Helsinki Federation for Human Rights of «covering up Mr. Dyrlydaev's fiscal fraud» by refusing to recognize the new board of directors.

The KCHR is still being threatened with legal action. On 6th October, Mr. Bulatov threatened to take legal action against Mr. **Fomenko**, a colleague of Mr. Dyrlydaev who had called the members of the new board of directors «imposters», and confiscate all of his belongings. Moreover, on 9th October, the vice-president of the new association, Mr. Mombekov, threatened to take legal action against Mr. Dyrlydaev if he did not turn over the association's belongings to Mr. Mombekov and if he persisted in using the association's name in documents intended for the international community.

In 2000, the KCHR had already been the object of similar maneuvering on the part of the authorities, who had set up a new association

HUMAN RIGHTS DEFENDERS HARASSED

with the same name in an obvious effort to paralyze the advocates' activities.

Mr. Dyrlydaev, who lived in exile from 2000 to 2002, definitively left the country on 26th May 2003 after members of the security services confirmed that an order had been issued to assassinate him.

RUSSIAN FEDERATION

In Russia, human rights defenders are finding their position weakened as the ruling political party grows in strength and the administration mobilizes behind it. The Observatory's international mission sent in November 2003 noted that the pressures placed on associations are, on the whole, indirect, but with long term consequences for the spread of activism, as well as for public perception and financial support. These pressures may be increased, as an example to all associations, when human rights defenders criticize federal or regional authorities.

Indirect constraints on the actions of human rights defenders

Recent years have seen an increase in the number and variety of associations in Russia. Almost 400,000 associations are registered nationwide³⁹, yet human rights associations remain few in number and appear to be subjected to increased government monitoring.

Uncertainties about cooperating with the government

Since his election as President of the Russian Federation, Mr. Vladimir Putin has engaged in a policy of rapprochement between the government and human rights groups. A civic forum, bringing together defenders and political representatives, was held in Moscow in 2001, and in Nijni Novgorod from 23rd to 25th October 2003. These presidential initiatives have served to create deep divisions within the

³⁹ For the sake of comparison, there were around a million associations in France in 2002.

EUROPE AND THE CIS

movement, between supporters and opponents of such cooperation. On the whole, the civic forums have proved disappointing for the human rights groups that took part, who point out that there have been no definite outcomes. Similarly, controversy surrounds the role played by the Human Rights Commission to the President, headed by Ella Pamfilova. This Commission, made up of several respected representatives of human rights organizations, exists to convey the associations' requests to the government. Its influence on government policy, however, remains limited, with government departments (particularly those concerned with enforcement) refusing to cooperate with human rights defenders.

Fiscal pressures: a Sword of Damocles

The modification of article 251 of the tax code, signed by Vladimir Putin in May 2002 and brought into effect on 1st January 2003, constitutes a real fiscal sword of Damocles for organizations. In effect, it imposes a tax of some 25% on all their resources (contributions being classed as profits), from which non-profit organizations had previously been exempt. These new fiscal rules do not apply, however, to associations in the fields of art, culture, scientific research and training. Lobbying to have human rights work added to the list of non-taxable activities was unsuccessful in 2003.

This new legislation puts human rights organizations in a particularly precarious position. Unable to pay the tax, organizations and donors find themselves outside the law, thrust into a shadowy economy and fearing prosecution or the threat of closure if the law is rigidly enforced.

An unfavourable political context: the loss of parliamentary intermediaries

The elections of 7th December 2003 saw the heavy defeat of opposition parties, in particular the liberal Yabloko Party, which had had brought Sergei Kovaliov, one of Russia's most ardent defenders of human rights, to parliament. This has robbed human rights groups of parliamentary intermediaries to promote universal standards and principles for the protection of human rights. The new Duma will be in place until 2007.

Control of the media : a debased image

Human rights organizations are also indirectly affected by state control of the media. Their activities go unreported, when they are not

publicly disparaged. In Moscow and Saint Petersburg, alternative media still exist, (notably the *Novaia Gazeta* newspaper), but the rest of the country has no access to pluralistic information. This lack of representation in the media has long term repercussions on the associations' image, and may explain the problems they have in recruiting new members and volunteers.

Direct attacks on human rights groups

*NGOs targeted*⁴⁰

Association of Soldiers' Mothers of Saint Petersburg. In a letter to the Justice Minister dated 20th January 2003, the Leningrad district military prosecutor, Igor Lebed, demanded an investigation into the activities of the Association of Soldiers' Mothers of Saint Petersburg. Mr. Lebed accused the association of defamation and 'incitement to desert', amounting, he argued, to a «call to crime». He denounced the disparity between the association's activities and its statutes, in particular its monitoring of enrolment conditions and the publicizing of enquiry reports. The staff of the organization were unaware of this letter until after the investigation had begun, and they were not informed of proceedings. Mrs. Kaznacheeva, head of the investigation and of the department of the Justice Ministry that deals with associations, demanded the personal files of soldiers defended by the organization.

On 23rd June, the ministry insisted on a review of the statutes for the purposes of a new registration, on the pretext that the association's name did not appear in its entirety on its official documents and that its statutes contravened the law on social groupings and non-profit making organizations. On 26th June, the Soldiers' Mothers presented a new version of the Statutes, which was rejected for registration by the Justice ministry on 13th August. In June 2003, the ministry also informed the association that a hotel was about to be constructed in the building where it rented offices. Although no other tenant received this information, the staff was asked to find new premises.

On 14th June 2003, the head of the Nachimov military school, Mr. Bukin, began legal proceedings against the Soldiers' Mothers of

⁴⁰ See Press Release 15th September 2003.

EUROPE AND THE CIS

Saint Petersburg, and against the newspaper *Smena*, which had published information supplied by the association concerning the physical and psychological torture of pupils. Mr. Bukin demanded two million roubles (about 67,000 euros) in damages and interest for defamation. Yet these acts of torture had already been acknowledged by the admiral of the Russian fleet, Mr. Kuroedov, who had stated that the officers responsible had been punished. The trial opened on 22nd September, and the next hearing is scheduled for 21st January 2004.

The Soldiers' Mothers of Saint Petersburg continue to work and organize weekly information seminars for young draft evaders, as well as peaceful demonstrations against the war in Chechnya. During one of these demonstrations, on 11th September 2003, the procession was violently attacked by a group of individuals. Their banners were ripped up and one of the women demonstrating was savagely beaten. The attackers fled on the orders of a man who was watching the scene from a distance. It appears that he announced to someone on his mobile phone, 'We're leaving; we've won.'

Memorial – Saint-Petersburg. On 14th August 2003, a young man came to the office of the Memorial Association in Saint-Petersburg⁴¹ and asked to meet members of the anti-fascist commission, claiming that his sister had been murdered by a right wing group. The commission's staff were not there at the time, so the young man returned later in the day with another individual. The two men threatened an employee, Mrs. **Anna Chmygara**, with hammers, then tied her up, gagged her, locked her in a cupboard and cut the telephone line. The two attackers then burst into the office of Mr. Schnitke, head of the organization, telling him that they belonged to the Committee for the Defence of Budanov, a committee that no one had heard of⁴². Mr. Schnitke and another employee were also bound, gagged and locked in a cupboard, the attackers claiming that they had booby-trapped the door. They then stole Mr. Schnitke's computer, his two mobile phones, his diary and address book. Before fleeing, the two men left a note demanding the

41 See Urgent Appeal RUS 001/0803/OBS 042.

42 Colonel Budanov is a Russian officer who was imprisoned for the kidnap and murder of a young Chechen girl in 2000.

release of Colonel Budanov. The three members of the Memorial were only freed later that day, thanks to the help of a visitor who then called the police.

Even though the assailants took no money and no computers except for Mr. Schnitke's, the press office of the Interior ministry (MVD) declared that this attack was an ordinary burglary, with no political motive. Memorial pressed charges and, faced with police inaction, employed private detectives who were able to identify one of the assailants, Vladimir Goliakov, and have him arrested on 26th September.

On 29th October, friends of Mr. Goliakov organized a press conference in his defence at the Press Centre, where they distributed copies of a letter of support from a member of the Duma, Viktor Ilioukhine, known for his nationalist sympathies.

Subsequently, a commander in the FSB (ex-KGB, Federal Security Service) was searched during an anonymous prison visit to Goliakov and found to be bringing him a list of names of people who could supply him with an alibi. There have been no repercussions in the wake of this incident.

Goliakov's trial for theft of equipment and assault on staff at the Memorial is due to take place soon.

The Russian Centre for Public Opinion and Market Research (VTsIOM). This Centre has, for 15 years, been the country's most reliable source of public opinion surveys. Since January 2003, it has been subjected to various sorts of administrative harassment. In August 2003, its members were informed that there would soon be an election for a new board of governors, with responsibility for naming a new executive director and drawing up new policies. The President of the Centre, **Yuri Levada**, and the rest of the staff were not consulted, nor were they invited to participate in this procedure. On 9th September, most of VTsIOM's 90 researchers refused to work for the reconstituted organization and founded an independent agency under Mr. Levada. Analytical VTsIOM (VTsIOM-A) has been registered with the Ministry of Justice as a non-profit making organization.

Sakharov Museum. On 18th January 2003, six men from the Pyzhi Orthodox Church burst into the Centre for Peace, Progress and Human Rights in Moscow. On the pretext that the Museum's exhibition entitled, «Beware, religion» was an affront to their faith, they vandalized the artworks before being arrested by the police. They were immediately

EUROPE AND THE CIS

released. Following a resolution of the State Duma dated 2nd September, legal proceedings began against the Museum, based on Article 282 of the Criminal Code («incitement to racial and ethnic hatred») and for causing an affront to the Orthodox Church. The prosecutor had the artworks seized and ordered the setting up of a commission of experts - none of them art specialists - to examine them. The Museum's curator, **Harutioun Zulumyan**, has since been subjected to frequent harassment and was forced into hiding for some time. On 25th December, the investigator for the Moscow prosecutor's office, Iou Tsvetkov, accused the artists and organizers of «incitement to hatred» and of attacking the dignity of certain religious groups. If convicted, the exhibition's organizers face substantial fines and three-year suspended prison sentences, or up to three to five years imprisonment if the court decides that the «crime» has been committed by an «organized group».

In May 2003, the Sakharov Museum received repeated visits from police representatives telling them to take down the banner hanging over its façade, saying «End The War in Chechnya!». The Museum, however, refused to give in to this pressure and retained the banner.

Then, on 2nd-4th October 2003, the Sakharov Museum tried to organize a festival of documentary films about Chechnya. The Moscow cinema which was due to host the festival backed out on 1st October, and it could only be shown to a limited audience in a small screening room in the Museum.

Chechnya: a forbidden topic⁴³

Since the conflict began, access to Chechnya and Ingushetia has been all but forbidden to aid organizations, journalists and international NGOs. The few, local human rights NGOs who attempt to work in Chechnya find themselves in an extremely precarious situation, subjected to daily pressures⁴⁴.

⁴³ See OMCT Report: «Chechnya, no means to live : an appraisal of violations of economic, social and cultural rights», November 2003.

⁴⁴ *Idem*.

The Coalition on the Interregional Public Movement for the Defence of Human Rights and Freedoms.

Members of this Coalition, a Russian-Chechen association based in Grozny, have been subjected to very serious persecution since 2002. Mr. **Gusigov Khac-Mohammed** disappeared on 7th August 2002 and Mr. **Djabrailov Khampacha** on 10th April 2003. The association and their families still have no news of them. On 13th January 2003, a group of Russian soldiers searched the organization's premises and arrested Mr. **Uctalkhanov Kazbek**. The Coalition had to pay bail of \$ 500 to obtain his release. Freed on 20th February, Mr. Kazbek reports that he was subjected to inhuman and degrading treatment, and repeatedly tortured. Mr. **Murstalier Okhazur Khazaevich** was arrested on 28th November 2002 and found dead on 3rd April. He had been shot. Shortly before his death, witnesses saw him at a checkpoint on the outskirts of Grozny, under the guard of Chechen soldiers working for the Russian forces.

The case of Zura Bitieva

Mrs. **Zura Bitieva**, a famous human rights activist, publicly opposed both the first and second wars in Chechnya. The authorities, who accused her of hiding Russian deserters and putting them in contact with their families, had her arrested in April 2000 and continued to threaten her regularly thereafter. In February 2003, Zura Bitieva had joined an organization of women demanding the opening up of mass graves in the village of Kapustino in the Naur district, and she had publicly criticized the referendum of 23rd March. Her family had also been repeatedly harassed; in March 2003, her elder son and her brother were accused of possession of illegal drugs by police in Chervlennaya. During the investigation, Mrs. Bitieva was able to prove that the drugs had been planted by the police themselves. Her son and brother were, nevertheless, given one-year suspended prison sentences in April 2003.

During the night of 21st-22nd May 2003, Zura Bitieva and three members of her family were murdered in their home. Eleven soldiers from an unidentified military group first burst into the house of a neighbour, seizing her passport before gagging her and interrogating her about her identity. Realizing that she was not Mrs. Bitieva, the soldiers ran off with her passport, which was subsequently found near Mrs. Bitieva's body.

EUROPE AND THE CIS

Zura Bitieva, her husband and her brother were tied up and gagged with adhesive tape before being shot in the head, and her younger son was suffocated with a pillow. Mrs. Bitieva's elder son was sleeping in the house next door. Woken by the sound of gunfire, he saw uniformed men leaving his mother's house. Thinking that she had been re-arrested, he thought it best to hide. A few minutes later, two soldiers inspected the bedroom by torchlight and left again, saying, «There's no one here any more». After the soldiers had gone, Mrs. Bitieva's son found the four bodies. His one-year-old son, who slept in his grandmother's bed, was found alive, tied up and gagged.

The Information Centre of the Society of Russian-Chechen Friendship

In March 2003, **Imran Ejiev**⁴⁵, head of the Information Centre of the Society of Russian-Chechen Friendship (SRCF) in the Northern Caucasus and regional coordinator of the Helsinki Committee in Moscow, carried out an investigation in the Chali region for the SRCF's annual report into the human rights situation in Chechnya. He was also doing some research for OMCT into economic, social and cultural rights in Chechnya for a presentation, in November 2003, to the United Nations Committee on Economic, Social and Cultural Rights.

On 15th March, Mr. Ejiev was kidnapped between the town of Chali and the village of Serjen'-Yourt. According to the eye-witness account of Mr. **Zaour Saitovich Kharipov**, an SRCF correspondent who used to accompany Mr. Ejiev on his assignments, two cars forced their vehicle off the road. A group of men, armed and wearing masks, demanded their identity papers. After checking Mr. Ejiev's passport, they made him get into one of their cars and then fled. He was found on 19th March, near the village of Berkat Yurt in the Chechen Republic, bearing the obvious signs of a beating.

On 19th October 2003, Mr. Ejiev was again arrested by Russian armed forces at the border between Chechnya and Ingushetia. While he was passing through a checkpoint into Chechnya with **Khamzat Kuchiev**, a colleague from the SRCF, a group of visibly drunk soldiers

⁴⁵ See Urgent Appeals RUS 001/0303/OBS 012 and RUS 001/0303/OBS 012.01.

HUMAN RIGHTS DEFENDERS HARASSED

stopped their vehicle and took them into their office. They announced that their job was to arrest all human rights activists, especially members of the RCFS, who were accused of 'discrediting the army during sensitive military operations'. When Mr. Ejiev commented on the fact that they were drunk, he was arrested and tied up. Mr. Kuchiev alerted other people who were passing through the checkpoint, who mounted a spontaneous demonstration outside the office, and Mr. Ejiev was released after less than an hour.

Over the last two years and more, Imran Ejiev has been frequently and arbitrarily arrested and detained by the authorities⁴⁶.

Memorial - Grozny

On 5th December 2003 the Martin Ennals Foundation announced that Mrs. **Lida Yusupova** was the winner of the 2004 Martin Ennals Award for Human Rights Defenders (MEA)⁴⁷. Mrs. Yusupova is a lawyer and for the last three years has been in charge of the office of the Russian human rights organization, Memorial, in Grozny⁴⁸. She devotes herself to gathering testimonies from victims who are brave enough to go to the association's office. She visits the scenes of violent acts, massacres and forced disappearances. She also accompanies victims in their dealings with the Russian security services and the army, and gives legal assistance to those who try, not without difficulty, to obtain justice. The award will be presented to her at the session of the UN Commission on Human Rights in April 2004.

⁴⁶ See Annual Reports 2000 and 2001.

⁴⁷ The Martin Ennals Award for Human Rights constitutes a unique collaboration between ten major international human rights organizations. The jury members of the Martin Ennals award are: Amnesty International, Defence for Children, German Diakona, Human Rights Watch, HURIDOCS, International Alert, the International Commission of Jurists, the International Federation of Human Rights Leagues, the International Service for Human Rights and the World Organization Against Torture, which is also the headquarters of the Martin Ennals Award.

⁴⁸ See Annual Report 2002.

EUROPE AND THE CIS

Regional difficulties: the case of Krasnodar⁴⁹

Outside Chechnya and Ingushetia, the situation of human rights defenders is dependent on the regional powers. Things are especially difficult in the region of Krasnodar. **S. Gannouchkina** states that the authorities in this region, «constantly adopt local laws that contradict federal legislation» and that «those in power in Krasnodar harass associations». Three of the region's associations have been the subject of closure proceedings. On 8th December 2003, the court in the town of Novorossiysk (Krasnodar Region) demanded the closure of the Peace School foundation on the pretext that only one of the three founders still worked there. The Ioujnaia Vol'na association also came under pressure, but was able to maintain its activities thanks to the mobilization of associations throughout Russia. Finally, the Krasnodar Centre for the Defence of Human Rights, headed by Mr. **Rakovich**, was the subject of suspension proceedings.

Release of Grigory Pasko⁵⁰

Mr. **Grigory Pasko**, military correspondent for the *Journal of the Russian Fleet (Boeyava Vakh)*, was sentenced to four years in prison for high treason, following revelations about the dumping of nuclear waste in the Sea of Japan in 1997. This sentence was confirmed at appeal by the military chamber of Moscow's Supreme Court on 25th June 2002.

On the basis of an amnesty for «light sentences», Mr. Pasko was conditionally released for good behaviour on 23rd January 2003, having served two thirds of his sentence.

⁴⁹ See «Alternative NGO Report on Observance of ICCPR by the Russian Federation», Moscow 2003. This very detailed report lists numerous cases of harassment in this region.

⁵⁰ See Annual Report 2002.

Law on Association⁵¹

A number of amendments to the Turkish Law on Association n° 2908 of 6th October 1983, which contains numerous restrictive provisions, were passed in 2003. These amendments were drafted as part of the 4th, 5th and 7th «reform or harmonization packages», and passed on 2nd January, 21st March and 30th July respectively in the context of Turkey's application for membership of the European Union.

The amendment to article 6 states that apart from official correspondence, associations can now use other languages than Turkish. The amendment to art. 16 states that legal entities can now be members of associations. The amendment to art. 44 revokes the obligation for associations to submit their press releases and «declarations» to the authorities for approval; however, administrative bodies can still confiscate publications. The amendment to art. 10/1 standardizes the time for which an application for registration must be examined by the governor's office and the Interior ministry, changing it to 60 days (it was previously 30 days for examination by a governor and 90 days by the ministry); and the amendment to art. 38 extends the range of activities of students entitled to belong to associations to include art, culture and science. Finally, the amendment to art. 31 revokes the minimum residence obligation for people wishing to set up an association. This amendment particularly facilitates the creation of branches.

These amendments mainly constitute a favourable change in Turkish legislation on freedom of association. The reforms were also accompanied by amendments to sections of the Criminal Code often used to obstruct the activities of human rights advocates, especially as regards freedom of expression. For example, art. 159 of the Criminal Code, which prohibits «insults towards the Republic, the legal personality of Parliament, the Government, Ministers of State, the armed forces and security forces and the legal personality of the courts» has been amended to allow greater freedom of opinion and expression; in parti-

⁵¹ *Idem.*

EUROPE AND THE CIS

cular, the minimum penalties for the offence of insult have been reduced. Art. 312/2 of the Criminal Code, which prohibits «incitement to hatred and enmity», states that in future this offence will only be punished if such incitement constitutes a threat to public order, and the penalty for the offence has been reduced. Finally, art. 7 of the Anti-terrorism Act, which prohibits propaganda in favour of an illegal organization, states that in future this offence will only be committed in the event of incitement to use «terrorist» methods.

However, despite this legislative progress, prosecutions of human rights advocates are still numerous in practice. They are still prosecuted and convicted under art. 159 for criticizing the army, police, etc. and there has been an increase in the use of art. 169 of the Turkish Criminal Code which prohibits «aid and assistance to an illegal organization». During the last two years, a number of human rights advocates, political and trade union leaders have been prosecuted under this section for «aid and assistance to an illegal organization» because they criticized the widespread use of F-type prisons and the conditions under which political prisoners are held in custody.

IHD and its members targeted*Ankara headquarters and section*

*Search of IHD's Ankara premises*⁵². On 6th May 2003, the headquarters of the Human Rights Association of Turkey (IHD) and the offices of the Ankara branch of the IHD were raided by the special anti-terrorism forces accompanied by the prosecutor of the Ankara State Security Court. The police seized computer equipment, and files and registers held by the Association.

The prosecutor informed members of staff that the operation was performed by order of the Security Court, in the course of a preliminary investigation and prosecutions for «aiding an illegal organization» (art. 169 of the Criminal Code).

The raid took place when members of the IHD had just participated in the 28th session of the UN Committee against Torture (2nd-

⁵² See Press Release of May 6, 2003.

5th May 2003), during which a member of the Turkish delegation had challenged the validity of the questions posed by the Committee's Rapporteur relating to harassment of human rights advocates in Turkey.

Most of the computers and files seized during the raid were returned to IHD after examination by the Anti-terrorism Department, except for the address book of IHD's chairwoman **Feray Salman**, and some files.

At the end of 2003 the preliminary investigation was still continuing.

*Proceedings against 46 members of IHD board of directors*⁵³. On 5th May 2003, the 46 members of the IHD board of directors who were prosecuted for «possession of prohibited documents» (Article 526/1 of the Criminal Code), following a raid conducted on the headquarters' premises by the Police in January 2001, were sentenced to three months in prison and a fine of 36 million Turkish pounds by the Ankara n° 1 Criminal Court of Peace. That same day, their prison sentence was commuted to a fine of 249,130,000 Turkish pounds for each of the defendants.

*Proceedings against the members of the Ankara section executive office*⁵⁴. Since 11th January 2001, proceedings were commenced against the members of the executive office of the IHD section in Ankara for «supporting an illegal organisation» (Art. 169 of the Criminal Code), in connection with the activities of the IHD subsequent to the events that occurred in the prisons in December 2000. After several postponed hearings, the IHD members were acquitted on 21st October 2003.

*Bingöl section*⁵⁵

On 5th July 2003, when the Bingöl division (South-Eastern Turkey) published its bi-annual report, Mr. **Ridvan Kizgin**, president of the IHD Bingöl division, presented the conclusions to this report during several press conferences, that put forward the matter of renewed violations to human rights, in particular the ill treatment and acts of harassment by the police forces and the gendarmerie.

On 8th July, an individual, posing as the commandant of a regiment in the gendarmerie of the province, called Mr. Kizgin on his mobile

⁵³ See Annual Report 2002.

⁵⁴ *Idem*.

⁵⁵ See Urgent Appeal TUR 001/0703/OBS 032 and Annual Report 2002.

EUROPE AND THE CIS

telephone, and asked him to present himself at the gendarmerie camp. This person also demanded that Mr. Kizgin publish a disclaimer in the press on his claims about the forces of law and order. The following day, in another telephone call, the same individual reiterated to him that the commandant wanted to see him. Mr. Kizgin refused to hand himself over to the gendarmerie and publicly condemned the methods used by the authorities. The IHD immediately denounced this situation before the Prime Minister, the ministers of the Interior and of Foreign Affairs, as well as before the Command of the gendarmerie and the parliamentary Commission on human rights.

Since its creation on 12th April 2001, the members of the IHD Bingöl division have been under permanent pressure from the local authorities. At the end of 2003, Mr. Ridvan Kizgin was the subject of 29 inquiries and lawsuits. In 2002, Mr. Ridvan Kizgin and Mr. **Fevzi Abkulut**, division secretary, were arrested after participating as observers in a press conference organised for the Kurdish party HADEP. Detained for two months, they were prosecuted on the grounds that they were said to be infringing law n° 2911 on demonstrations⁵⁶. At the end of 2003 the trial was still pending.

Istanbul Section

*Harassment of Mrs. Eren Keskin*⁵⁷. Mrs. **Eren Keskin**, lawyer and former president of the IHD Istanbul division has been readmitted to the Istanbul Bar Association. She was «asked to resign» by the Association for a year and no longer had the right to practise following her sentencing on 10th April 2001 to a year of imprisonment for «separatist propaganda». This resignation took effect on 18th November 2002.

Moreover, proceedings commenced against her in July 2002 for «inciting hatred» (Article 312 of the Criminal Code), due to a speech she made in March 2002 in Germany relating to women's rights. Mrs. Keskin was acquitted on 12th September 2003. Moreover, the complaint made by Mrs. Keskin against the journalist Mr. Fathi Altayi, is still in progress before the Sisli Court of First Instance n° 3. Following her speech in Germany during which she mentioned in particular the

⁵⁶ See Annual Report 2002.

⁵⁷ *Idem*.

sexual attacks suffered by women in Turkish prisons, Mr. Altayli confirmed in a radio programme of 8th April, that he would willingly sexually assault Mrs. Keskin at the first opportunity.

Conviction of Mrs. Kiraz Biçici. The appeal launched by Mrs. **Kiraz Biçici**, representative of the IHD division in Istanbul is still pending. In November 2002, Mrs. Biçici was sentenced to forty-five months imprisonment for having supported, during an interview broadcast on Media TV, different illegal organisations, one of which was the PKK, on the subject of F-type prisons. At the end of 2003 the appeal process was still pending.

*Diyarbakir Section*⁵⁸

The members of the executive committee of the IHD Diyarbakir section remain subjected to legal proceedings based on Article 64/1 of the Criminal Code and Articles 6 and 77/1 of the law on associations stating that official papers must be exclusively rewritten in Turkish, in connection with publications in which the Kurdish letter «w» was used when writing the word «Newroz». On 28th February 2003, the Diyarbakir Criminal Court n° 3 acquitted the members of the section.

*Bursa Section*⁵⁹

The directors of the section who have been subjected to legal proceedings since 2001 before the Court of Assises were acquitted in 2003.

*Malatya Section*⁶⁰

The section that was closed for an indefinite period of time since 29th November 2000, following a decision of the Malatya Criminal Court, has been able to reopen and hold its congress.

⁵⁸ *Idem.*

⁵⁹ *Idem.*

⁶⁰ *Idem.*

EUROPE AND THE CIS

The HRFT and its members targeted*Legal proceedings against the members of the HRFT board of directors⁶¹*

On 28th July 2003, the General Directorate of Foundations commenced legal proceedings before the Ankara Civil Court of First Instance against nine members of the board of directors of the Human Rights Foundation in Turkey (HRFT). The people affected are: Mssrs **Yavuz Onen**, president, **Selim Olcer**, general secretary, **Sabri Dokuzoguz**, treasurer, and **Mehmet Vurale**, **Mustafa Cinkilic**, **Günseli Kaya**, **Sukran Irencin**, **Okan Akhan**, **Sedat Aslantas**, members.

These proceedings were instituted on the basis of a report drawn up by three inspectors who had examined the activities of the Foundation in 2001.

The members of the Foundation are formally accused of having:

- collected donations on the Internet without prior authorisation from the authorities;
- translated into English and distributed to the international community the «special report on the problem of prisons in Turkey» drawn up by the Foundation's documentation centre;
- given documents about compulsory disappearances and extrajudicial executions in Turkey to the United Nations Special Rapporteur on extrajudicial, summary and arbitrary executions, Mrs. Asma Jahangir;
- handed over dossiers concerned with F-type prisons and police operations within the prisons in December 2000 to Mr. Johannes Svoboda, Rapporteur on Turkey in the European Parliament;
- relay to the Commissioner on Human Rights of the Council of Europe an evaluation report of the human rights situation in Turkey, as well as information about compulsory migrations.

The nine members of the Foundation are being prosecuted for violation of articles 6, 7 and 8 of the law n° 2860 (1983) on the collection of donations and articles 5, 6 and 7 of its ruling (1999), also for the violation of article 2 of the appendices to the Ruling on the foundations established in accordance with the Turkish Civil Code, that provides for

⁶¹ See Press Release of 13th November 2003.

«the cooperation of foreign foundations or organisations with similar objectives requiring authorisation from the Council of Ministers».

The proceedings affect the suspension and deposition of the nine members under Article 112 of the Turkish Civil Code and articles 23 and 24 of the Ruling on Foundations.

On 12th November 2003, during the first hearing of the trial to which the Observatory sent a representative, the Civil Court of First Instance decided to postpone the hearing until 20th January 2004, taking into consideration that the information regarding the first charge of indictment on the collection of donations on the internet was insufficient.

Moreover, the General Directorate of Foundations lodged an official complaint with the Ankara Public Prosecutor's office against the same people. Should the prosecutor decide that the accusations made are valid, the proceedings will then be transferred to the criminal division.

*Legal proceedings against Dr. Alp Ayan*⁶²

The trial of Dr. **Alp Ayan**, psychiatrist and member of the Centre for the Rehabilitation of Victims of Torture in Izmir, a HRFT programme, took place in 2003. Dr. Alp Ayan was prosecuted under article 159 of the Criminal Code for «insulting the armed forces» and «insulting the ministry of Justice» in connection with the declaration made on 10th February 2001, in protest against police operations in prisons and human rights' violations in F-type prisons. On this occasion, he had denounced the inhumane and degrading treatment of prisoners, also the acts of torture inflicted on the inmates in F-type prisons. On 24th April 2003, at the hearing to which the Observatory sent a representative, the Criminal Court of First Instance considered that the amendments to article 159 had been adopted after the facts brought against Dr. Ayan, and declared the matter was not within his field of competences. The matter was referred to the Final Court of Appeal, which later decided this conflict of competences by referring the dossier to the Izmir High Criminal Court. At the hearing of 10th December, 2003, attended by a representative of the Observatory, the High Criminal Court postponed the trial of Mr. Ayan until 3rd March 2004.

⁶² See Annual Report 2002 and Press Releases of 15th April 2003 and of 15th December 2003.

EUROPE AND THE CIS

*Legal proceedings against Alp Ayan and Mehmet Barindik*⁶³

The proceedings against Mssrs Alp Ayan and **Mehmet Barindik**, executive member of the LIMTER-IS trade union, remain pending. On 10th June 2002, Mr. Alp Ayan and Mr. Mehmet Barindik were respectively sentenced to one year and one day's imprisonment and one year's imprisonment according to article 159 of the Criminal Code. The matter was therefore referred to the Supreme Court that re-evaluated the expressions used in the press release that was read by the two men, in respect of the amendments made to article 159 of 2nd August 2002. The n° 9 Criminal Chamber of the Supreme Court had cancelled the decision of the Izmir Criminal Court n° 4. At the hearing of 19th June 2003, the prosecutor asked for acquittal with the motive that the expressions used did not fall under the definition of «criticism». Nevertheless, the Court upheld the sentence of one year's imprisonment and the matter has once again been referred to the Supreme Court at the end of the hearing.

*Legal proceedings against Alp Ayan and Günseli Kaya*⁶⁴

The legal proceedings against Dr. Alp Ayan and Mme **Günseli Kaya** remained pending until the end of 2003. They are being prosecuted, along with 68 people, for having organised an illegal demonstration during the funerals of one of the victims of the violent repression in the central prison in Ankara on 26th September 1999. At the last hearing of 19th December 2003, the prosecutor of the Aliaga Criminal Court of First Instance recommended 30 of the defendants to be sentenced to 3 to 5 years imprisonment, including Dr. Alp Ayan, Mrs. Günseli Kaya and four members of the Bar Association of Izmir lawyers: Mssrs **Sevgi Binbir**, **Seray Topal**, **Zeynek Kaya** and **Erdal Yagceken**, under article 32/3 of the law n° 2911 on demonstrations concerning «attacking policemen with stones and bottles» and «opposition by violent means». The prosecutor recommended 1 to 3 years imprisonment for 26 other defendants whose lawyer, **Berrin Esin Kaya** is a member of the foundation, under article 32/1 of the same law. The hearing was postponed to 26th January 2004.

⁶³ See Annual Report 2002.

⁶⁴ *Idem*.

Mr. **Veli Lök**, surgeon and HRFT delegate in Izmir, was sentenced to a heavy fine on 13th June 2000 and took his case to the final Court of Appeal. The case was definitively closed under the law on conditional liberty (amnesty law), adopted in December 2000, on condition that he did not commit the same crime within the next five years.

Mr. **Yavuz Önen**, president of the HRFT, was sentenced to imprisonment and a fine - the prison sentence later being commuted to a heavy fine - on 27th March 2001, after his declarations in an article published in the daily newspaper *Cumhuriyet* on 19th January 2000, criticizing the proceedings against Mrs. Kaya and Mr. Ayan. He was acquitted in appeal by the Izmir Criminal Court of First Instance on 23rd September 2003. The sentence of Mr. **Filkret İlkiz**, editor-in-chief of the newspaper, was upheld in appeal on the same day. On 24th September, the Izmir public prosecutor's office appealed to the Court of Appeal in order to cancel this verdict.

Legal proceedings against the members of the Centre for the Treatment of Victims of Torture in Diyarbakir⁶⁵

Following a raid led by the authorities on the premises of the Rehabilitation Centre for Victims of Torture set up in Diyarbakir by HRFT on 7th September 2001, Mr. **Sezgin Tanrikulu**, representative of the Centre, was prosecuted for «possession of prohibited documents» and «opening the Centre without authorisation». He was acquitted of this last charge but remained subjected to proceedings for the former. On 3rd December 2003, The Criminal Court of First Instance of Diyarbakir decided to acquit Mr. Tanrikulu.

Following this raid, proceedings were also launched on 31st May 2002 against Mssrs. **Emin Yuksel** and **Recai Aldemir**, two doctors at the Centre for «misconduct in the framework of professional obligations». On 16th December 2003, Mr. Ezmin Yuksel was acquitted. Mr. Recai Aldemir was sentenced to imprisonment, this sentence later being commuted to a fine. Mr. Aldemir appealed and the case was transferred to the Court of Appeal.

⁶⁵ *Idem.*

EUROPE AND THE CIS

Trial of GIYAV⁶⁶

The 21 founding members of GIYAV (Migration and Humanitarian Assistance Foundation) organisation, which offers economic, social, cultural and legal assistance to displaced peoples, were accused of having used, in documents published by the organisation, expressions such as: «Kurdish mother-tongue», «multi-culturalism», «displaced persons» or «practices implemented in the context of a state of emergency». They were sentenced to seven and a half years in prison under article 169 of the Criminal Code, for «supporting an illegal organisation».

Their trial started on 26th February 2003 at the Adana State Security Court, in the presence of a representative of the Observatory.

On 20th October 2003, after numerous postponed hearings, the Court acquitted the GIYAV members, in the presence of a representative sent by the Observatory. The Court also ordered that the various legal and administrative documents confiscated by the State prosecutor should be returned to the association. This acquittal followed the adoption of law n° 4928 and its article 2, passed in the context of the 6th train of legislative measures, and amending the article 169 of the Criminal Code. According to this article, references to «Kurdish mother-tongue», as well as public declarations and petitions denouncing human rights violations, are no longer subject to sentencing.

Nevertheless, seven members of GIYAV, Mssrs. **Mustafa Erdogan, Kadir Arıkan, Hikmet Özcan, Mehmet Barut, Ayse Bakaç, Remzi Erkut and Ömer Dogan**, all members of the board of directors when the legal proceedings started, were referred to the Mersin Criminal Court of First Instance, under article 312-1 of the Criminal Code concerning «the apology of a crime»

Trial of four lawyers of the Diyarbakir Bar⁶⁷

On 3rd June 2003, legal proceedings started against four lawyers, members of the Diyarbakir Bar association: Mssrs. **Sezgin Tanrikulu**, president of the Bar Association, **Sabahattin Korkmaz, Burhan Deyar**

66 See Press Releases of 28th February 2003 and 22nd October 2003.

67 See Press Release of 9th December 2003.

HUMAN RIGHTS DEFENDERS HARASSED

and **Habibe Deya**, were accused of «dereliction of duty» and «abuse of their legal responsibility», under articles 240 of the Criminal Code and art. 59/1-2 of the law on legal professions. According to the province governor, Mssrs Tanrikulu, Korkmaz, Deyar and Deya attempted to «obtain unwarranted compensations, by promising villagers new houses and money, when their houses had not been demolished. The four lawyers were also reproached to have seized the governor of the province in order to re-open the cases of 96 villagers, whose homes had been evacuated and burnt at Çaglayan in the Kulp district, and in Ziyaret and Uluacak in the Lice district, during the events of 1993 and 1994⁶⁸. Based on the conclusions of an inquiry conducted at his request by the gendarmerie, the governor decreed that the villagers' complaints were unfounded, and opened a judicial case against their lawyers.

The trial of the four lawyers started on 3rd October 2003 before the Diyarbakir High Criminal Court. On 5th December, in the presence of a representative from the Observatory, the Court decided to postpone the hearing until 24th December 2003. The four lawyers were then acquitted.

Legal proceedings against sixteen intellectuals for the publication of *Freedom of Thought 2000*⁶⁹

In 2001, sixteen intellectuals were prosecuted for the publication of a book entitled *Freedom of Thought 2000*, which contained sixty censored articles. Four trials were conducted against them before the Military Court of Chief Office of the General State, the Criminal Court of First Instance, the Heavy Penal Court as well as the Istanbul State Security

⁶⁸ In 1993 and 1994, the Turkish authorities launched a wave of repression against the Kurdish population living in the South and South-East of the country. Several villages were evacuated and burnt, and incidences of forced disappearances, extra-judicial executions and torture were reported. Since then, the authorities took no measures to guarantee an independent inquiry, nor for identifying those responsible and putting them before a competent and impartial tribunal. Moreover, most of the victims had to sign, under threat, a discharge confirming that they would renounce their right to compensation, and have never been able to obtain compensation for the demolition of their homes.

⁶⁹ See Annual Report 2002.

EUROPE AND THE CIS

Court. The cases in the first three courts were concluded with an acquittal. The case before the Istanbul State Security Court, for «publication of prohibited articles», «inciting hatred», «supporting an illegal organisation» and «distributing separatist propaganda» remains pending, as the Court of Appeal decided to revoke the acquittal of the intellectuals on 18th June 2001. On 19th August 2003, after several postponed hearings, the prosecutor requested 15 of these intellectuals to be acquitted by the Court, due to the abolition of article 8 of the anti-terror law and the amendments to articles 169 and 312 of the Criminal Code. They were all acquitted on 29th September 2003.

TURKMENISTAN

Harassment of Mrs. Natalia Shabunts⁷⁰

On 27th May 2003, members of the Civil Dignity NGO participated in a meeting with representatives from the Organisation for Security and Cooperation in Europe (OSCE) in Achkhabad. In the presence of Mr. Martti Ahtisaari, representative of the OSCE president for Central Asia, Mrs. **Natalia Shabunts**, president of Civil Dignity, intervened to denounce the human rights situation in Turkmenistan and the government's current nationalistic tendencies. She particularly mentioned that the principal obstacle encountered by NGOs in Turkmenistan was not finding funds, but being able to independently conduct their activities.

On 28th May 2003, Mrs. Shabunts' building stayed under the surveillance of three security services vehicles for the entire day. Around 7 p.m., when she was leaving her home to attend a dinner organised by the OSCE, four security services agents attempted to arrest her. Mrs. Shabunts managed to escape, found refuge in her apartment, and alerted her friends of the situation. The agents remained in front of her building until after 11 p.m. Mrs. Shabunts was apparently under surveillance since 26th May 2003, the date Mr. Martti Ahtisaari arrived.

⁷⁰ See Urgent Appeal TKM 001/0603/OBS 027.

HUMAN RIGHTS DEFENDERS HARASSED

Since 2001, Civil Dignity has been under surveillance by the secret services, which have on numerous occasions prevented or disrupted conferences organised by Mrs. Shabunts.

UNITED KINGDOM

Inquiry into the murder of Mr. Patrick Finucane⁷¹

Mr. **Patrick Finucane**, a lawyer well-known for his work in favour of human rights, was murdered in Belfast in 1989 by members of the Ulster Defence Association (UDA), a loyalist paramilitary group.

On 17th April 2003, Metropolitan Police Commissioner Sir John Stevens issued a third inquiry report denouncing collusion between the British security forces and protestant militia, in the murders committed in Ireland in the late 1980's and the 1990's. According to Mr. Stevens' conclusions, Mr. Finucane's murder «could have been prevented», and the investigation lead by the authorities «should have resulted in the early arrest and sentencing of his killers». Two of Mr. Finucane's alleged murderers were arrested after that report, in May and October 2003, and are currently awaiting trial.

On 1st July 2003, the European Court of Human Rights issued its verdict on a complaint filed against the British government in 1994 by Mr. Finucane's widow, Mrs. Geraldine Finucane, under article 2 of the European Convention on Human Rights, which guarantees the State protection of the right to life. The Court acknowledged the obstruction committed by the police and security forces during the investigation, and ruled that the complaint of breach of article 2 was well-founded. However, it did not consider it necessary to order a new enquiry into Mr. Finucane's murder.

Another report, written by Canadian judge Peter Cory at the request of the British and Irish governments, was submitted to the Secretary of

⁷¹ See Annual Report 2002.

EUROPE AND THE CIS

State for Northern Ireland, Mr. Paul Murphy, in October 2003. Mr. Cory recommended public inquiries, but the government refused to publish his report, despite repeated requests by Mrs. Finucane's lawyer. On 21st January 2004, the High Court of Belfast granted the Finucane family leave to apply for a judicial review of Mr. Murphy's decision not to publish the Cory report.

UZBEKISTAN

Harassment against HRSU members continues⁷²

Mr. Norboye Kholzhigitov harassed and threatened⁷³

In January 2003, Mr. **Norboye Kholzhigitov**, president of the Ichtkhan section of the Human Rights Society of Uzbekistan (HRSU), in the Samarqand region, gave an interview on *Radio Free Europe*, in which he denounced human rights violations in the region.

On 18th January 2003, a few days after this interview, Mr. Hasan Alimov, his wife and his son, close friends of Mr. Kholzhigitov, were arrested for having allegedly stolen cattle. On 20th January, Mr. Kholzhigitov attempted to meet with the official responsible for the investigation. He could only meet a police officer, and he announced his will to serve as civil counsel in this case. The police officer insulted him, replying that a thief did not need a lawyer and that he could not provide any legal aid since his organization was not registered. Mr. Kholzhigitov was only able to see Mr. Alimov's son, whose face bore the signs of rough treatment. The son stated that his father had been seriously tortured.

On 19th January, approximately ten police officers burst into Mr. Kholzhigitov's home, threatening and insulting him. In particular, the officer heading the group said: «If you don't shut up, we'll send you

⁷² *Idem.*

⁷³ See urgent appeal OUZ 001/0103/OBS 004.

HUMAN RIGHTS DEFENDERS HARASSED

far away, to a place you'll never get out of» and «Why do you think you have the right to defend human rights when your organization isn't even registered?»⁷⁴. The police officers' words were particularly violent, sowing panic among the Mr. Kholzhigitov's family members.

*Mr. Olim Tochev harassed*⁷⁵

An investigation (n° 2-59/2003) was initiated in the case of Mr. **Olim Tochev**, member of the HRSU, who was accused of beating his neighbor in Karshi. His trial was set for 14th March before the criminal court of Bakhoriston; however, on 13th March 2003, he was taken by force into a psychiatric institution. Without any medical advice prior to his hospitalization, and after being kept there illegally, Mr. Tochev was released on 15th March, thanks to the efforts of his lawyer Mr. **Bakhtior Chakhnazarov**. All legal proceedings have since been abandoned.

*Messrs. Muradov, Hamraev, Radjapov and Utamarov freed*⁷⁶

Messrs **Muradov**, **Hamraev** and **Radjapov**, all three members of the Nishan section of the HRSU, and Mr. **Utamarov**, lawyer and president of the Karakalpakistan HRSU section, were sentenced to five to nine years imprisonment on false pretexts, in September 2002. The verdicts were rendered after a four-hours hearing.

On 29th April and 4th May 2003, the HSRU organized support demonstrations, asking the Supreme Court and the Tashkent general solicitor for their immediate release, while the European Bank for Reconstruction and Development (EBRD) was holding its annual session in Tashkent. The authorities then promised to release the four prisoners, but no such action was taken following the departure of the EBRD representatives.

The HSRU organized repeated demonstrations, every day from 5th June to 23rd July 2003. Messrs Hamraev and Radjapov were released on 22nd July, Mr. Muradov on 24th August, and Mr. Utamarov was released on 4th October.

74 HRSU requests to be registered have been systematically rejected since 1992.

75 See Open Letter to the authorities dated 12th May 2003.

76 See Annual Report 2002.

EUROPE AND THE CIS

Interference with the HRSU Congress

The HRSU held its fourth congress on 2nd October 2003 at the American association Freedom's House's premises in Tashkent. During the working meeting, an elderly, handicapped woman, Mrs. Helena Arzoumanyanyan, burst into the offices and asked to take part in the congress. When those in charge informed her that she could not attend the meeting, since she was neither a member of the HSRU nor of a guest association, Mrs. Arzoumanyanyan refused to leave the premises. She only agreed to leave after the members of Freedom's House intervened. The delegates noted that a police vehicle was waiting for her in front of the building.

A few days later, Mr. **Olim Yacoubov**, son of the HRSU president, Mr. Tolib Yacoubov, was informed that a preliminary investigation had been initiated against him for beating and injuring Mrs. Arzoumanyanyan.

Despite the numerous testimonies provided by diplomats, and journalists for the *BBC*, *Deutsche Welle*, and the *Free Europe and Voice of America* radio networks, as well as from the Human Rights Watch delegates who had been invited to the congress, Mr. Olim Yacoubov is to go to trial in February 2004.

Threats and harassment following an information meeting

On 29th-30th November 2003, representatives of the OSCE and of the Uzbekistan forum for democratic forces organized a human rights information seminar for the HSRU Zarbdor division members, in the region of Dzhizaksk.

Mr. **Kourbanov**, HRSU president in Zarbdor, fulfilled all of the formalities for obtaining permission from the authorities to hold this seminar in the village of Buston. Following the orders of the security services, the regional council did not respond to his request. As a result, the seminar was held in a guesthouse. A few days later, the mayor of Buston publicly accused the owner of this guesthouse of welcoming «terrorists and wahabites».

On 11th December, an official of the general council announced that all those who had taken part in the seminar would be «punished». The next day, the Buston school's principal was ordered by the security services to summon four teachers who had attended the meeting. All four were required to provide their names and personal addresses and phone numbers, and were ordered to write a letter to the security services about the seminar and their reasons for taking part in it.

HUMAN RIGHTS DEFENDERS HARASSED

In mid-December, the daughter of the secretary for the Zarbdor HRSU, Mr. **Abdoulfaiz Baratov**, was fired from her job. The secret services then informed Mr. Baratov that his daughter would only be given her job back if he agreed to make a public statement against Mr. Kourbanov. Mr. Baratov, whose family is experiencing serious economic difficulties, resigned from his position as HRSU secretary after being forced to sign this statement. As a result of pressure from the local authorities, several members have left the association.

Interference with the freedom of movement⁷⁷

Mr. **Nicolai Mitrokhin**, member of the Russian association Memorial, has been denied access to the Uzbek territory on two occasions. This activist, who has been working on the situation of human rights in Uzbekistan for several years and who regularly denounces the practice of torture in the country, was sent back to Moscow as soon as he arrived at the Tashkent airport on 18th January 2003. He was given no explanation. When he returned to Tashkent on the morning of 22nd January, Mr. Mitrokhin was arrested as soon as he arrived at the airport. The police confiscated his passport and his airplane ticket and detained him until the evening, claiming that a meeting would be held to pass judgment on his case. Finally, he was returned to Moscow without being given any official document certifying the order to have him returned.

Interference with the freedom to demonstrate⁷⁸*Demonstration in Tashkent repressed*

On 7th March 2003, approximately 40 women demonstrated in a public square in Tashkent to denounce the torture of their husbands and sons who are being held in detention. The police intervened, blocking all exits, violently beating several women and forcing them to get into a police car. Most of these women were released a few hours later. Two of them were required to pay a bond.

⁷⁷ See Urgent appeal OUZ 001/ 0103/OBS 004.

⁷⁸ See Open Letter to the Authorities dated 12th May 2003.

EUROPE AND THE CIS

Shortly after this, a group of women, most certainly connected with the authorities, showed up and took aside three independent, foreign, radio journalists who had witnessed the women being dispersed. These women accused Mr. **Youssouf Rasoulov**, correspondent for the *Voice of America*, and Messrs. **Khousniddin Koutbitdinov** and **Mirasror Akhronov**, of *Liberté-RFE*, of beating the demonstrators, although none of the accusers was present at the time of the demonstration. The three journalists were then thrown to the ground and beaten by the men who accompanied this group. Their work equipment (recording equipment, telephones, and bags) was wrecked. The police, standing a few meters away, did nothing despite the journalists' calls for help.

Repression of a demonstration in Andijan

On 8th May 2003, some 60-70 women demonstrated in Andijan against the persecution of their husbands and children on religious grounds. The police unsuccessfully attempted to stop the demonstration on several occasions.

As they approached the Navruz stadium, the order was given to arrest all the demonstrators. The police acted with great brutality during the arrests, insulting and beating the children. Most of the women were forced into police vehicles and detained for several hours.

Harassment of Mutabar Tadjibaeva⁷⁹

In April 2003, Mrs. **Mutabar Tadjibaeva**, a freelance journalist who has taken part in OSCE missions and regularly publishes articles about the human rights situation in Uzbekistan on the internet, was subjected to a widespread smear campaign led by the authorities. Several articles published on the internet described her as an «enemy of the people» who was «working for the West».

In June 2002, after being subjected to pressures in various ways, Mrs. Tadjibaeva was held in custody for 13 days for publishing critical articles.

⁷⁹ *Idem.*

Harassment of a defender's family⁸⁰

On 28th March 2003, Mr. **Abdousamad Ergachev**, son of Abdousalom Ergachev, a lawyer known for his articles about the human rights situation in Uzbekistan, was arrested by two police officers as he was returning home with a friend.

After being beaten and insulted, the two young men were taken to the police station, but were not informed of the charges against them. During his questioning, the 17-years-old Abdousamad was violently hit on the head, and passed out. When he woke up, the police started beating him again, shouting: «Your father is an extremist», and «This is an extremist's file».

On 30th March, Mr. Ergachev and his friend were accused of stealing a suit belonging to a certain Mr. Yoldashev. They were forced to sign a document admitting the charges, although they had never seen the man before. Mr. Yoldashev himself denied the allegations. He too was threatened and suffered violence. He was found at 5 a.m. the next day in a very serious condition. Abdousamad and his friend were released the same day, also in a critical condition.

Arrest, torture and conviction of Ruslan Sharipov⁸¹

Mr. **Ruslan Sharipov**, a freelance journalist who had suffered threats and constant repression for years because of his articles denouncing human rights violations in Uzbekistan, was arrested on 26th May 2003.

Mr. Sharipov was accused of homosexuality and paying minors to have sexual relations, under articles 120, 127-3 and 128-2 of the Criminal Code. The alleged victims were also taken in for questioning on 26th May, and held in custody for 4 days. The teenagers were no doubt threatened by the police to convince them to give evidence, as Mr. Sharipov always claimed he did not know them. Two of Mr. Sharipov's assistants, Mr. **Azamat Mamankulov** and Mr. **Oleg Sarapulov**, were arrested on the same day, and released four days later.

⁸⁰ *Idem.*

⁸¹ See Urgent Appeals UZB 002/0503/OBS 025, UZB 002/0503/OBS 025.1 and UZB 002/0503/OBS 025.2.

EUROPE AND THE CIS

On his release, Mr. Mamankulov said he had been beaten and threatened during his detention, to force him to testify against Mr. Sharipov at his trial.

Mr. Sharipov was not allowed to see his lawyer until 28th May 2003, in the presence of police officers. During the interview, he declared that the officers had beaten him, put a gas mask on his face, sprayed a suffocating gas into it, and threatened to rape him with a bottle.

His trial began in camera on 23rd July 2003, before the Tashkent Court chaired by Judge Ganisher Makhmudov. Only his lawyer, his legal representative and his mother were authorized to attend the hearing.

On 8th August 2003, Mr. Sharipov, who had claimed his innocence since the beginning of his trial, «confessed» his crimes. He dismissed his lawyer, asked for his mother to be denied access to the court, and wrote a letter to President Karimov, requesting a pardon for the articles he had published in the past. On 5th September 2003, in a letter written in prison addressed to UN Secretary-General Kofi Annan, Mr. Sharipov revealed that he had been forced to make these confessions as a result of further physical and psychological torture and threats against his family and lawyers.

On 13th August 2003, Mr. Sharipov was sentenced to 51/2 years imprisonment for homosexuality and sexual relations with minors. He appealed this verdict.

On 28th August 2003, his lawyer **Surat Ikramov** was attacked as he was leaving a meeting with Judge Makhmudov. Four masked men wearing military uniforms dragged him out of his car, tied him up and put a bag over his head. The men took him to a park in Tashkent and beat him with sticks. Mr. Ikramov was hospitalized as a result of his injuries. A demonstration in support of Mr. Sharipov, which was planned to be held the next day, was cancelled.

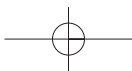
On 25th September 2003, the Tashkent Court rejected the evidences presented by the defence on appeal. The charge of «inciting minors to antisocial behaviour» (article 127-3 of the Criminal Code) was withdrawn, and the court reduced Mr. Sharipov's sentence from 51/2 to 4 years imprisonment. When he appeared at the hearing, there were traces of injuries on his face, which the police claimed were the result of a car accident.

HUMAN RIGHTS DEFENDERS HARASSED

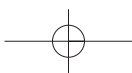
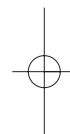
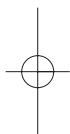
Mr. Sharipov, who was awarded the 2004 Freedom Prize by the World Association of Newspapers (WAN) on 25th November, did not benefit from the general amnesty granted by President Karimov on 22nd December.

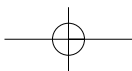
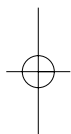
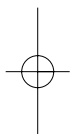
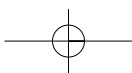
Ruslan Sharipov decided to appeal to the Final Court of Appeal. However, the threats against his lawyers and the repeated physical and psychological attacks he has suffered in the past few months suggest that his life may be in danger. In his letter to Mr. Kofi Annan, Mr. Sharipov said he had been forced to write a farewell letter which would be used if necessary to make his death in prison appear to be suicide.

In early January 2004, he was transferred to the Tavaksai penitential colony in the Tashkent region.



MAGHREB AND THE MIDDLE EAST





THE SITUATION OF HUMAN RIGHTS DEFENDERS

The military intervention of US-led coalition forces in Iraq and the fall of Saddam Hussein's regime have had serious repercussions throughout the region, including North Africa. Movements opposing the intervention and the subsequent occupation have grown, and governments in the region find themselves caught in a delicate balancing act between pressure from the United States, pressure from their own civil society, and the need for consolidating their power.

Another major problem continues to be the stalemate in the Israeli-Palestinian conflict, whose stakes are felt throughout the entire region and cause a great deal of tension.

Both these situations have focused more concern than ever on North Africa and Middle East. Paradoxically, the international community now seems more complacent than ever about human rights violations by governments in the region, at a time when the obsession with security and abuse of authority are growing hand in hand. Some States (Libya and, to a lesser extent, Algeria and Syria) continue to stifle dissent, while others - like Tunisia - are taking advantage of the security climate to implement repressive measures against their respective civil society.

As a result, human rights activism continues to be constrained by numerous limits on basic freedoms, especially freedom of expression, opinion, and association.

The war against terrorism and erosion of rights

While fighting terrorism is legitimate and necessary, governments in the region have for several years been using it as one of their chief justifications for implementing repressive measures. Following the terror attacks of 11th September 2001, several Heads of Government expressed satisfaction that their efforts were «finally» being recognized by the

MAGHREB AND THE MIDDLE EAST

international community, though these efforts were directly responsible for numerous human rights violations against those calling for pluralism and peace.

Encouraged by this new support, some States have added to their legal arsenal by passing anti- terrorism legislation, while others have taken advantage of the growing security fixation to renew or strengthen already existing repressive laws. In this political climate activists are facing greater abuse of authority, against which it is becoming ever more difficult to speak out. And their situation is made more precarious by the fact that these laws further restrict their individual and collective freedoms.

In *Morocco*, the terrorist attacks perpetrated on 16th May 2003 in Casablanca gave the Government an excuse to rush through an anti-terrorism law whose provisions far surpass the original, legitimate goals of such legislation. Approved on 28th May 2003, the law reprises many of the provisions of the Arab Convention for the Suppression of Terrorism¹, whose broad definition of a terrorist act leaves much room for abuse. Under Article 1 of the law, certain infractions constitute acts of terrorism when «intentionally linked to an individual or collective undertaking intended to do serious harm to the public order through intimidation, terror or violence». In addition, the law punishes «any person who defends acts deemed to be terrorist through speeches, loud utterances or threats made in public places or at public meetings, or through written texts or publications, distributed free of charge or sold or displayed in public places or at public meetings, or by posters exhibited to the public using audiovisual or electronic means». By virtue of these broad provisions, the law risks being used to suppress both freedom of expression and peaceful, legitimate forms of protest.

On 10th December 2003, the Chamber of Deputies in *Tunisia* approved a law «supporting the international effort to combat terrorism and money laundering» (Law n° 2003-75, ratified and published in the *Official Journal* on 12th December 2003). This law qualifies as acts of terrorism «all actions, whatever their motives, [...] likely to sow terror in

1 Law adopted on 22nd April 1998 by the Council of Arab Ministers of Justice of the League of Arab States, and entered into force on 7th May 1999. See Annual Report 2002.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

the population with the aim of influencing State policy [...], disturbing the public order, peace, or international security, or causing harm to individuals or property». The law also considers as terrorist «acts of incitement to hatred or to racial or religious fanaticism, regardless of the means used». Furthermore, anyone bound by professional privilege (an attorney, for example) that fails to immediately relay information regarding terrorist acts to authorities is also considered a terrorist.

This law also imposes very strict financial control over non-profit organizations and political parties. In particular, they may not receive yearly subscriptions of more than 30 Dinars, accept any donation or other form of financial support of any value unless exempted by a special provision of the law, accept any foreign funds, unless via an officially authorized intermediary residing in Tunisia and not prohibited by the law currently in force and, finally, accept any cash funds whose value equals or exceeds five thousand Dinars. These provisions constitute a grave threat to public freedoms. The law appears as a de facto attempt to further silence any independent voice by drawing the net more tightly around human rights defenders, journalists, and lawyers, already subject to constant persecution by authorities. These new financial measures legitimize the Tunisian Government's desire to monitor, limit, or even prohibit funding of NGOs. The most flagrant example² took place in August 2003, when EU funds earmarked for the Tunisian Human Rights League (LTDH) were blocked on fallacious legal grounds.

The ease with which defenders and terrorists are lumped together makes this law all the more dangerous. In this regard, let's recall the statement made in October 2003 by Tunisia's representative at the 34th session of the African Commission on Human and Peoples' Rights, which labeled the LTDH an «illegal terrorist organization».

Other countries, such as *Syria*, *Algeria*, and *Egypt*, which have been under a state of emergency for many years, are exploiting the current climate to give new legitimacy to their repressive emergency laws. In *Egypt*, on 23rd February 2003 the People's Assembly renewed the Emergency Law (Law n° 162 of 1958, restored in 1981) for a three-year

² See Compilation of cases below.

MAGHREB AND THE MIDDLE EAST

period. Specifically, this law allows the government to censor, seize, confiscate, or suspend publication of mail, newspapers, etc. (Article 2), and gives the Minister of Interior the power to order the arrest and detention, without any charge or trial, of «persons suspected of endangering public order or security» for one month, renewable (Article 3). Military decree n° 4 of 1992, adopted within the framework of this law, prohibits all foreign funding without prior official authorization. Several human rights defenders have been, and still are, prosecuted under this decree.

In some countries restrictive laws adopted in the wake of 11th September have made the situation worse for human rights defenders. This is particularly true in *Jordan*. The current climate, in which temporary laws enacted after 11th September have curtailed freedom of expression³, has left human rights defenders feeling more vulnerable, even though they are not being directly targeted. Despite improvements over the last few years regarding freedom of association in *Bahrain*, the Press and Publications Law (Law by Decree n° 47, adopted by Royal decree in October 2002) requires permission from the Ministry of Information before publishing any work, and a permit for publication of newsletters and magazines. This measure applies to human rights organizations as well. Under the pressure of these organizations, the Government presented an amended version of the law to the National Assembly in December 2002. Control over the press was retained, however, as was the imposition of prison sentences for criticizing the King, criticizing Islam, or undermining national security.

Finally, arguments used by the Government of *Israel* to justify its numerous atrocities against civilians in the Palestinian occupied Territories find particular resonance in the current security climate, where fighting terrorism is considered the highest priority. Israeli and Palestinian human rights defenders who condemn these violations are discredited, as demonstrated by a 21st May 2003 statement made by Israeli Minister of Foreign Affairs Silvan Shalom according to which «most human rights offices in the West Bank and Gaza Strip provide shelter for Palestinian terrorists».

³ See Annual Report 2002.

Human rights defenders in conflict zones

Human rights defenders and lawyers working in *Israel* and the *Palestinian Occupied Territories* face a particularly difficult situation, considering the countless obstacles placed on their way by the Israeli authorities (for example, restricted freedom of movement and lack of access to political detainees⁴).

This precarious situation is made even worse by increasing interference with international workers and peace activists. The latter, in addition to facing new limits on their freedom of movement, have been targeted in repeated attacks by Israeli armed forces, resulting in the death of at least two foreign peace activists this year⁵.

The Israeli civil society has not been spared either. Punishment for protesting against Israeli Army atrocities in the Occupied Territories and the extremist positions of Prime Minister Ariel Sharon is becoming more and more common. For the first time since the 1970s, in 2003 conscientious objectors were tried before a military tribunal and sentenced to prison⁶. This shift in strategy appears to be motivated by the fear that growing opposition to Israeli Army violations in the Palestinian territories (and the large increase in the number of young «refuzniks», or soldiers who refuse to serve in the Occupied Territories is a good example) will tarnish both the Army's and the Israeli government's image. Another good example is that of 27 Air Force reserve pilots who, in an open letter to Air Force Commander Dan Halutz, publicly stated that they were opposed to «carrying out attack orders that are illegal and immoral of the type the state of Israel has been conducting in the territories», and that they refused to «continue to harm innocent civilians». The Air Force immediately suspended the pilots, and seven of them, still on active duty, were not allowed to fly.

In *Iraq*, those engaged in the reconstruction process-particularly humanitarian workers and international organizations personnel-have faced an increasingly dangerous situation since the American intervention began. There have been numerous attacks against international

⁴ See Compilation of cases below.

⁵ *Idem*.

⁶ *Idem*.

MAGHREB AND THE MIDDLE EAST

defenders by extremist forces committed to sabotaging the Iraqi process of reconstruction. These attacks reached a climax on 19th August 2003, when a suicide bombing at United Nations headquarters in Baghdad killed Sergio Vieira de Mello, High Commissioner for Human Rights, and 22 U.N. staff members. And on 27th October 2003 the headquarters of the International Committee of the Red Cross (ICRC) was also attacked. Frequent looting and crimes targeting humanitarian convoys exacerbate this dangerous situation.

In *Morocco*, the personal envoy of the UN Secretary General in the region has drawn up a new peace plan aimed at settlement of the conflict in the Western Sahara. It proposes a regime of semi-autonomy within Morocco for a transitional period of four to five years, after which a referendum will be organised. During this period the inhabitants of the territory will have to choose between independence, integration or maintaining the regime of semi-autonomy⁷. Despite this positive development, and the fact that the armed conflict in this region stopped 12 years ago, the Moroccan militants who peacefully defend the right to self-determination of the Western Sahara, and denounce the violations of human rights perpetrated in this province, are still targeted by the Moroccan authorities. In particular, three militants from «Forum Vérité Justice» - Western Sahara Section were sentenced in 2003, for «incitement to riot»⁸. In September, 20 teachers engaged in the defence of human rights, including Hamoud Ikilid, chairman of the section of the Moroccan Human Rights Association (AMDH) in Laâyoune, were transferred to remote posts in different regions of Morocco.

Repression of movements, civil society and freedom of expression*Repression of anti-war movements*

The invasion of Iraq by the International coalition forces has given rise to almost unanimous hostility throughout all civil societies in the

⁷ At the end July 2003, a resolution was passed by the Security Council, within the framework of renewal of the Minurso mandate. The text affirms that the Council «supports» the Baker plan, described as «optimal political solution», before calling on the two parties to work «together with a view to its acceptance and application».

⁸ *Idem*.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

region. Meetings and demonstrations have taken place in most countries in the region, even though civil societies in some of them do not generally have the benefit of this form of expression in relation to their own governments (*Jordan, Egypt, Dubai, United Arab Emirates, Syria, etc.*).

However, these demonstrations have been repressed in several countries, especially in *Egypt*, where the provisions of the law on the state of emergency have been used in order to arrest and detain a large number of participants. On 18th January 2003, during an anti-war rally, State security police arrested and detained 11 people accused of being members of the Egyptian People's Committee for Solidarity with the Palestinian Uprising. On 8th and 9th February, some militants were arrested in their homes, and then imprisoned as a preventive measure, in anticipation of the demonstration on 15th February, including journalist Ibrahim al-Ahary and film-producer Sabri al-Shammak. On 16th March, at least five people were arrested and several wounded, and on 20th and 21st March, approximately 800 people were arrested in Cairo, including many children and several journalists. Over 60 people have been detained for several days, and numerous accounts of torture and ill treatment have been recorded.

In *Algeria*, anti-war protests have been strictly supervised and banned in the town of Algiers, where the few attempts to hold rallies have been violently repressed.

In *Morocco*, sit-ins have been banned in several towns, in a context of increased surveillance of Islamist movements. On 9th March, numerous demonstrators were arrested in Agadir, including nine members of ATTAC. Acts of police brutality have also been recorded.

In *Tunisia*, over 20 participants were wounded and 12 detained for questioning in Sfax, during the violent repression of a demonstration organized by the unions, NGOs and opposition parties on 16th February. On 22nd February, five trade unionists were hospitalised and seven members of the Committee of Solidarity with Iraq and Palestine were detained for questioning during a demonstration in Gafsa. In Kébili, police questioned the chairman of the LTDH section after informing the regional authorities of the section's decision to organize an anti-war demonstration on 13th March 2003. Similar scenarios took place in Sousse and Bizerte.

MAGHREB AND THE MIDDLE EAST

Repression of civil society movements in favour of the defence of human rights

The freedom of peaceful assembly and demonstration is restricted in *Algeria* where families of missing people are still sometimes targeted by the authorities during their weekly assemblies. During French President Jacques Chirac's visit (2nd to 4th March 2003), members of families of missing people who tried to meet were dispersed and several women were questioned, manhandled and injured. Also during this visit, numerous members of the «Arouchs» movement were questioned, when members of the protest movement in Kabylia tried to meet in Algiers.

In *Tunisia*, human rights activists and lawyers who tried to assemble to protest against the numerous violations of the rule of law in Tunisia were also subjected to systematic and usually violent repression⁹. In addition, on 3rd June 2003, union leaders and teachers in secondary education were attacked by police officers in civilian dress, when they took part in a protest meeting in front of the Ministry of national education and vocational training. Several unionists have been ill treated, including Mr. Täieb Bouaicha, Secretary General of the union, and Mr. Sami Tahri, unionist, who has been seriously injured.

The freedom of demonstration and peaceful assembly is strictly restricted in all totalitarian countries, which do not tolerate any expression of dissent. For instance, in *Saudi Arabia*, approximately 270 people were arrested on 14th October 2003 in Riyadh, when they demonstrated to demand political reforms and the release of political prisoners. These events took place during the first seminar on human rights in Saudi Arabia, organized by the Red Crescent. Many of the people arrested, including relatives and friends of political prisoners, were beaten and ill treated by the forces of law and order. Such demonstrations were once again repressed on 23rd October in Jeddah, Dammam and Ha'il.

Obstacles to freedom of association

Freedom of association is strictly controlled by law in the region, and is even non-existent in the most closed countries. However, in *Saudi*

⁹ See Compilation of cases below.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

Arabia, the year 2003 saw the creation of the first association of journalists in February and, on 6th May a Royal decree was issued, approving the first association for the defence of human rights with the mandate of «reformulating national laws to ensure that they comply with the fundamental system of governance, based in the first instance on human rights».

In *Egypt* - where NGOs are subject to the regime of authorization - a positive step has also been taken with registration of the Egyptian Organisation for Human Rights (EOHR), which has finally obtained legal recognition after 18 years¹⁰. However, other organisations, such as the Association against torture, the Egyptian Centre for Housing Rights (ECHR), the New women's research centre, or again the World centre for human rights, were refused legal registration in 2003, on the basis of the law on associations passed in 2002¹¹. In *Syria*, the Committees for the Defence of Human Rights in Syria (CDF) and the Syrian Human Rights Association are still not recognized.

The situation is very similar in countries where NGOs are subject to a regime of declaration, since application receipts are issued in a particularly arbitrary fashion. In *Tunisia*, out of 2,000 associations officially listed, less than a dozen are actually independent from the Government. Among the latter, the Tunisian Centre for Independence of Justice (CTIJ), the Association Against Torture, the National Council for Freedoms in Tunisia (CNLT), and the International Association for Support of Political Prisoners, are still awaiting official recognition so that they can legally exercise their activities. In *Morocco*, certain Amazighs' associations are still not recognized¹². In *Lebanon*, NGOs are confronted with obstacles in obtaining their receipts, for the Ministry of Interior is trying to impose obligations that are not required by the law on associations¹³. This practice sometimes leads NGOs to register as commercial companies. The same applies in *Jordan*, and again in *Yemen*, where the Legal Assistance Centre, which is mainly dedicated to the defence of freedom of expression and opinion, has the status of a law

¹⁰ *Idem*.

¹¹ See Annual Report 2002.

¹² See Annual Report 2002.

¹³ See Compilation of cases below and preliminary conclusions of the Observatory enquiry - December 2003.

MAGHREB AND THE MIDDLE EAST

firm, since it has been unable to obtain authorization from either the Ministry of Culture or the Ministry of Civil Affairs.

In *Iraq*, numerous NGOs have now been created. These organizations were strictly banned under the regime of Saddam Hussein. Most of these NGOs are engaged in investigation and research into the numerous violations committed during the former dictatorship. Some of them have done a survey of Iraqi civilian losses and have recorded violations concerning treatment of prisoners by international coalition forces.

However, the provisions in the Order issued by the Coalition Provisional Authority (CPA) on Non-Government Organisations (Order 45 dated 25th November 2003, adopted within the framework of new legislative measures implemented by the CPA) contains numerous obstacles to freedom of association. In effect, according to this Order, NGOs applying for registration in Iraq are subject to the regime of authorization, the registration procedure specifying that «the NGO Assistance Office (attached to the Ministry of Planning and Development Cooperation) will issue a registration certificate to the NGO or a written decision indicating the acceptance or rejection of registration within a period of 45 days from the date of the request» (article 3). This request must be accompanied by a presentation of a «programme established in consultation with the ministry concerned, and a budget for its first year of activity» (article 2). Article 2 states that «unregistered NGOs are not legally authorized to conduct programmes in Iraq» and that the Office «may suspend or revoke the registration of an NGO in the case of violation of the provisions of this Order, the NGO having 60 days to remedy the situation and, if necessary, apply for re-registration». However, no allowance is made for possible appeal or discussion.

In addition, the authorities have wide-ranging powers of interference in NGO activities. In effect, «the Office may conduct audits or studies on the NGO at any time and in any location in Iraq, in order to ensure that the NGO complies with this Order» (article 4); in addition, the NGO will have to submit to the Office its «quarterly activities report» (article 3), together with an «annual activities and financial report for the previous financial year» (article 9); an NGO must «inform the Office thirty days in advance of any material change related to the documents it submitted concerning its registration» (article 9) and must «inform the Office and the ministry concerned of its intentions to enter

THE SITUATION OF HUMAN RIGHTS DEFENDERS

into a joint venture or contractual arrangement with one or more foreign entities or international organisations»; it must «inform the Office of its program within the framework of this arrangement» (article 8). The law also states that «it is recommended that NGOs attend government coordination meetings, in order to ensure that assistance is effectively provided» (art. 9).

Lastly, the freedom to create autonomous and independent unions is suppressed or hindered in most countries in the region. In *Algeria*, for example, members of the Independent National Union of Civil Servants (SNAPAP) have been suspended from their functions or posted to remote locations¹⁴, several hundred teachers belonging to the National autonomous council of secondary and technical teachers (CNAPEST) have been suspended from their functions after having exercised their right to strike. The Council was refused issue of its registration receipt on 9th November 2003, without being given any official reason.

Action taken at international and regional level*The United Nations*

The Special Representative of the UN Secretary General on Human Rights Defenders, Hina Jilani, who had requested an invitation from the Egyptian and Tunisian authorities in 2002, has not received any response to date.

The Observatory has informed the special representative of all cases processed. In addition, the Observatory has submitted to the UN Working Group on Arbitrary Detention the cases of Mr. Ali L'mrabet (Morocco), and those of Mr. Jonathan Ben Artzi, Matan Kaminer, Adam Maor and Noam Bahat, Israeli conscientious objectors. The Working Group confirmed the arbitrary nature of their detention in its decision published on 14th January 2004¹⁵. The Observatory has also provided the Working Group with additional information concerning developments on the situation of Zouhair Yahyaoui, as a follow-up to its referral of the case submitted to the Working Group in 2002.

¹⁴ See Compilation of cases below.

¹⁵ *Idem*.

MAGHREB AND THE MIDDLE EAST

African Commission on Human and Peoples' Rights

During its 34th session, in November 2003, the African Commission on Human and Peoples' Rights adopted a mechanism of protection, by creating a «focal point» on human rights defenders¹⁶. The situation of specific defenders in Algeria, Egypt, Tunisia and the Western Sahara can now be monitored using through this mechanism.

European union

Despite numerous violations recorded, the European union did not make any public declaration on the situation of human rights defenders in Middle East/North Africa in 2003.

The European parliament passed only one resolution concerning defenders in the region. In its resolution on Egypt (10th April 2003) the European parliament «welcomes the decision of the Egyptian Court of Appeal to overthrow the verdict of the State Security Court and acquit human-rights activist Saad Eddin Ibrahim» and «urges Egyptian authorities to guarantee the right to collective peaceful expression and to prevent all forms of harassment against demonstrators and detainees and to ensure that people held are given proper legal protection».

The European union is engaged in the Barcelona process with twelve countries in the region, which involves, in particular the signing of bilateral association agreements. These agreements include a clause dedicated to the essential character of human rights in the relations between the European union and each State party. The two new agreements signed in 2002 with Lebanon and Algeria have not yet come into force at the end of 2003. A draft agreement is being negotiated with Syria, and should be signed in 2004.

In its annual report on human rights in the world in 2002 and European union policy on human rights, published in July 2003, the European parliament recommends «the setting up of a committee on human rights and democracy under the forthcoming Euro-Mediterranean parliamentary Assembly in order to allow for a more structured dialogue on human rights and democracy issues contributing to strengthened cultural sensitivity and increased effectiveness of the Euro-Mediterranean Partnership in this area».

16 See Analysis of the situation of human rights defenders in Africa.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

Intergovernmental Organisation of the Francophonie (OIF)

In the follow-up of the Francophonie Summit held in Beirut on 12th and 13th October 2002, and under Chapter V of the Bamako Declaration adopted in November 2000 regarding the monitoring of the exercise of democracy, human rights and freedoms in the French-speaking world, the Observatory developed its cooperation with OIF/ Intergovernmental Agency of the Francophonie (AIF), including submitting cases related to the situation of human rights defenders in francophone States and the annual report 2002.

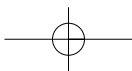
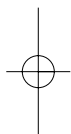
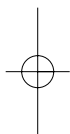
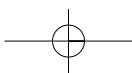
Furthermore, the Observatory participated in several meetings regarding the enforcement procedures of Chapter V of the Bamako Declaration.

World Summit on the Information Society

During the first phase of the World Summit on the Information Society in Geneva (10th-12th December 2003), the Observatory drew the attention of the International Telecommunications Union and the international community to the serious violations suffered by human rights defenders in Tunisia, and the serious attacks on freedom of expression in this country. In this context, the Observatory expresses its concern about the second phase of the Summit, scheduled to be held in Tunis in 2005, and attaches great importance to the participation of all representatives of Tunisian and international civil society.

Civil society

During a regional seminar organized by the FIDH in Ankara, on «Post 9/11 attempts on international humanitarian law and human rights in the South and East Mediterranean» (September 2003), a workshop was dedicated to the situation of defenders in Turkey and Israel/ Occupied Palestinian Territories. In the Final declaration of the seminar, participants from all the countries in the region indicated that «on the basis of vague definitions [of terrorist action] governments are criminalizing the legitimate exercise of universally recognized rights, such as freedom of expression, association, peaceful assembly, the right of access to information and the right to participate in the management of public affairs». They deplored «attacks directed against human rights defenders in the region, including journalists, together with targeting of vulnerable groups, especially civilians in occupied territories, migrants, refugees, asylum seekers and members of minority groups».



HUMAN RIGHTS DEFENDERS HARASSED

ALGERIA

Harassment of families of the disappeared and their defenders

Harassment of Mohamed Smain¹⁷

On 20th February 2003, Mr. **Mohamed Smain**, Head of the Relizane Section of the Algerian League for the Defence of Human Rights (LADDH, Ligue algérienne de défense des droits de l'Homme), was notified that he was banned from leaving Algeria just as he was about to leave for Oran Sénia airport on his way to Europe. Mr. Smain was not given any reason for this ban.

For some time now Mohamed Smain has been victim of pestering and various types of pressure from the security services on account of his work with the families of missing persons in Relizane and Oran. On 24th February 2002, following a complaint lodged by a militiaman Mohamed Ferghane and eight members of his militia, he was specifically sentenced to one year imprisonment and a fine of 5 000 dinars and 30000 dinars in damages to be paid to nine plaintiffs for «defamation, calumny and declaration of imaginary crimes». This complaint was lodged following Mr. Smain's having informed the Algerian press on 3rd February 2001 of the exhumation by the gendarmerie of a mass

¹⁷ See Urgent Appeal DZA 001/0203/OBS 008.

MAGHREB AND THE MIDDLE EAST

grave, in the presence of Mr. Ferghane, with the intention of transferring the remains from the mass grave to an unknown destination. At the end of 2003, Mr. Smain's appeal to the Supreme Court is still pending.

In 2002, Mr. Smain was also threatened and intimidated on several occasions by Mr. Mabrouk Belala, head of the gendarmerie in the Relizane district. As of end 2003, Mr. Smain's complaint against the latter has not been pursued.

Acts of violence against families of the disappeared in Algiers¹⁸

On 9th July 2003, several relatives of disappeared persons were arrested in Oran during the weekly gathering of families, which bring together around in front of the law courts. Mrs. **Boutaibi Setti**, representative of the Committee SOS-disappeared persons, Oran district, roughly handled and forcibly bundled into a vehicle by an un-uniformed officer of the security services, after she had been interviewed by a journalist from the daily newspaper *El Rai*. Mrs. **Bouguetaya Yakout** (married name Acem) and her daughter, Mrs. **Boussekak Yamina**, married name Rached) and three other mothers of disappeared persons were also arrested. They were taken to the police station in the 2nd district of Oran, transferred to the central police station, then finally released around 7 p.m.. They were all accused of «disturbing peace» and fined 1 000 dinars by the Court in Oran, on 4th October 2003.

The names of these women were mentioned in an open letter addressed by the Association of Families of Disappeared Persons to the President of the National Consultative Commission for the Promotion and Protection of Human Rights. This letter mentioned the pressure being exerted on the families of disappeared persons, following their summon on 13th June by the intelligence and security services of the Oran District (Governorate).

Harassment of families of disappeared persons' defenders in Constantine¹⁹

Representatives of families of disappeared persons in Constantine continue to suffer from harassment. On 5th November 2003,

¹⁸ See Urgent Appeal DZA 002/0703/OBS 064.01 and 064.02.

¹⁹ See Annual Report 2002.

Mrs. **Naïma Saker**, co-ordinator of families of disappeared persons in Constantine, was intimidated by two inspectors from the General Intelligence Services, who came to her house at 9.45 p.m., claiming that they were looking for a police report sent to Mrs. Saker in 1997, notifying her of her husband's arrest and transfer to the Intelligence and Security Department (DRS) in Constantine.

Furthermore, Mr. **Sofiane Chouiter**, lawyer representing the families, is still being followed after each weekly sit-in organised by relatives of the disappeared persons. He has also been subjected to pestering by the administration in November 2003, when his request to renew his passport was blocked in the Constantine District. He received confirmation of this blockage from the El Khroub police station. Mr. Chouiter was finally able to have his passport renewed in mid-December 2003.

Detention of Larbi Tahar²⁰

On 4th October 2003, The President of the Labiodh Sidi Cheikh of the LADDH, Mr. **Larbi Tahar** received a summon from the investigating magistrate, informing him that he was accused of «riotous assembly and civil disobedience». This summon was subsequent to his participation in a peaceful assembly in support of the Independent National Union of Civil Servants on 29th September (SNAPAP), who were on hunger strike (see below).

At the end of his examination by the magistrate, on 5th October, Mr. Larbi Tahar was immediately committed and placed in detention in the prison at Labiodh Sidi Cheikh.

Five other participants - **Larbi Mohamed, Larbi Bechir, Larbi Ahmed** and **Larbi Bechir**, all members of Larbi Tahar's family, as well as **Slamani Cheick** - were also charged with the same indictment. They were arrested and placed in detention on the evening of the assembly.

On 3rd November, Mr. Tahar was beaten up by the prison director and his guards and lost three teeth as a result. Moreover he was forced to sleep on the floor, dressed in underwears, from 2nd to 4th November, and was deprived of salt and sugar through the entire period of deten-

²⁰ See Urgent Appeal DZA 002/1003/OBS 050.

MAGHREB AND THE MIDDLE EAST

tion, although he was a diabetic. The judge ordered that Mr. Tahar undergo two medical examinations, following which he received a medical certificate for 10 days, which shows the extent of damage he suffered. On 9th November, the LADDH lodged a complaint with the public prosecutor of the court in Saida against the director of the Labiodh Sidi Cheikh prison, following these acts of ill-treatment. As of end 2003, legal proceedings are in hand, however since the sick certificate did not exceed 14 days, the perpetrators of Mr. Tahar's ill treatment at most face a fine according to the law.

On 24th November 2003, Mr. Tahar received a three months' suspended prison sentence from the court in El Bayadh, along with the five other participants.

Detention of Salah-Eddine Sidhoum²¹

Dr. **Salah-Eddine Sidhoum**, surgeon and human rights activist, gave himself up to the algerian legal authorities on 29th September 2003, after nine years underground. He then asked that the 1997 trial be revised, whereby he had been sentenced in absentia to 20 years' imprisonment for «belonging to armed groups» and «vindication of terrorism» (article 87 of the Criminal Code). After the public prosecutor informed him that a new hearing of his case would be organised a few weeks later, Dr. Sidhoum chose to be detained in the Serkadji prison, near Algiers, in the belief that his life was under less threat there than if he remained free.

Dr. Sidhoum, who was detained in extremely precarious conditions (damp dungeon, enlightened day and night and infested with vermin), went on hunger strike shortly after he was placed in detention. Despite the fact that the prison doctor requested that he be hospitalised after 10 days of hunger strike, this was refused by the prison director.

Dr. Sidhoum appeared before the criminal court in Algiers on 16th October 2003. The Observatory appointed an observer to attend the hearing, at the end of which Dr Sidhoum was acquitted of the charges brought against him and freed the very same day.

²¹ See Annual Report 2002, press releases of 30th September, 2nd October, 9th October, 16th October 2003, and mission report of legal observers, November 2003.

HUMAN RIGHTS DEFENDERS HARASSED

Dr. Sidhoum had been arrested by the police a first time in 1980 as a result of his outspoken opinions concerning the release of persons arrested during the Berber spring's demonstrations. Thereafter he had unceasingly continued to call for the attention of the international community regarding the practice of torture, extrajudicial executions and forced disappearances; in particular, he had collected and distributed accounts given by victims, whom he was called upon to attend in his orthopaedic surgery service at the Selim Zmirli d'El Harrach Hospital. In 1994, he had gone underground for fear of reprisals following a break-in by three armed individuals in his own home.

Legal proceedings against Abderrahmane Khelil²²

On 20th May 2002, Mr. **Abderrahmane Khelil**, Head of the Committee SOS-Disappeared Persons and member of the LADDH, was arrested following a visit he made to the University of Bouzaréah to enquire about the arrest of students during demonstrations on 18th May. He was detained in the El Harrache prison in extremely precarious conditions, and on 26th May, received a six months' suspended prison sentence «for encouraging unarmed assembly». Mr. Khelil appealed against this decision. As of end 2003, the proceedings are still outstanding.

Harassment of members of SNAPAP²³

Members of the Independent National Union of Civil Servants (SNAPAP, Syndicat national autonome des personnels d'administration publique - trade union which is not recognised), are still the targets of acts of repression, as is the case of Mr. **Rachid Malaoui**, Secretary General, constantly subjected to acts of harassment of intimidation.

On 29th January 2003, several hundred delegates from the National Union of Local Authority workers, which is affiliated to the SNAPAP, organised a sit-in in front of the Ministry of Interior and of Local Authorities in Algiers to defend workers' rights; participants were dispersed following a baton charge by security agents.

²² See Annual Report 2002.

²³ See Annual Report 2002.

MAGHREB AND THE MIDDLE EAST

Moreover, in October 2003, four nurses from the Labiodh Sidi Cheikh Hospital were transferred to an establishment located between 80 and 500 km far from their initial workplace. These transfers were ordered following their hunger strike to protest against the refusal from the authorities to allow a general assembly aiming at setting up a section of the SNAPAP.

Lastly, seven of the eight trade union board members of SNAPAP in Oran, who were arrested and suspended from their functions by an Order issued by the Wali (Governor) of Oran in March 2002, have still not been reintegrated in their jobs. Mrs. **Rokia Djebbour**, Mrs. **Hakima Slimani**, Mr. **Mohamed Benaissa**, **Bouabdallah Bensakrane**, **Cheikh Hattab**, **Abdelkader Kourea**, **Youcef Charef** and **Djamel Djeffel** were arrested following the hunger strike they started in protest against the closure of the SNAPAP office in Oran and on 21st October 2002 received a three month suspended prison sentence and 5 000 dinars fine - the eighth person was acquitted but was nevertheless transferred elsewhere.

On 21st January 2003, following appeal the sentence was commuted to a fine of 5 000 dinars. Their status of trade union representative was recognised but the administration maintained their suspension, which was notified to them by the security services. The seven trade unionists have submitted an appeal to the Supreme Court.

As of end 2003, the SNAPAP office in Oran remains closed.

EGYPT

Acquittal of Dr. Saad Eddin Ibrahim²⁴

On 18th March 2003, The Supreme Course acquitted Dr. **Saad Eddin Ibrahim**, director of the Ibn Khaldun Center for Development Studies. This decision brought an end to the legal proceedings which started in November 2000, following his arrest and that of 27 of his employees in June 2000.

²⁴ See Press Release of 18th March 2003.

HUMAN RIGHTS DEFENDERS HARASSED

On 21st May 2001, Dr. Saad Eddin Ibrahim had been sentenced to seven years in prison based on decree n° 4 of 1992, adopted in the context of the law on the State of Emergency (1981) which bans the collection and receipt of foreign funds without prior approval of the authorities. He was also charged with «falsifying voting cards, disseminating false information abroad with a view to harming Egyptian interests and extortion of moneys». Following two adjournments of the case by the Supreme Court where it had quashed the seven year prison sentences handed down by the State Security Courts, on 3rd December 2002 the Supreme Court released Dr Saad Eddin Ibrahim pending a final decision being handed down.

Moreover, the Supreme Court decided to acquit Mr. **Mohamed Hussein** and Mrs. **Nadia Mohamed Ahmed**, two more employees of the Center who were still being pursued in the context of this case. Mrs. **Magda Ibrahim El Beh**, a third employee in the Center who was still being pursued, was given a six months' suspended prison sentence for «falsifying voting cards».

Legal Recognition of EOHR²⁵

On 24th June 2003, the Egyptian Organisation for Human Rights (EOHR) received its official registration number from the Ministry of Social Affairs (registration n° 5220). It has thus become a legal organisation, after an 18 years wait following the request for legal recognition. The EOHR was first of all registered as a branch of the Arab Organisation for Human Rights in 1985 then submitted a request for registration in 1987 in compliance with law 32 of 1964. Following the refusal of this by the Ministry of Social Affairs, the EOHR lodged an appeal with the Administrative Court in 1992.

The legal proceedings lasted until 2000, by which time the EOHR renewed its request for registration in compliance with the new law on association and civil institutions (law 153/1999). A registration number was granted but shortly thereafter the Constitutional Court declared the new law unconstitutional and the EOHR had to submit yet another

²⁵ See Press Release of 27th June 2003.

MAGHREB AND THE MIDDLE EAST

request on the basis of the former law of 1964. The authorities then postponed examination of the request following the refusal by the security services. After an appeal in the Administrative Court, that court ordered the Ministry of Social Affairs to register the EOHR in July 2001. The Minister initially refused to grant this authorisation, then subsequently accepted following a new request from the EOHR in compliance with the new law on NGOs, in 2002 (law 84/2002)²⁶.

Proceedings against Mr. **Hafez Abu Sa'eda**, Secretary General of EOHR, are still under as of end 2003. Mr. Abu Sa'eda is being pursued on the basis of decree n° 4 of 1992 for having in 1998 accepted an unauthorised subsidy from the British Embassy.

Refusal of legal recognition of two organisations²⁷

In June 2003, requests for registration by two organisations, New Woman Research Center and the Land Center for Human Rights, submitted on the basis of the new law on NGOs (Law 84/2002) were rejected by the Egyptian authorities. Regarding the New Woman Research Center, the Ministry of Social Affairs, on the basis of a letter received from the Giza Department of Security, indicated that «the authorities responsible for security are not in agreement with the registration of this institution». The Land Center for Human Rights for its part has not received any response from the Ministry of Social Affairs by the end of the 60 day period foreseen by the law and it thus considered as being illegal.

Continued pressure on the ECHR²⁸

The charges against **Hany Ryadh Saker** and **Tahar Suleiman**, members of the Egyptian Center for Housing Rights (ECHR) for «usurping a journalist's identity» and «inciting social riot and violence» are still outstanding.

Moreover, Manal el Tibe, Executive Director of ECHR, regularly receives telephone calls from the security services asking her to report to the police station.

²⁶ See Annual Report 2002.

²⁷ See Open Letter to the authorities, 11th June 2003.

²⁸ See Annual Report 2002.

Lastly, on 13th September 2003, the Ministry of Social Affairs informed the ECHR that their request of 14th May 2003 for registration was rejected. The organisation made an appeal against this decision. The Supreme Court is to hand down its verdict on 22nd February 2004.

ISRAEL AND THE OCCUPIED PALESTINIAN TERRITORIES

Situation in Israel

Conscientious objectors tackled by military justice

*Trial of Jonathan Ben Artzi*²⁹

On 17th February 2003, the Israeli Defence Forces decided to bring Mr. **Jonathan Ben Artzi**, a pacifist student, before a Court-Martial, for refusing to serve in the army. He has consequently been detained since 8th August 2002 in military prison n° 4 and had already been imprisoned on seven consecutive occasions on the same grounds (196 days in all) following a decision by the military authorities. On 19th February 2003, Mr. Ben Artzi was sent to «open detention» in a military camp at Tel Hashomer, in the North of Israel (persons held in «open detention» live in conditions of restricted freedom in a military camp).

The first hearing of his trial took place before the court-martial of Jaffa on 11th March 2003. For the first time since the 1970s, the trial of a conscientious objector was being held before a Court-Martial. The hearing was adjourned, the defence lawyers claiming that, according to international law, a person may not be sentenced twice for the same crime (principle of *non bis in idem*). At the hearing on 13th April the Court reject the lawyers' objection, without giving any further details.

At the same time, the Supreme Court was called upon to comment on the possible referral of the case to a civil court. The defence, also

²⁹ See Press Release, 12th March, 16th April and 21st December 2003 and Report of Legal Observation Mission *Israel- Conscientious objection tackled by military justice*, December 2003.

MAGHREB AND THE MIDDLE EAST

speaking on behalf of other conscientious objectors, had in fact already effected a recourse, arguing that persons refusing to serve in the army could not be sued for disobedience of a military order. On 8th April, the Observatory appointed an observer to the hearing. The Supreme Court, which handed down its verdict on 15th April, rejected this request, on the grounds that there was no real difference between the proceedings in civil and military courts.

After several hearings during which the sister of Mr. Ben Artzi and the former president of the «military conscience» Committee appeared as witnesses, a final hearing took place on 8th October in the presence of a representative of the Observatory. Mr. Ben Artzi spoke for several hours explaining the reasons for his refusal to serve in the army³⁰.

On 12th November 2003, the Military Court in Jaffa handed down its verdict and recognised Mr. Ben Artzi as a pacifist. Nevertheless the Court recognised him guilty of «insubordination» and recommended to the Ministry of Defence to ensure that he be heard once again by the «Committee of military conscience» which must decide in the final analysis on his exemption.

On 8th January 2004, the Minister accepted this recommendation. Jonathan Ben Artzi was set free the same day and remains free until the hearing before the committee of «military conscience».

*Trial of five other conscientious objectors*³¹

Five further conscientious objectors, **Haggai Matar**, held in detention since 23rd October 2002, and **Matan Kaminer**, **Shimri Zameret**, **Adam Maor**, **Noam Bahat**, in detention since December 2002, were brought to trial before the Military Court of Jaffa on 15th April 2003 for having refused to do their military service.

Although not opposed to doing military service *stricto sensu*, these latter refused to serve in an «occupying force» and called into question the actions undertaken by the Israeli army in the Palestinian Territories; for this reason they are considered to be «selective objectors». They are among the 300 signatories of the letter of «High School Seniors» sent to

³⁰ Report of the Observatory *Israel: conscientious objectors facing military justice; the trial of Ben Artzi*, December 2003.

³¹ See Press Releases, 16th April 2003 and 5th January 2004.

HUMAN RIGHTS DEFENDERS HARASSED

the Prime Minister Ariel Sharon in January 2002, explaining their refusal to support the occupation of Palestinian Territories.

On 8th April 2003, at the end of a hearing where the Observatory sent an observer, the Court ordered that they be freed until 19th April when they would have to return to prison. However, they remained in «open detention» throughout their trial.

On 2nd May 2003, the Observatory contacted the United Nations Working Group on Arbitrary Detention and informed it of the situation of Jonathan Ben Artzi, Matan Kaminer, Adam Maor, Noam Bahat³². On 16th December, they were recognised guilty of «insubordination»...

On 4th January 2004, the Court sentenced Mr Matar, Kaminer, Zameret, Maor and Bahat to one year imprisonment for «insubordination» and recommended that the Army re-examine their exemption at the end of their sentence. They were taken to military prison n° 6, near Haifa.

On 15th January 2004, the United Nations Working Group on Arbitrary Detention published its decision according to which the repeated deprivation of freedom of Jonathan Ben Artzi, Matan Kaminer, Adam Maor and Noam Bahat was contrary to article 14.7 of the International Pact on civil and political rights of 1966 which states that "no-one can be pursued or punished for an offence of which he has already been acquitted or for which he has already been sentenced.

*Enquiry against the Adalah association*³³

On 23rd August 2002, the organisation Adalah - «Legal Centre for Arab Minority Rights in Israel» (NGO registered in 1996) - received a letter from the Register of Associations services at the Ministry of Interior, confirming that an official enquiry was being initiated on the association's activities. The launch of this enquiry see Mrs. to be linked to Adalah's activities, which, through its legal activities, denounces violations of civil, political, economic and social rights of Arab citizens in Israel. Adalah lodged an appeal against this decision on 5th December

32 In a previous recommendation, the Working Group (E/CN.4/2001/14, chap. IV, sect. B), indicated that «justice should not be used in such a way as to make the objector go against his or her convictions».

33 See Annual Report 2002.

MAGHREB AND THE MIDDLE EAST

2002. In May 2003, legal counsel submitted a list of 25 questions in the context of the enquiry.

As of end 2003, the appeal procedure is still under way.

Torture and detention of Mr. Daoud Dirawi³⁴

On 21st February 2003, Mr. **Daoud Dirawi**, lawyer and co-ordinator of the juvenile justice programme in Defence for Children International/Section Palestine (DCI/PS), was stopped by Israeli soldiers for an ID check. He was taken to the police station at Qehle near Bab al Khaleel, where he spent 24 hours and then appeared before a magistrate. The following morning, his wife was informed that he had been taken to an unnamed place by the Israeli secret service (Shabak) for questioning which lasted 12 days (according to Israeli law, a prisoner may be detained for 12 days without being charged before being brought before a military judge).

On 24th February, a lawyer was able to visit him in the military prison at Asyun. According to his account, during his transfer to prison Mr. Dirawi was severely beaten up by soldiers who threw him to the ground kicking and punching him with their fists and the but of their rifles, leaving Mr. Dirawi with multiple bruises and a broken jaw. On arrival at the prison in Asyun, on 22nd February at 1.30 a.m., Mr. Dirawi got his wrists tied up, hold above his head (a form of torture known as *shabah*). He was left like that for 11 hours outside in the snow. The soldiers clearly stepped up their treatment of him when they learned that he was a human rights activist.

On 3rd March, the military authorities ordered that Mr. Dirawi be held in administrative detention for six months - no account was taken of the 12 days preventive detention - on the grounds that he constituted a «threat to security in the zone» and that he was in particular suspected of meeting a member of the Popular Front for the Liberation of Palestine (FPLP). On 1st September, he was informed that the administrative detention order was being renewed for a further six months.

On 15th October, he was brought before the Military Court in Ofer. The judge had asked the director of public prosecutions that he be

³⁴ See Urgent Appeal ISR 001/0303/OBS 010.

HUMAN RIGHTS DEFENDERS HARASSED

brought before a military court - in which case the administrative detention could be annulled - or to close the case before the military court and to pursue the administrative detention. In his decision of 4th December, the DPP pronounced in favour of maintaining administrative detention and of trial before a military court, so that he could be judged on his student activities dating back to 1995-96. A hearing was set for 8th February 2004.

Daoud Dirawi had been arrested in September 2001 and sentenced to six months preventive detention for belonging to an illegal association (the FPLP). This charge was made in the context of his student activities in 1995 and 1996 when active member of the Student's Workers Front (SWF), considered by the Israeli authorities as being linked to the FPLP. He was set free in March 2002.

As of end 2003, Mr. Dirawi is detained in the prison at Ketziot, in the Negev Desert. The enquiry mission mandated by the Observatory in Israel and in the Palestinian Territories (17th to 23rd November) was unable to obtain permission to visit Mr. Dirawi.

Situation in the Occupied Palestinian Territories

Human Rights NGOs accused of supporting terrorism³⁵

On 21st May 2003, the Israeli Minister of Foreign Affairs, Silvan Shalom, declared that «most human rights offices in the West bank and the Gaza Strip are shelters for Palestinian terrorists». These comments which constitute a genuine threat for activists, come on top of the restrictions to which they are subjected regarding freedom of movement and has consequences for their security in particular.

Obstacles to the freedom of action of Israeli and Palestinian NGOs³⁶

Israeli and Palestinian NGOs carrying out activities in the field, observe violations of human and humanitarian rights committed in the Occupied Territories, denounce these violations or even give support to

³⁵ See Press Release, 27th May 2003.

³⁶ Preliminary conclusions of the international enquiry mission mandated by the Observatory, jointly with OMCT and Forefront (17th to 23rd November 2003).

MAGHREB AND THE MIDDLE EAST

the local population; in so doing, they encounter many obstacles, set by the Israeli authorities, essentially relating to obstacles to freedom of movement in the Occupied Territories. In fact for 26 months, they have imposed a closing-off of the Gaza Strip at all frontier points with Egypt and Israel. Moreover they have increased the restrictions to freedom of movement even with the Gaza Strip by repeatedly closing military barriers, forbidding Palestinians from travelling from one town to another, even making it impossible to move around within certain zones under curfew. Access to victims and witnesses is made all the more difficult in that, following an Israeli military attack, access to the theatre of operations is blocked off to organisations wishing to carry out certain investigations.

On account of these obstacles, Israeli NGOs, such as B'Tselem, are sometimes obliged to have recourse to local employees who develop activities in their own zone, within the Territories. Palestinians have considerable difficulties in moving around within the Territories, which hampers them not only when they are collecting information but also is an obstacle for many lawyers, who are regularly prevented from seeing their clients and from going to Israeli and Palestinian Courts to defend them. This is the case of the Palestinian Center for Human Rights (PCHR), or Al-Haq organisation.

These obstacles also have serious consequences for medical and humanitarian assistance. Accordingly, members of Physicians for Human Rights (PHR), based in Tel Aviv, have been refused access to the Gaza Strip for three years and are regularly refused entry to the West Bank, in areas A and B³⁷, when each Saturday they attempt to set up «mobile clinics» in Palestinian villages. They are only permitted to work in zone C, under Israeli military occupation.

Similarly, the Palestinian Red Crescent is hampered by these restrictions, in particular, ambulances and other vehicles for medical and humanitarian assistance are not allowed to circulate freely between the towns of the West Bank and the Gaza Strip. These obstacles have far-reaching consequences for the humanitarian and sanitary situation in

37 Zone A: placed under Palestinian autonomy. Zone B: mixed zone-Palestinian civil sovereignty and Israeli security.

HUMAN RIGHTS DEFENDERS HARASSED

the Occupied Territories, resulting in lack of vaccines for children, female or infant mortality at birth, or patients dying in ambulances in particular at the long queues at check-points.

Lastly, these restrictions have specific consequences for Palestinian activists prevented from travelling abroad, such as Mr. **Raji Sourani**, director of the PCHR and FIDH vice-President, who, on many occasions, has been prevented from travelling abroad to participate in international fora. In particular, in early November 2003, Mr. Sourani was prevented from going to Tel Aviv for a meeting at the US Embassy and was unable to go to Paris to attend the FIDH International Bureau. On 15th October 2003, Mr. **Hassan Barghouthi**, Director General of Democracy and Workers' Rights Centre Society in Palestine (DWRCP), was unable to travel to Brussels for an international conference, having been detained for seven hours at the border with Jordan; he was requested to present himself at the Israeli security services in Ramallah on 21st October. Young activists are also suffering from the restrictions imposed on young Palestinians, and are prevented from leaving the Territories on the grounds that they belong to the range of population most likely to commit suicide bomb attacks in Israel. Thus, a member of the PCHR was prevented from travelling to Strasbourg where he was due to attend a training session at the International Institute of Human Rights in June/July 2003, on the grounds that he was under the age of 35.

These obstacles increase even more the isolation of Palestinian human rights activists. In this way, they are prevented from reporting on the human rights situation in the Territories, prevented from exchanging ideas and from undertaking lobbying at international fora.

Lastly, these controls are followed up with confiscation of equipment as was the case in January 2003, when DWRCP representatives were arrested and interrogated and then had their equipment and publication confiscated at the Qalandia check-point (between Jerusalem and Ramallah) for «reasons of security» when in fact they are on their way to attend the World Social Forum in Porto Alegre. The reports were handed back to the organisation one month later.

Members of NGOs have also have to face violent action such as was the case in November 2003, while a delegation from Rabbis for Human Rights (RHR) was gathering information on the destruction of several hundred olive trees in Ein Abus and Isawiya (West Bank) it was attacked by colonists, some of them armed with clubs and with their faces

MAGHREB AND THE MIDDLE EAST

hidden. Mr. **John Ross**, journalist, Rabbi **Arik Ascherman** and M. **David Nir**, activist, were beaten; another activist, M. **Dalya Bones**, was threatened.

Restrictions on foreign human rights activists and humanitarian personnel³⁸

Restrictions on freedom of circulation in the Gaza Strip

On 9th May 2003, the Israeli authorities decided to increase restrictions on foreigners entering the Gaza Strip by requiring that their entry be conditioned by the signature of a declaration discharging the Israeli authorities of all responsibility in case these foreigners «are killed, injured or victim of theft of property in the context of a military operation». This document furthermore foresees that «all foreign persons must not in any way hamper the actions of the Israel Defence Forces (IDF)».

The same day, representatives of Amnesty International were banned access to Gaza after having refused to sign this declaration.

The Gaza Strip was subsequently closed and is still inaccessible to foreigners, excepting diplomats and emergency humanitarian workers who have been strictly selected.

These measures considerably restrict the freedom of circulation of human rights and humanitarian workers, pacifist activists, journalists and are aimed at reducing the possibility of any observation of the human rights situation in the Occupied Palestinian Territories.

Attack on the offices of the International Solidarity Movement (ISM)

On 9th May 2003, Israeli forces launched an attack on the offices of the International Solidarity Movement (ISM) in Beit Sahour, West Bank, by sending a lorry and 15 vehicles. The soldiers took away laptop computers and the organisation's files. Moreover, Mrs. **Miranda Sissons**, from Human Rights Watch (HRW) was arrested while making a routine visit to ISM, threatened with expulsion, and interrogated by the immigration services of the Israeli Ministry of Interior. She was released without having been informed of the charges being brought against her.

³⁸ See Press Release, 12th and 27th May 2003.

HUMAN RIGHTS DEFENDERS HARASSED

ISM, which was set up in 2001, has sent dozens of foreign volunteer workers to the West Bank and the Gaza Strip in an attempt to give non-violent protection to Palestinian civilians against Israeli military action.

*International pacifists being targeted*³⁹

On 16th March 2003, Mrs. **Rachel Corrie**, pacifist and US citizen, member of International Protection for Palestinians (GIPP) / ISM was killed in Rafah (South of the Gaza Strip) by an Israeli army bulldozer, while she was trying to prevent the demolition of a Palestinian house.

On 11th April, Mr. **Tom Hurndall**, member of ISM and UK citizen, was seriously injured by a sniper who shot him in the head while he was trying to shelter children from Israeli gunfire. He died on 13th January 2004 in a London hospital after having been in a coma for nine months. The Israeli Defence Forces have decided to pursue the soldier suspected of having fired at Hurndall. According to the Israeli authorities in London, the soldier could be charged and sent for trial.

On 5th April, Mr. **Brian Avery**, member of ISM and US citizen, was seriously injured in Jenin, when he was caught in Israeli army gunfire.

On 26th December, Mr. **Gil Na'amati**, an Israeli pacifist, was very seriously injured in the leg by an Israeli soldier while he was demonstrating against the separation wall in the village of Maskha, in the Western part of the West Bank. The bullet severed the femoral artery, Mr. Gil Na'amati had to receive a blood transfusion and did not finally have to have his leg amputated.

LEBANON

Freedom of association⁴⁰

Freedom of association in Lebanon was instituted by law on 3rd August 1909, and that of 9th October 1962. It states that associations

³⁹ See Press Release, 27th May 2003.

⁴⁰ See Preliminary conclusions of the report of the international enquiry mission of the Observatory, 25th - 31st December 2003.

MAGHREB AND THE MIDDLE EAST

may be set up freely, a member of the association has to register the statutes and names of the association's officers with the Ministry of Interior and receives a receipt in return. Foreign associations may be set up, providing that there is reciprocal legislation in the country of origin of the foreign nationals involved.

Nevertheless, the practice of the Ministry of Interior has removed the concept of freedom from this law by refusing to provide a receipt for registration of the appropriate form *Ilm wa Khabar*. Moreover, it tries to impose on associations some unexpected obligations such as the adoption of standard statutes which require that the Ministry of Interior be informed of the date and place of general assemblies, or to submit renewals of its governing bodies or amendments to statutes to the Ministry for authorisation. This practice is contrary to the spirit of the law in force.

In order to get round this practice, some associations have chosen to register their statutes and names of their officers with a lawyer and to have this fact recorded by a bailiff who then notifies the Ministry of the Interior. Associations have also submitted an appeal to the Supreme Court. In a decision handed down on 11th December 2003, this latter contradicts the interpretation of the Ministry of the Interior: «It follows on from the very principle of freedom that associations may be set up freely and may be made public knowledge on the basis of a simple statement». Accordingly "setting up associations when they appear to be tainted with being annulled or having illicit aims, cannot be subject to the administrative authorities or even judicial authorities for verification of their validity».

As a corollary to this decree of the Supreme Court, the Ministry of Interior has to stop this practice and provide a receipt to associations submitting declarations to it, without trying to impose on them any statute of its choice nor having them submitting renewal of their officers or statutes for it's an *a priori* authorisation, these changes being simply declared by the associations and are confirmed by the Ministry issuing a receipt. The principles must be enforced, including with regard to human rights associations.

Arrest and legal proceedings against Mohamed Mugraby⁴¹

On 8th August 2003, Mr. **Muhamad Mugraby**, barrister at the Bar of Beyrouth and human rights activist, in particular renowned for his commitment to fighting corruption in Lebanese legal circles, was arrested and taken to the central bureau of criminal enquiries of the Ministry of Justice.

The Director of Public Prosecutions order Mr. Mugraby's arrest following a complaint lodged by the Bar of Beyrouth, accusing him of having made illegal use of his title of barrister. According to Lebanese law, this crime is liable for sentence of 6 months to 3 years imprisonment. The Bar accused Mr. Mugraby of continuing to practise law whereas two disciplinary commissions had withdrawn this right on 4th April 2002 and on 17th January 2003, following proceedings against him for «defamation of judicial power». These decisions however were not enforceable, as Mr. Mugraby had appealed against them and that appeal was still under way.

On 29th August, Mr. Mugraby was released but he is still pursued for «defamation of judicial power» and has been debarred. Furthermore, his two defence lawyers, Mr. **Muhammed Mahmoud Fakh** and Mr. **Jihad Abu-Nader**, members of the Bar of Beyrouth, have also been suspended for two months for having defended Mr. Mugraby. The Bar interprets article 94 of the Code for the organisation of the profession of barrister, which required that barristers obtain permission before undertaking legal proceedings against another barrister, as well as forbidding a barrister from initiating proceedings against the Bar without having obtained prior authorisation to do so. These lawyers are questioning the functioning of the Bar and in particular the legality of its rules of procedure.

Interrogation of Samira Trad⁴²

Mrs. **Samira Trad**, Head of the Frontiers Center, a NGO for the defence of non-Palestinian refugees in Lebanon, received a summon on

⁴¹ *Idem* and Urgent Appeal LBN 001/0005/OBS 33.01.

⁴² *Idem* and Press Release of 10th September 2003.

MAGHREB AND THE MIDDLE EAST

10th September 2003 from the General Security - General Directorate of Beyrouth, following her return from Europe on 4th September, where she had paid a visit to meet with international NGOs for the defence of human rights, and aid donors. In the afternoon, the staff of the organisation learned that she had been arrested.

She was released on 11th September and was cautioned that she could be pursued at any time for participating in an illegal organisation and for having damaged the reputation of Lebanon abroad.

Thereafter, on several occasions throughout October, the office of public prosecutions of Beyrouth and an officer from General Security, requested Mrs. Samira Trad to present herself at the offices of General Security although there was no official summons. This harassment was to convince her to stop her work at the Frontiers Center in the context of illegal pressure designed to ban the work of associations dealing with refugees and asylum-seekers.

On 23rd December a representative of the Observatory met the Director General of General Security, M. Jamil Al Sayyed, following his decision to forbid Mrs. Samira Trad and Mr. Nizar Saghie, legal counsel for Frontiers Center, from exercising any rights vis-à-vis General Security. The Director General confirmed this ban, but assured him that, contrary to her fears, Mrs. Samira Trad was entirely free to travel abroad.

Refusal to register the PHRO⁴³

Palestinian Human Rights Organisation (PHRO) which was set up on 29th November 1997 and which defends the rights of Palestinian refugees in Lebanon, submitted a request for registration with the Ministry of Interior in January 2001 using the form *Ilm wa Khabar* foreseen for this purpose. In principle, foreigners may set up associations in Lebanon, provided there is reciprocity; however, in the absence of a Palestinian State, freedom of association of Palestinians is hindered. In the case of the PHRO, the declaration concerns a Lebanese association since this organisation is based in Lebanon and all the directors whose names appear on the declaration of or Lebanese nationality.

43 *Idem.*

HUMAN RIGHTS DEFENDERS HARASSED

By the end of December 2003, the PHRO has still not received official acknowledgement of receipt or a registration number enabling it to appear on the register of associations and to carry out its activities legally. Despite repeated requests for an interview with the Ministry of the Interior, particularly in January and May 2002, the association did not receive any reply. This situation constitutes a serious obstacle to the organisation's action and it is facing financing problems in addition to the risk of having its name usurped.

MOROCCO

Torture and detention of Mr. Mohammed Rachid Chrii⁴⁴

Mr. **Mohammed Rachid Chrii**, deputy Secretary General of the Section of the Moroccan Human Rights Association (AMDH, Association marocaine des droits de l'Homme) in Safi, was taken in for questioning on 22nd April 2003 following an argument he had with a policeman who was beating up a man in the street. Shortly after this argument, he was arrested and taken to an unofficial detention centre, where he was tortured and subjected to ill treatment (beaten, electric shock treatment, introduction of an object into his anus, etc.). He was subsequently taken to the police station where he was once again tortured.

On 9th May 2003, the Court of first instance in Safi sentenced Mr. Chrii to 18 months in prison and a fine of 4,000 dirhas for «insulting a public official while in the course of duty». This verdict was confirmed by the appeal court in Safi on 10th June 2003. Mr. Chrii's lawyers denounced the conditions under which the enquiry and the trial took place, in particular the falsification of the official report of the criminal police and the absence of any material proof.

⁴⁴ See Open Letter to the authorities 5th December 2003 and Urgent Appeal MAR 002/1003/OBS 057.01.

MAGHREB AND THE MIDDLE EAST

Mr. Chrii was initially imprisoned in Safi but was transferred twice, first of all to the prison in Benhamed then to that of Aladir on the outskirts of El Jadida. This last prison was particularly far removed from Mr. Chrii's family home, so, with the support of AMDH, he requested that he be transferred to the prison in Safi. However, this request was not met, despite assurances he had had to that effect from the Ministry of Justice. Mr. Chrii went on hunger strike three times to protest against his detention.

Despite medical certificates proving the torture and traumatism which Mr. Chrii underwent, and a complaint having been lodged with the Office of Public Prosecutions at the court in Safi, no enquiry had been opened on these events at end 2003.

Mr. Chrii was released on 7th January 2004, in the context of a Royal pardon granted to 33 political prisoners.

Detention of M. Ali L'mrabet⁴⁵

On 21st May 2003, Mr. **Ali L'mrabet**, director of two satirical publications, *Demain magazine* and *Douman*, was sentenced to four years' imprisonment and fined 20,000 dirhas by the Court of first instance in Rabat for «insulting his Royal Majesty». The Court also banned his two publications. The Observatory appointed an observer to the hearing, where Mr. Ali L'mrabet appeared considerably weakened, having been on hunger strike since 6th May, date of his arrest, in protest against his arrest and against repeated intimidation of «his printer and other persons will to print [his] newspapers».

He was placed under a committal order on leaving the court.

During the appeal hearing at the Court of Appeal of Rabat, on 6th and 10th June 2003, the Presiding judge considered that, as of adjournment of the session and before any hearing, the judges in first instances could not be pursued regarding the conditions of the arrest of Ali L'mrabet, considered as arbitrary by his lawyers. Moreover, the presiding judge refused to include subtilisation of certain documents in the

⁴⁵ See Press Releases of 10th and 17th June 2003 and Urgent Appeal MAR 002/1003/OBS 057 and 057.01.

HUMAN RIGHTS DEFENDERS HARASSED

file of the official record. Lastly, the Court rejected the request for provisional release requested by the lawyers, despite the worrisome state of Mr. Ali L'mrabet's health, as he was still on hunger strike and hospitalised since 26th May. The Observatory appointed an observer for the two hearings.

On 17th June 2003, the Court of Appeal of Rabat gave its verdict and confirmed Mr. Ali L'mrabet's sentence, although there was no debate on substance. His sentence was reduced to three years and 20,000 dirhas fine. The ban on his two publications was confirmed.

As of October, members of his family were subjected to increasingly detailed searches when they visited him. Their repeated requests that he undergo a medical examination went unheeded, whereas Mr. L'mrabet suffered the consequences of his 50 days hunger strike, problems with his eyesight and trembling of the right hand and foot.

On 14th October, two employees from the Ministry of Justice visited him in his cell to ask him to stop publishing articles while in detention. On 17th October a nurse and prison guard ordered him not to leave his cell and threatened that they would hide hashish among his personal effects if he went against this order, leaving him to understand that he could be charged with drugs trafficking. Mr. Ali L'mrabet was released on 7th January 2004 having been granted a Royal pardon. He is still nevertheless concerned by a second law suit in the context of a second affair, so-called «the holy stone» where he had been sentenced to four months' imprisonment in 2001. The Director of Public Prosecutions was appealing this verdict. The hearing, scheduled for 7th January in the Court of Appeal of Rabat, has been postponed to April 2004.

Enquiry on threats against Mrs. Hakima Chaoui⁴⁶

Following acts of intimidation and defamation against Mrs. **Hakima Chaoui**, member of the AMDH in 2001 and 2002, an enquiry was opened but had not come up with any concrete results by end 2003. The preacher at the mosque in Midelt was questioned for the purposes of the enquiry, but he denied having committed any acts of intimidation.

⁴⁶ See Annual Reports 2001 and 2002.

MAGHREB AND THE MIDDLE EAST

Mrs. Chaoui was threatened and discredited by persons belonging to Islamic movements on account of her poems in favour of women's rights.

Obstacle to organising a caravan⁴⁷

On 7th October 2003, the Wilaya (Governorate) of Casablanca notified the Forum Truth and Justice (Forum Vérité Justice), that the organisation of a Caravan going to the former secret detention centre of Agdez in Ouarzazate province, planned for 10th to 12th October 2003, was banned by a decision of the Ministry of Interior. No reasons were given for this decision.

The aim of the Caravan was to provide enlightenment on the serious human rights violations committed in Morocco during the «dark years», and was initially planned for Spring 2003; it had been postponed on account of the tense situation in the region and in Morocco at that time. Despite their repeated requests, the caravan organisers were not invited to the Ministry of Interior.

Caravan participants left from Rabat and Casablanca by coach on 10th October. However, the Forum did not receive permission from the Ministry of Transport to charter coaches, as this required signature by the Wilaya of Casablanca.

Furthermore, the Wilaya of Agdez notified the ban of the sit-in in front of the former detention centre.

The Executive Bureau of the Forum Truth and Justice was finally able to organise this action from 17th to 19th October, with the permission of the Moroccan authorities. The Forum regretted nevertheless a strong loss of interest as a result of the date being postponed, as participants had covered long distances first time round and were unable to renew their commitment a second time.

⁴⁷ See Urgent Appeal MAR 003/1003/OBS 052.

Repression of Saharawi activists and organisations

Obstacles to freedom of circulation⁴⁸

On 27th March 2003, 14 human rights activists and members of families of disappeared Saharawi persons were arrested by the Moroccan police in the international zone of the airport in Casablanca. Their passports and other documents (video-cassettes, photos) were confiscated and they were notified that they were forbidden from leaving Moroccan territory.

The persons in question were Messrs. **Brahim Dahane** and **Bacher Lakhfaoui**, former disappeared persons and members of the Co-ordinating Committee of Saharawi families, Mr. **Sidi Mohammed Daddach**, former prisoner and winner of the 2002 Rafto Foundation prize for human rights (Norway), Messrs. **Brahim Noumri** and **Brahim Guarbi**, former disappeared persons and members of Forum Truth Justice - Sahara section (Forum Vérité et Justice-section Sahara), Mr. **Khaya Cheikh**, former prisoner, as well as eight family members of Saharawi disappeared persons.

These persons had received their Swiss visas to be able to participate in meetings on the forced disappearances in Western Sahara organised by the International Bureau on the respect of human rights. Mr. Dahane and Noumri were also due to participate in the 59th session of the Human Rights Commission of the United Nations in Geneva. They had received accreditation from the International Association of Democratic Lawyers.

They were immediately released but their passports and documents were not returned to them.

As of end 2003, their letters requesting that these be returned had gone unanswered.

Closing of the Sahara section of the Forum Truth Justice⁴⁹

On 17th April 2003, the criminal investigation police requested the disbanding of the Sahara section of the Moroccan Forum Truth Justice (FMVJ, Forum marocain Vérité Justice), the request was submitted to

⁴⁸ See Urgent Appeal MAR 001/0303/OBS 017.

⁴⁹ See Urgent Appeal MAR 002/0603/OBS 029.

MAGHREB AND THE MIDDLE EAST

the Court of first instance on the basis of articles 3 and 7 of the Code of freedom, on the basis of activities likely to cause disturbance of the peace, inciting unauthorised demonstration and other activities likely to damage Morocco's territorial integrity.

On 18th June 2003, the Court of first instance in Laâyoun decided to disband the Sahara section of the FMVJ mainly on account of illegal and separatist activities not in compliance with its statutes. The verdict also included a ban on all meetings of members of the section, closing of the premises and winding up of the goods and property of the section to be transferred to the FMVJ Executive Bureau.

According to the judge, the activities of the Sahara section on behalf of Saharawi prisoners and meetings of its members with foreign organisations (NGO - non governmental organisation, IGO - intergovernmental organisation, etc) were proof of the separatist ideas of the group and hampered Morocco's diplomatic relations. Moreover, all demonstrations organised in Western Sahara were imputed to the section, even if the demonstrators were not members of the Forum.

There has been no specific event which can justify the legal action taken against the section. This action consequently appears to be the final outcome of the strategy set up by the authorities, aiming at hampering the activities of the Sahara section of the FMVJ since its inception in June 2000 (harassment, arrests and arbitrary sentences, abusive redundancies, etc.).

As of end 2003, the association's premises were still closed. Moreover, the verdict had not been notified to the section President nor to the lawyers, which means that this prevent them from appealing, since this is the required procedure to do so, according to Moroccan law.

Legal proceedings and harassment of members of the Sahara section of FMVJ⁵⁰

The members of the Sahara Section of FMVJ suffer constant harassment, on account of their denouncing of human rights violations perpetrated in Western Occidental and their pacific commitment to the right of self-determination for the inhabitants in this province.

⁵⁰ See Press Release of 4th July 2003.

HUMAN RIGHTS DEFENDERS HARASSED

On 12th March 2003, Mr. **Salek Bazid**, arrested on 24th September 2002, was sentenced to 10 years' imprisonment for «constituting a criminal gang, destroying food products, goods, property and furniture by acts of violence».

On 25th June 2003, Mr. **Dkhil El Moussaoui** was sentenced to one year imprisonment and fined 5,000 dirhams. by the Court of Appeal of Laâyoune for «inciting disturbance of peace» and specifically «constituting a criminal gang to commit crimes against persons and property and goods and participating in an act of voluntary arson in a public edifice».

They were granted a Royal pardon on 7th January 2004, were released as was Mr. **Ali Salem Tamek**, who had been sentenced to two years' imprisonment and fined 10,000 DH (1,000 euros) for «damaging internal State security» on 17th October 2002.

Mr. **Ahmed Nassiri**, also member of FMVJ, sentenced to 18 months' imprisonment in November 2002, was released on 21st December 2003, having served his one and a half year prison sentence. He was accused of inciting to riot during the bloody demonstrations in the town of S'mara which took place on 17th November 2001.

Moreover, Mr. **Moutik Lahoussine**, President of the Sahara section until it was disbanded, is still victim of constant harassment. Mr. Lahoussine was fired from his job as director of the accounts and computer service of a large company, following a hearing which he granted to an ad hoc commission on Western Sahara of the European Commission in February 2002. The accountant firm he has set up is under permanent surveillance by members of the Secret Services (Direction de surveillance du Territoire - DST) and his clients are subjected to pressure to discourage them from using his services.

Trial of perpetrators of ill treatment of workers in the Evitima factory⁵¹

The trial of the presumed perpetrators of ill treatment and torture of 21 workers of the Evitima factory, all members of the Moroccan Labour Union (UMT, Union marocaine du travail), while they were being arres-

⁵¹ See Annual Reports 2001 and 2002.

MAGHREB AND THE MIDDLE EAST

ted on 2nd September 1999, is still being postponed. The 21 workers had been ill treated during their arrest on 2nd September 1999, following the strike and sit-in. On 12th December 2001, they received a two months suspended prison sentence and were fined 500 dirhams.

A further hearing is foreseen on 29th January 2004.

Legal proceedings against members of ANDCM⁵²

The appeal of the 22 members of the National Association of Unemployed Graduates (ANDCM, Association nationale des diplômés chômeurs - not recognised), who had been arrested on 18th and 19th June 2000 following a peaceful demonstration, is still under way. On 2nd July 2000, three of them received a two month prison sentence and the remaining 19 a two month suspended prison sentence.

SYRIA

Pressure on the CDF⁵³

During 2003, members of Committees for the Defence of Human Rights in Syria (Comités pour la défense des droits de l'Homme en Syrie - CDF) continued pursuing their activities despite the lack of legal recognition of their organisation and constant pressure by the Syrian authorities.

CDF members come under systematic surveillance (telephone tapping, mail confiscated, being followed, etc.). Mr. **Akhtam Naisseh**, President, is regularly called in by the security services and intimidated and his e-mail continues to be intercepted and medicine sent from abroad regularly confiscated. Such pressure is also exerted on the family of Mrs. **Mouzon Molshed**, member of the Board of Directors, to dis-

⁵² See Annual Reports 2001 and 2002.

⁵³ See Press Release 3rd September 2003.

HUMAN RIGHTS DEFENDERS HARASSED

courage her from pursuing her activities within the organisation. Mr. **Aref Hamza** and Mr. **Nidal Darwish**, also members of the CDF Board of Directors, are regularly subjected to harassment. In November, Mr. Darwish was refused permission to organise a conference in the North of Syria in the Al Hasaka region.

Between May and September 2003, between 25 and 30 CDF members received summons in the region of Hama alone. In particular on 27th August 2003, following criticism by the CDF of the authorities' policy regarding Syrian exiles, Mr. Naisse was called in by the military security services in Damascus. During his interview, he was threatened and insulted by officers who informed him that all CDF activities were banned until further notice.

CDF members decided to ignore this warning. 88 CDF activists received summons in the days preceding the organisation's Congress in October. However, CDF, unable to obtain permission to organise the Congress in Syria, held it in Cairo, in addition to two training courses for CDF members and supporters from CDF, from 10th to 21st October.

Detention of human rights activists⁵⁴

Mr. **Kamal Labwani**, member of the CDF Board of Directors, Mr. **Aref Alilah**, professor of economics and human rights activist, and Mr. **Habib Hissa**, member of the Founding Committee of the Syrian Human Rights Association, were still being detained at the end of 2003. They were sentenced respectively to five, six and five years' prison and deprived of their civil and political rights in August 2002, by the State Supreme Court for Security. They were arrested arbitrarily in September 2001, during a wave of arrests targeting ten opponents and/or human rights activists in August and September 2001.

⁵⁴ See Annual Report 2002.

MAGHREB AND THE MIDDLE EAST

TUNISIA

Harassment of LTDH and its members*Legal proceedings⁵⁵*

At the end of 2003, the Tunisian Human Rights League (LTDH, Ligue tunisienne des droits de l'Homme) was the object of examination by magistrates and open complaints on several occasions targeting the League itself, its sections, officers and some of its members.

Trial of the Steering Committee of LTDH

The appeal to quash the proceedings against the LTDH Steering Committee, following its 5th congress, is still under way. On 21st June 2001, the Court of Appeal of Tunis confirmed the verdict of the Court of first instance to cancel the proceedings of the last LTDH congress (October 2000), on the basis of a complaint lodged by four members of LTDH, supporters of the Democratic Constitutional Party (Rassemblement constitutionnel démocratique -RCD, party in government).

Legal proceedings against LTDH sections

Gabès Section: following brutal police intervention on 19th October 2002, the congress of the Gabès Section was banned. It did nevertheless take place on 1st December 2002, but a participant lodged a complaint to have the proceedings cancelled. This cancellation was confirmed by decision of the court of first instance in Tunis on 12th May 2003. The League appealed against the verdict.

Korba and Kébilia Sections and of Hammam-Lif Ez-zahra and Radhès: the LTDH was the object of summary judgements, on 29th November and 20th December 2003 respectively, aiming at cancelling the general assemblies of these sections on account of refusal by certain RCD members to merge with the sections of Korba and Kébilia and of Hammam-Lif Ez-zahra and Radhès. The question of substance, to be examined by the Court of first instance of Tunis, is outstanding as of end 2003.

⁵⁵ See Annual Report 2002.

Sfax Section: On 18th January 2003, four members of the LTDH section, RCD members, lodged a complaint against the League which had convened a congress for 1st and 2nd February in order to set up a second section in Sfax. On 30th January 2003, the judge in chambers decided to stay the committee's decision to hold a congress, this judgement is to be confirmed by the Court of first instance in Tunis.

Monastir Section: the appeal proceedings in the matter of confiscation of the premises of the Monastir Section are still under way. In 2002, the owner of the premises of the section obtained cancellation of the tenancy contract which had just been signed with the LTDH, stating that she (the owner) was not in full possession of her faculties at the time of signing. The LTDH, which appealed the decision, was able to rent another office as from September 2003.

Obstacles to LTDH financing

On 29th August 2003, the Director for Political Affairs of the Ministry of Interior notified Mr. **Mokhtar Trifi**, President of LTDH, of the ban imposed by the Tunisian Government on receiving the second volume of financing granted by the European union (EU) to the LTDH, in the context of the European initiative for democracy and human rights (IEDDH). On 12th September, the LTDH was informed by its bank (BIAT) that the proceeding of this second transfer «could not be made available to the [LTDH] due to lack of necessary authorisations». To justify this obstacle, the authorities based themselves on the measures of law 154 (1959) and of the decree of 8th May 1922. However, the law only concerns charity associations and «those recognised of national interest» which is not the case of the LTDH, and the decree only concerns money resulting from public collection. This funding was obtained by the LTDH in April 2001 in the framework of a project entitled «restructuring the LTDH (project B7-70/2001/3185)» and the first phase has been completed.

By the end 2003, financing designed to the LTDH were still frozen.

On 9th January 2004, in reply to a question in parliament concerning financing by the EU of independent NGO in Tunisia, the Commissioner for Foreign Affairs of the European union, Mr. Christopher Patten, stated that the «European commission raised the question with the Tunisian authorities» and that they had «explained that law [154] is indeed applicable to all Tunisian NGO receiving foreign financing», but that «in a spirit of tolerance and conciliation» it

MAGHREB AND THE MIDDLE EAST

had not been applied to the first payment by the Commission in the framework of this project. Moreover, the authorities recalled that the LTDH had been the object of a court decision concerning its activities in preparing its forthcoming general assembly and re-election of its bureau. The Commissioner stated that «without passing any judgement on the legal basis mentioned by the Tunisian authorities, the Commission was in favour of a political solution to this problem».

Legal proceedings and harassment of officers and members of the LTDH

A complaint was lodged on 28th December 2002 against Mr. **Hamda Mezguich**, member of the Bizerte Section, by a member of the LTDH, RCD supporter of the Jendouba Section, for acts of violence during the Jendouba Congress (September 2002). The proceedings are still under way.

On 26th April 2003, M. **Néji Marzouk**, publisher, member of the Steering Committee of the LTDH, was ordered by security agents to leave the *2003 Book Fair* where he had a stand. He was not allowed to attend the Opening Ceremony of the Fair with the Head of State.

Mr. **Anouar Kousri**, vice-President of LTDH, is still subjected to harassment (surveillance of his house, his office and followed wherever he goes) and his clients are still being subjected to intimidation to try and discourage them from employing his services as a lawyer.

Legal proceedings against Mr. Mokhtar Trifi, and Mr. **Slaheddine Jourchi**, first vice-President are still under way. They have both been accused of «circulating false information» and «of not respecting a court verdict» in March 2001 and December 2000 respectively.

The appeal of Mr. **Khémaïs Ksila**, Secretary General and obliged to stay in exile, sentenced in absentia to 10 years prison and a fine of 10,000 dinars following accusation under ordinary law, is still outstanding.

The CNLT and its members are being targeted

Obstacles to freedom of assembly⁵⁶

The National Council for Freedoms in Tunisia (CNLT, Conseil national des libertés en Tunisie), has still been legally registered in 2003, despite repeated requests by its members over the last five years.

⁵⁶ See Annual Report 2002.

They still constantly encounter obstacles to their activities. Meetings are more or less systematically banned and the offices in Tunis under constant surveillance. Tunisian police have also intervened on many occasions encircling the premises where meetings or assemblies organised by the CNLT were due to take place, in order to prevent them from taking place. On 24th October 2003, the CNLT tried to organise a press conference to launch the International Campaign for Freedom in Tunisia. Its premises were surrounded by an impressive number of policemen who banned access.

Visitors are also frequently intimidated and it is becoming increasingly difficult for them to come to present their case or to bear witness.

Harassment and aggression against Sihem Ben Sedrine⁵⁷

In April 2003, Mrs. **Sihem Ben Sedrine**, then spokes-person of the CNLT, was the target of a virulent campaign of defamation and of denigration in the press. She was accused of betraying the Arab cause, whereas she had just returned from mission in Iraq, under US occupation since March.

Early December 2003, her car was completely trashed and vandalised, and on 5th January 2004, Mrs. Ben Sedrine was attacked in the street while making her way home, which is also the HQ of the CNLT. She was knocked to the ground by an unidentified individual who molested her, in the presence of two acolytes, Sihem Ben Sedrine was punched several times and had her lip split and suffered many bumps and bruises. It is believed that this attack was carried out on order of the security services who keep her home under constant surveillance.

Lastly, the proceedings opened in June 2001 against Mrs. Ben Sedrine, for «dissemination of false information likely to cause disturbance of the peace» and «attacking judicial institutions» are still outstanding. Mrs. Ben Sedrine was charged after being interviewed by the Arab television channel Al Mustaqiya, in London, on the question of torture and corruption in Tunisia.

⁵⁷ *Idem.*

MAGHREB AND THE MIDDLE EAST

*Sentencing of Om Zied*⁵⁸

On 25th September 2003, Mrs. **Neziha Rejiba**, alias Om Zied, Editor-in-chief of the newspaper *Kalima* - banned by the Tunisian authorities - and Head of communication of the Liaison Committee of the CNLT, was summoned to appear at the Department of Customs Enquiries, Bureau for Exchange rate crime. She was told that she was being charged with «illegal detention of foreign currency» according to articles 6, 22, 35, 36 and 37 of the Code of Foreign Exchange. She was charged with having handed over the sum of 170 euros to a close acquaintance of a Tunisian political refugee the day after her return from a stay in France.

Om Zied was summoned to appear on 28th October 2003 before the 3rd Criminal Court of first instance in Tunis. On 18th November 2003, during a second hearing, Om Zied received an eight months suspended prison sentence and was fined 1,200 Tunisian dinars.

The Observatory appointed an observer to the two hearings of her trial following which the political nature of the charges became quite clear. In fact, the sum of money brought back by Om Zied had been declared to the Customs Services. Moreover, the lawyers for the defence referred to article 36 of the enabling acts of the Code of Foreign Exchange of 1977, according to which Tunisian residents who bring back foreign exchange have seven days within which to exchange this money for Tunisian dinars.

The appeal hearing was scheduled for 31st December 2003, but has been postponed until 25th February 2004.

Om Zied is moreover victim of harassment and intimidation on a regular basis in particular on account of the criticism and articles she writes in her newspaper and for her public stance on foreign TV channels. Her home is under constant surveillance by a team of un-uniformed policemen who keep up a barrage of provocation to her sons. Her mail is also opened and sometimes confiscated. Her telephone line is constantly tapped and frequently cut to prevent her from communicating with foreign media.

⁵⁸ See Press Release 19th November 2003.

Harassment of several members of CNLT⁵⁹

Mr. **Abderraouf Ayadi**, lawyer and Secretary General of CNLT, is still the victim of constant harassment at his office, his home and during visits elsewhere, and his clients are kept under surveillance. Mr. **Nejib Hosni**, spokes-person of the CNLT, is also subjected to such pressure, as well as Mr. **Hedi Manai** and Mr. **Said Mechichi**, respectively former and current officers of the Jendouba section of CNLT.

The legal proceedings against Mr. **Omar Mestiri**, former Secretary General of CNLT and Dr. **Moncef Marzouki**, former spokes-person, are still under way. Mr. Mestiri and Mr. Marzouki were charged in 1999 with «disseminating false information» and «maintaining an unrecognised association».

Mr. **M'hamed Ali Bedoui**, brother of Dr. Moncef Marzouki, was banned several times from leaving Tunisian territory although he has a «Schengen» visa and a valid passport and has not been the object of any legal proceedings. For several years now, Mr. Bedoui has been subjected to systematic harassment and acts of persecution which have led to his becoming unemployed and being unable to leave Tunisia.

Mr. **Abdelkhader Ben Khemis**, leading member of CNLT from 2001 to 2003 and founder of the chemistry laboratory in Monastir, has been obliged to give up his functions on account of the recurrent obstacles to his professional activities. His request for his functions to be prolonged was in fact refused when he reached retirement age.

Right to strike by lawyers called to the Bar called into question⁶⁰

On 8th July 2003, the Court of Appeal of Tunis handed down its verdict in the case involving six lawyers, RCD members (party in government) and the Bar association. According to the verdict, the plaintiffs were entitled to request retroactive cancellation of the strike called by the Bar Association on 2nd February 2002, on the grounds of «illegal stri-

⁵⁹ See Annual Report 2002.

⁶⁰ See Press release, 16th May 2003 and 4th and 9th July 2003, (See Reports of international missions of judicial observation, Trial against the Bar, Tunisia, May 2003, Observatory International Commission of Lawyers, Avocats sans frontières).

MAGHREB AND THE MIDDLE EAST

ke».

The strike was called to protest against the many irregularities occurring in the trial of Hamma Hamami, leader of the communist workers' party of Tunisia (PCOT) and against acts of violence perpetrated against observers and lawyers on that occasion.

The Observatory appointed an observer to four of the five hearings of the trial, jointly with the International Commission of Lawyers and Avocats Sans Frontières - Belgique. The plaintiffs maintained that their «right to work» had been trampled, whereas lawyers close to power who had not wanted to participate in the strike movement had not been prevented from exercising their profession on 7th February 2002.

The verdict on 8th July constitutes a worrisome precedent. The Bar Association is henceforth prevented from calling a strike- a right which exists in the Tunisian Constitution - and lawyers can henceforth be the object of disciplinary action in the event of strike.

This verdict clearly intends to rein in an overly independent Bar Association. With its election methods, commitment to defending individual liberties, in particular the fight against police violence, torture and malfunction of the legal system, the Bar association indeed is one of the last bastions against arbitrary decisions in Tunisia.

This verdict comes on top of all the pressure exerted on members of the Bar Association. By way of example, a delegation headed by Mr. Bechir Essid, President of the Bar, and consisting of members of the Bar and the Association of Young Lawyers was prevented on 26th March 2003, from having access to the Iraq Embassy to express its solidarity with the Iraqi people.

On 21st April 2003, an assembly which the Bar Association was to organise in front of the Ministry of Justice and of Human Rights in protest against the refusal of the Ministry to reply to their demands concerning their moral and material situation, was banned by the police which surrounded the Law Courts in Tunis. The lawyers were in a meeting with the President of the Bar Association at the Association's headquarters so that the lawyers were prevented from leaving and going to the place of assembly.

Furthermore, in the night of 10th to 11th May 2003, Mr. Bechir Essid was attacked by members of the police force when he was going to the Lawyers' Club to find out by these premises had been banned for lawyers that very day.

Lastly, on 15th May 2003, Mr. **Mohamed Jmour**, Secretary General of the Bar Association and **Néji Marzouk**, member of the LTDH Steering Committee, were searched at the airport when they were leaving the country on the pretext of «instructions received». Mr. Jmour was subsequently searched and subjected to harassment regularly when leaving the country, in particular on 8th December 2003, when he was leaving for Geneva to attend the World Summit on the Information Society.

Refusal to register the Tunisian Association Against Torture and harassment of its President, Radhia Nasraoui

Refusal to register the Tunisian Association Against Torture⁶¹

On 26th June 2003, Mrs. **Radhia Nasraoui**, **Chokri Latif**, **Ali Ben Salem** and **Ridha Barakati**, founding members of the Tunisian Association Against Torture (ALTT, Association de lutte contre la torture en Tunisie), went to the offices of the Governorate of Tunis, to present documents relevant to the setting up of ALTT in order to obtain a receipt of legal registration. They were turned back by security persons at the entrance and were refused access to the relevant bureau.

The ALTT, whose creation was announced on 26th June, the United Nations International Day for Support to Victims of Torture, has as its mandate the promotion of local legislation to protect victims from torture, identify cases and ensure follow-up, and provide support to victims on both medical and legal levels with a view to lodging complaints before national and international bodies.

Harassment and aggression against Radhia Nasraoui⁶²

On 16th April 2003, the offices of Mrs. Radhia Nasraoui were surrounded by about 40 members of the political police. Mr. Béchir Essid and Mr. Mohamed Jmour, who went there were refused access to her offices.

On 13th July 2003, Mrs. Radhia Nasraoui was attacked by un-uniformed policemen on her way to a reception at the Tunisian League of

⁶¹ See Urgent Appeal TUN 001/0603/OBS 030.

⁶² See Urgent Appeal TUN 002/0703/OBS 033 and Press Release, 20th October 2003 and 12th November 2003.

MAGHREB AND THE MIDDLE EAST

Free Writers, an unrecognised association, on the occasion of the second anniversary of the association. When Mrs. Nasraoui and Mr. Jalloul Azzouna, writer and President of the League of Free Writers, went through the impressive police barrage designed to prevent the reception from taking place, Mrs. Nasraoui was pushed against a wall then struck violently by policemen. Mr. Azzouna, who tried to defend her was mishandled in the fray. Mrs. Nasraoui, who suffered bruising to her arms was off work sick for six days.

By end 2003, there had been no follow-up to the complaint which she had lodged with the police services.

On 15th October 2003, Mrs. Radhia Nasraoui started a hunger strike in protest against the systematic obstacles she encountered in the exercise of her profession as a lawyer and of the constant harassment to which she, her family and her clients were subjected over the years. In fact, the several years her house was under constant surveillance by the police, her telephone tapped, and her mail intercepted. Similarly her clients were subjected to very strong pressure to discourage them from employing her services.

The Observatory appointed two solidarity missions to support Mrs. Radhia Nasraoui, from 7th to 10th November and from 28th to 30th.

On 10th December 2003, Mrs. Radhia Nasraoui announced during a press conference that she was going to stop her hunger strike. Mrs. Nasraoui appeared very weakened having lost 16 kilos.

At end 2003, her home is still under surveillance. Mrs. Nasraoui has nevertheless managed to attract the attention of many representatives of the international community and of the media to the many serious violations of the law by the State and of violations of human rights in Tunisia.

Harassment of Mr Mohamed Nouri⁶³

On 18th July 2003, Mr. **Mohamed Nouri**, President of the International Association for solidarity with Political Prisoners (AISPP, Association internationale de solidarité avec les prisonniers politiques),

⁶³ See Annual Report 2002.

found his home surrounded with a massive police barrier through an entire day when he returned from Switzerland.

On 5th December 2003, Mr. Nouri's office was surrounded by policemen to prevent a press conference from taking place. Representatives of civil society, including the Dean of the Bar Association of Tunisia, had made a plea to denounce the dramatic situation of political prisoner in Tunisia, in particular those in Borg el-Amri, who were on the 34th day of their hunger strike.

On 9th December, he was prevented from leaving Tunisian territory to go to Geneva.

Detention and release of Zouhair Yahyaoui⁶⁴

M. **Zouhair Yahyaoui**, founder and moderator of the internet site Internet TUNeZINE devoted to fundamental liberties in Tunisia, held in detention since 4th June 2002, was freed on 18th November 2003, thanks to national and international mobilisation.

Mr. Zouhair Yahyaoui was arrested on 4th June 2002 and sentenced on 20th June 2002 by the Court of first instance and then in appeal on 10th July to 2 years prison for «disseminating false information» following a trial at which the Observatory observed and considered to be unjust. The Observatory had informed the United Nations Working Group on Arbitrary Detention of his case on 27th August 2002.

Mr. Yahyaoui left prison in a extremely weakened physical state on account of the precarious and degrading conditions of his detention. In particular, he lost all his teeth, as well as having lost a lot of weight.

In 2003, Mr. Zouhair Yahyaoui undertook three hunger strikes to protest against his sentence and the conditions of his detention. In addition to the degrading conditions on the physical level (crowded prison cell, extreme heat, no access to medical care, etc.), Mr. Zouhair Yahyaoui was subjected to persecutions, humiliation and punitive measures by the prison warders. These measures were stepped up particularly after the solidarity assembly organised on his behalf in front of the

⁶⁴ See Press Release of 6th February, 13th June and 18th November 2003 and Urgent Appeal TUN 004/0804/OBS 036.02.

⁶⁵ See above.

MAGHREB AND THE MIDDLE EAST

prison at Borj El Amri on 6th February 2003⁶⁵. From that time on, food which was sent to him by his family was regularly stolen and what he did get was deliberately dirtied by the prison warders. All reading matter was banned, his correspondence was confiscated and his daily walk banned. Mr. Yahyaoui was also put in the solitary confinement without food for two days following protests by his family about the conditions of visits. These punitive measures were stepped up again just before his release.

On 4th June 2003, his fiancée, Ms. **Sophie Piekarec**, a French citizen and new moderator of TUNeZINE, was refused entry to Tunisia. Mrs. Sophie Piekarec wanted to visit Zouhair's family, one year to the day after his arrest, she also wanted to meet with the French Ambassador in Tunis.

Harassment of members of RAID⁶⁶

Mr. **Fathi Chamkhi**, spokes-person of the Assembly for Alternative International Development (CNLT, Conseil national des libertés en Tunisie) RAID - ATTAC/Tunisie, Rassemblement pour une alternative internationale de développement), was attacked by a guard of the university police on 28th February 2003 in front of the Faculty of Arts of La Manouba (near Tunis), where he teaches. Subsequently, police from the nearby police station subjected him to harassment.

Mr. **Sadri Khiari**, founding member of CNLT and member of RAID was able to leave Tunisia in May 2003 and now lives abroad. Mr. Khiari had been banned from leaving Tunisia since July 2000, on the grounds that he was the object of legal proceedings, whereas he had never received any information about these legal proceedings.

Refusal of passport and smear campaign against human rights activists⁶⁷

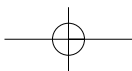
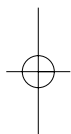
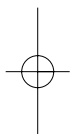
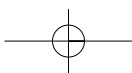
Government-organised smear campaigns in the so-called independent press (and described as «the gutter press» by defence associations)

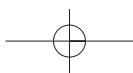
⁶⁶ See Annual Report 2002.

⁶⁷ See Annual Report 2002.

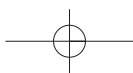
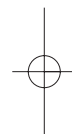
HUMAN RIGHTS DEFENDERS HARASSED

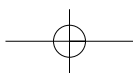
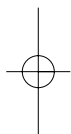
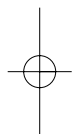
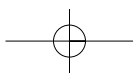
have continued persecuting Mrs. **Khedija Cherif**, vice-President of the Tunisian Association of Democrat Women (ATFD, Association tunisienne des femmes démocrates), Mrs. Souhayr Belhassen, vice-President of LTDH, Mrs. Sihem Ben Sedrine, member of CNLT and director of the internet magazine *Kalima*, Mrs. **Bochra Bel Haj Hamida**, ex-President of ATFD, Mr. Mokhtar Trifi, President of LTDH, Mr. Omar Mestiri, member of CNLT, Mr. **Khémaïs Chammari**, ex-vice President of LTDH and member of the Committee for the Respect of Human Rights and Liberties (CRLDHT, Comité pour le respect des droits de l'Homme et Libertés) forced into exile, **Kamel Jendoubi**, President of the Euro-Mediterranean Network for Human Rights (REMDH, Réseau euro-méditerranéen des droits de l'Homme) and of CRLDHT. Mr. Jendoubi, now living in France, is still deprived of his Tunisian passport.





INTERNATIONAL AND REGIONAL PROTECTION





**DECLARATION OF UN ON HUMAN RIGHTS DEFENDERS
ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS
DECEMBER 9TH, 1998**

General Assembly resolution 53/144

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Taking note of Commission on Human Rights resolution 1998/7 of 3rd April 1998, See Official Records of the Economic and Social Council, 1998, Supplement n° 3 (E/1998/23), chap. II, sect. A. in which the Commission approved the text of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms,

Taking note also of Economic and Social Council resolution 1998/33 of 30th July 1998, in which the Council recommended the draft declaration to the General Assembly for adoption,

Conscious of the importance of the adoption of the draft declaration in the context of the fiftieth anniversary of the Universal Declaration of Human Rights, Resolution 217 A (III).

1. Adopts the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect

INTERNATIONAL AND REGIONAL PROTECTION

Universally Recognized Human Rights and Fundamental Freedoms, annexed to the present resolution;

2. Invites Governments, agencies and organizations of the United Nations system and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of Human Rights: A Compilation of International Instruments.

85th plenary meeting – 9th December 1998

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the

DECLARATION OF UN ON HUMAN RIGHTS DEFENDERS

right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1 – Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3 – Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework

INTERNATIONAL AND REGIONAL PROTECTION

within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4 – Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights,² the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5 – For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6 – Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7 – Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

DECLARATION OF UN ON HUMAN RIGHTS DEFENDERS

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, inter alia:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

INTERNATIONAL AND REGIONAL PROTECTION

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10 – No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11 – Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in

DECLARATION OF UN ON HUMAN RIGHTS DEFENDERS

reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13 – Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, inter alia:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15 – The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

INTERNATIONAL AND REGIONAL PROTECTION

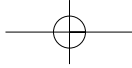
Article 16 – Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, inter alia, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17 – In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

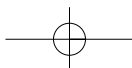
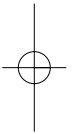
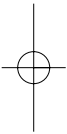
1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

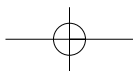
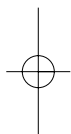
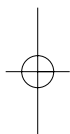
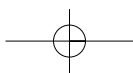
Article 19 – Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.



DECLARATION OF UN ON HUMAN RIGHTS DEFENDERS

Article 20 – Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.





INTERNATIONAL PROTECTION (UN)

MANDATE AND ACTIVITIES OF THE SPECIAL REPRESENTATIVE OF THE UN SECRETARY GENERAL ON HUMAN RIGHTS DEFENDERS

Resolution on Human Rights Defenders adopted by the United Nations Commission on Human Rights on 26^h April 2000, during the 56th session¹

The Commission on Human Rights,

Recalling General Assembly resolution 53/144 of 9th December 1998 by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,

Reiterating the importance of this Declaration and its promotion and implementation,

Emphasizing the important role that individuals, non-governmental organizations and groups play in the promotion and protection of all human rights and fundamental freedoms,

Noting with deep concern that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are often subjected to threats, harassment, insecurity, arbitrary detention and extrajudicial executions,

1. Welcomes the report of the Secretary-General (E/CN.4/2000/95) on ways for effective promotion and implementation of the Declaration

¹ Resolution: E/CN.4/RES/2000/61.

INTERNATIONAL AND REGIONAL PROTECTION

on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, submitted pursuant to Commission resolution 1999/66 of 28 April 1999;

2. Calls upon all States to promote and give effect to the Declaration;

3. Requests the Secretary-General to appoint, for a period of three years, a special representative who shall report on the situation of human rights defenders in all parts of the world and on possible means to enhance their protection in full compliance with the Declaration; the main activities of the special representative shall be:

(a) To seek, receive, examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms;

(b) To establish cooperation and conduct dialogue with Governments and other interested actors on the promotion and effective implementation of the Declaration;

(c) To recommend effective strategies better to protect human rights defenders and follow up on these recommendations;

4. Urges all Governments to cooperate with and assist the Special Representative of the Secretary-General in the performance of his or her tasks and to furnish all information in the fulfilment of his or her mandate upon request;

5. Requests the Secretary-General to provide the Special Representative with all necessary assistance, in particular the staff and resources deemed necessary to fulfil his or her mandate;

6. Requests the Special Representative to submit annual reports on his/her activities to the Commission and to the General Assembly and to make any suggestions and recommendations enabling him or her better to carry out his or her tasks and activities;

7. Decides to consider this question at its fifty-seventh session under the agenda item entitled «Promotion and protection of human rights»;

8. Recommends the following draft decision to the Economic and Social Council for adoption.

INTERNATIONAL PROTECTION (UN)

Nomination of the Special Representative

On 18th August 2000, Mrs. Hina Jilani from Pakistan was appointed as Special Representative of UN Secretary General on Human Rights Defenders.

Contacts:

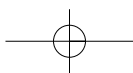
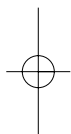
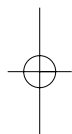
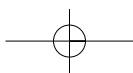
Ben Majekodunmi:

bmajekodunmi@ohchr.org

Chloé Marnay-Baszanger:

Cmarnay-Baszanger@ohchr.org

Fax: +41 22 917 91 06



THE PROTECTION OF HUMAN RIGHTS DEFENDERS IN THE AFRICAN UNION (UA)

Communiqué announcing the creation of a «Focal Point» on Human Rights Defenders within the African Commission on Human and Peoples' Rights (ACHPR), November 2003¹

1. The African Commission on Human and Peoples' Rights (ACHPR) held its 34th Ordinary Session in Banjul, Republic of The Gambia, from 6th to 20th November 2003, under the chairmanship of Commissioner Salamata Sawadogo.

2. The following Members attended the Session:

- Commissioner Yassir S. A. El Hassan, Vice-Chairman;
- Commissioner Mohammed A. Ould Babana;
- Commissioner Kamel Rezag Bara;
- Commissioner Andrew R. Chigovera;
- Commissioner Vera M. Chirwa;
- Commissioner Emmanuel V.O. Dankwa;
- Commissioner Jainaba Johm;
- Commissioner Angela Melo;
- Commissioner Sanji M. Monageng;
- Commissioner Bahame Tom Mukirya Nyanduga.

15. The African Commission on Human and Peoples' Rights also considered issues pertaining to the protection of human rights defen-

¹ Final communiqué of the 34th ordinary session held in Banjul, the Gambia, from 6th to 20th November 2003
http://www.achpr.org/Final_Communique_34th_Session__eng_.doc

INTERNATIONAL AND REGIONAL PROTECTION

ders, refugees and displaced persons, as well as strategies for the expeditious ratification of the Protocols on the establishment of an African Court on Human and Peoples' Rights and on the Rights of Women in Africa. In addition, the African Commission on Human and Peoples' Rights addressed its cooperation with the various organs and structures of the African Union, including NEPAD and CSSDCA.

23. The African Commission on Human and Peoples' Rights has decided to appoint:

– Commissioner Jainaba Johm, as focal point on Human Rights Defenders in Africa.

THE PROTECTION OF HUMAN RIGHTS DEFENDERS IN THE ORGANIZATION OF THE AMERICAN STATES (OEA)

Press release on the creation of the «special unit on defenders» within the Inter-American Commission on Human Rights (IACHR)¹, 7th december 20013

Press release n° 32/01: The Executive Secretariat Creates Unit for Human Rights Defenders

The Executive Secretary of the Inter-American Commission on Human Rights (IACHR), Dr. Santiago A. Canton, decided to create a Human Rights Defenders Functional Unit within the Office of the Executive Secretary to coordinate the activities of the Executive Secretariat in this field.

The Unit's main function will be to receive information regarding the situation of human rights defenders in the Hemisphere, keep in touch with nongovernmental and governmental organizations, and coordinate the work of the Executive Secretariat with regard to human rights defenders in the Americas.

This initiative takes into account resolution AG/RES. 1818 (XXXI-O/01), adopted by the General Assembly of the OAS at its thirty-first regular session, which requests the Inter-American Commission on Human Rights to continue to pay due attention to the situation of human rights defenders in the Americas and to consider preparing a comprehensive study in this area, which, inter alia, describes their work, for study by the pertinent political authorities.

¹ <http://www.oas.org/OASpage/press2002/sp/año99/año2001/diciembre01/CIDH12701-32.htm>

INTERNATIONAL AND REGIONAL PROTECTION

The Executive Secretary said this was an important step to protect the rights of those whose fundamental mission it is to defend the human rights of all human beings disinterestedly, risking their own lives and safety in the process.

Any communication may be sent to IACHR headquarters or by e-mail to CIDHDefensores@oas.org or fax: + 1 202 458 39 92.

Resolution AG/RES 1842 (XXXII-0/02) adopted by the General Assembly of the OEA, on 4th June 2002

«Human rights defenders in the Americas: support for the individuals, groups, and organizations of civil society working to promote and protect human rights in the Americas»

The General Assembly,

Having seen the report presented by the Permanent Council on the topic «Human Rights Defenders in the Americas: Support for the Individuals, Groups, and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas», in keeping with resolution AG/RES. 1818 (XXXI-O/01);

Considering that, at its thirty-first regular session, through the aforementioned resolution AG/RES. 1818 (XXXI-O/01), it instructed the Permanent Council, to continue to examine this matter in the context of the dialogue on strengthening and enhancing the inter-American human rights system and to present a report on implementation of the resolution;

Considering further:

That, in the context of the dialogue on the functioning of the system and pursuant to the mandates contained in resolution AG/RES. 1818 (XXXI-O/01), on November 15th, 2001, the Committee on Juridical and Political Affairs of the Permanent Council held a meeting at which it considered the topic;

That the participants at that meeting included not only a representative of the Inter-American Commission on Human Rights, but also the Special Representative of the UN Secretary General on the Situation of Human Rights Defenders, who gave a presentation on the treatment of this issue in her area of competence; and

That the Inter-American Commission on Human Rights (IACHR) has expressed its concern over the situation of human rights defenders

THE PROTECTION OF HUMAN RIGHTS DEFENDERS (OEA)

in the region, and has recommended to the member states that they should take the necessary steps to protect the lives, personal safety, and freedom of expression of those who work to ensure respect for fundamental rights, in accordance with the collective commitment expressed in resolutions AG/RES. 1671 (XXIX-O/99), AG/RES. 1711 (XXX-O/00), and AG/RES. 1818 (XXXI-O/01);

Bearing in mind the practice of the IACHR in this area and the measures it has taken to protect the fundamental rights of defenders; and, in particular, the decision taken on 7th December 2001, by the Executive Secretary of the Commission to establish an operational unit on human rights defenders, taking into account the mandate issued in resolution AG/RES. 1818 (XXXI-O/01);

Recalling:

That, at the Third Summit of the Americas, held in Quebec City, Canada, the heads of state and government reiterated in the Declaration that their «commitment to full respect for human rights and fundamental freedoms is based on shared principles and convictions» and reaffirmed in that Plan of Action that they will «seek to promote and give effect to the United Nations Declaration on Human Rights Defenders»; and

That the OAS General Assembly has previously made similar statements on this subject reiterating its recommendation that the member states «grant the necessary guarantees and facilities to enable nongovernmental human rights organizations to continue contributing to the promotion and protection of human rights, and that they respect the freedom and safety of the members of such organizations»;

Recognizing the important work, at both the national and regional levels, of human rights defenders in the Americas, as well as their valuable contribution to the protection and promotion of fundamental rights and freedoms;

Concerned over the persistence in the Americas of actions that directly or indirectly prevent or hamper the work of individuals, groups, or organizations working to promote and protect fundamental rights; and

Aware of the need to promote respect for the essential aims, principles, and standards set forth in inter-American and international instruments on this matter,

INTERNATIONAL AND REGIONAL PROTECTION

Resolves:

1. To reiterate its support for the work carried out, at both the national and regional levels, by human rights defenders; and to recognize their valuable contribution to the protection, promotion, and observance of human rights and fundamental freedoms in the Hemisphere.

2. To condemn actions that directly or indirectly prevent or hamper the work of human rights defenders in the Americas.

3. To urge member states to step up their efforts to adopt the necessary measures, in keeping with their domestic law and with internationally accepted principles and standards, to safeguard the lives, personal safety, and freedom of expression of human rights defenders.

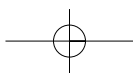
4. To invite member states to publicize and enforce the instruments of the inter-American system and the decisions of its bodies on this matter, as well as the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

5. To invite the Inter-American Commission on Human Rights to continue to pay due attention to the situation of human rights defenders in the Americas and to consider, inter alia, preparing a comprehensive study on the matter and to give due consideration to this situation at the level it may judge appropriate.

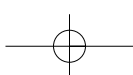
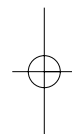
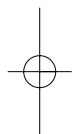
6. To continue the dialogue and cooperation with the United Nations, in particular with the office of the Special Representative of the UN Secretary-General to Report on the Situation of Human Rights Defenders, through the Inter-American Commission on Human Rights and the Permanent Council.

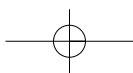
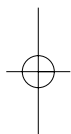
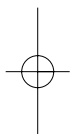
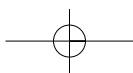
7. To instruct the Permanent Council to follow up on this resolution and to report on its implementation to the General Assembly at its thirty-third regular session.

8. To direct that the mandates in this resolution be executed in accordance with the resources allocated in the program-budget and other resources.



ANNEXES





ANNEX 1

PARTNER ORGANISATIONS AND CONTRIBUTORS

International NGOs

Agir ensemble pour les droits de l'Homme
Amnesty International
Avocats Sans Frontières (ASF)
Confédération internationale des syndicats libres (CISL)
Droits et démocratie - Centre international des droits de la personne et du développement démocratique
Fédération internationale d'action des chrétiens pour l'abolition de la torture (FIACAT)
Foundation Martin Ennals
Forefront - The International Foundation for the Protection of Human Rights
Defenders
Frontline
Human Rights Documentation Center (HRDC)
Human Rights Internet
Human Rights Watch (HRW)
International Commission of Jurists (ICJ)
International Freedom of Expression Exchange (IFEX)
International Gay and Lesbian Human Rights Commission (IGLHRC)
International League for Human Rights
International Rehabilitation Council for Torture Victims (IRCT)
International Service for Human Rights (ISHR)
Lawyers Committee for Human Rights (LCHR)
Minority Rights Group
Peace Brigades International (PBI)
Reporters Sans Frontières (RSF)

Regional NGOs

Africa
Afronet
Centre africain des droits de l'Homme

ANNEXES

Institute for Human Rights and Development in Africa
Union Inter africaine des Droits de l'Homme (UIDH)

Americas

Comisión Latinoamericana por los Derechos y Libertad de los Trabajadores y los Pueblos (CLADEHLT)
Comisión para la Defensa de los Derechos Humanos en Centroamérica (CODEHUCA)
Enlace Mapuche Internacional
Equipo Nizkor
France Amérique Latine
One World América Latina
Organización Regional Interamericana de Trabajadores (ORIT)
Red Solidaria por los derechos humanos (REDH)

Asia

Asian Human Rights Commission (AHRC)
Asian Center for the Progress of Peoples (ACPP)
Forum Asia
South Asian Human Rights Documentation Centre (SAHRDC)

Europe

International Helsinki Federation for Human Rights (IHF)

Maghreb / Middle East

Cairo Institute for Human Rights Studies (CIHRS)
Réseau Euro-méditerranéen des droits de l'Homme (REMDH)

National NGOs

Algeria

Collectif des Familles de Disparus en Algérie
Ligue Algérienne de défense des Droits de l'Homme (LADDH)
SOS disparus

Argentina

Argenpress.info
Asociación Abuelas de la Plaza de Mayo
Asociación Madres de la Plaza de Mayo
Centro de Estudios Legales y Sociales (CELS)
Comité de Acción Jurídica (CAJ)
Coordinadora contra la represión política (CORREPI)
Liga Argentina por los derechos del hombre
Solidarité avec les mères de la Place de Mai (SOLMA)

Azerbaijan

Human Rights Center of Azerbaijan (HRCA)

PARTNER ORGANISATIONS AND CONTRIBUTORS

Bahrain

Bahrain Human Rights Society (BHRS)

Bangladesh

Bangladesh Human Rights Commission (BHRC)

Bangladesh Rehabilitation Centre for the Victims of Torture (BRCT)

Human Rights Congress for Bangladesh Minorities (HRCBM)

Belarus

Association des journalistes du Belarus

Comité Helsinkipour les droits de l'Homme

VIASNA

Bhutan

People Forum for Human Rights and Development (PFHRD) (based in Katmandu, Nepal)

Bolivia

Assemblée Permanente des Droits de l'Homme de Bolivie (APDHB)

Centro de Estudios Jurídicos e Investigación Social (CEJIS)

Movimiento Sin Tierra de Bolivia (MST-B)

Brazil

Centro de Justiça Global (JC)

Grupo Tortura Nunca Mais

Movimento dos Trabalhadores Rurais Sem Terra (MST)

Movimento Nacional dos Direitos Humanos (MNDH)

Burkina Faso

Mouvement Burkinabé des Droits de l'Homme et des Peuples (MBDHP)

Burundi

Ligue Burundaise des Droits de l'Homme (ITEKA)

Cameroon

ACAT-Cameroun

Mouvement pour la Défense des Droits de l'Homme et des Libertés (MDDHL)

Chad

Association tchadienne pour la promotion et la défense des droits de l'Homme (ATPDDH)

Ligue tchadienne des droits de l'Homme (LTDH)

Chile

Comité de defensa de derechos del pueblo (CODEPU)

Organización de defensa popular (ODEP)

China

Human Rights in China

Hong Kong Human Rights Monitor

ANNEXES

Colombia

Asociación Campesina del Valle del Río Cimitarra (ACVC)
 Asociación Colombiana de Defensores de Derechos Humanos «Eduardo Umaña Mendoza» (ACADEUM)
 Asociación de Familiares de Detenidos Desaparecidos de Colombia (ASFAD-DES)
 Asociación Nacional de Ayuda Solidaria (ANDAS)
 Central Unitaria de Trabajadores (CUT)
 Centro de Investigación y Educación Popular (CINEP)
 Collectif des Droits de l'Homme Semillas de Libertad (CODEH-SEL)
 Comisión Colombiana de Juristas (CCJ)
 Comisión de Justicia y Paz (CJP)
 Comité de Solidaridad con los Presos Políticos (CSPP)
 Comité Permanente por la Defensa de Derechos Humanos (CPDH)
 Comité Permanente para la Defensa de los Humanos «Hector Abad Gomez»
 Comité Regional de Derechos Humanos «Joel Sierra»
 Coordinación Colombia-Europa-Estados Unidos
 Corporación Colectivo de Abogados «José Alvear Restrepo» (CCAJAR)
 Corporación para la Defensa y Promoción de los Derechos Humanos (REINICIAR)
 Corporación Regional para la Defensa de los Derechos Humanos (CREDHOS)
 Corporación Servicios Profesionales Comunitarios (SEMBRAR)
 Instituto Popular de Capacitación (IPC)
 Instituto Latinoamericano de Servicios Legales Alternativos (ILSA)
 Red Nacional de Iniciativos por la Paz y Contra la Guerra (REDEPAL)
 Organización Feminina Popular (OFP)
 Organización Indígena de Antioquia
 Organización Internacional de Derechos Humanos - Acción Colombia (OID-HACO)
 Organización Nacional Indígena de Colombia (ONIC)
 Sindicato de Trabajadores y Empleados Universitarios de Colombia (SIN-TRAUNICOL)

Congo-Brazzaville

Association pour les Droits de l'Homme et l'Univers Carcéral (ADHUC)
 Observatoire Congolais des Droits de l'Homme (OCDH)

Congo (Democratic Republic of)

Association Africaine de Défense des Droits de l'Homme (ASADHO)
 Comité des Observateurs des Droits de l'Homme (CODHO)
 Groupe Lotus
 Journalistes en Danger (JED)
 Ligue des Electeurs
 Voix des Sans Voix (VSV)

Costa Rica

Casa Alianza

PARTNER ORGANISATIONS AND CONTRIBUTORS

Côte d'Ivoire

Ligue des Droits de l'Homme (LIDHO)
Mouvement Ivoirien pour les Droits Humains (MIDH)

Cuba

Comisión Cubana de Derechos Humanos y Reconciliación Nacional
Fundación cubana de derechos humanos

Ecuador

Assemblée permanente des Droits de l'Homme (APDH)
Centro de Derechos Económicos y Sociales (CDES)
Centro de Documentación de Derechos Humanos «Segundo Montez Mozo»
(CSMM)
Comisión Ecuatoria de Derechos Humanos
Fundación Regional de Asesoría en Derechos Humanos (INREDH)

El Salvador

Comisión de Derechos Humanos de El Salvador (CDHES)

Egypt

Egyptian Center for Housing Rights
Egyptian Center for Women's Rights
Egyptian Initiative for Personal Rights
Egyptian Organisation for Human Rights (EOHR)
Hisham Mubarak Center for Law
Human Rights Commission for the Assistance of Prisoners (HRCAP)
Ibn Khaldun Center for Development Studies

Ethiopia

Ethiopian Human Rights Council (EHRC)

France

ACAT
Amnesty International - French Section

Gambia

Section Amnesty International

Georgia

Human Rights and Documentation Centre (HRIDC)

Greece

Greek Helsinki Monitor

Guatemala

Alliance against Impunity
Casa Alianza
Centro de Acción Legal sobre Derechos Humanos (CALDH)
Centro de Estudios, Información y Bases para la Acción Social (CEIBAS)
Comisión de Derechos Humanos de Guatemala (CDHG)
Coordinación Nacional de Derechos Humanos en Guatemala (CONADEHGUA)

ANNEXES

Coordinadora Nacional de Viudas de Guatemala (CONAVIGUA)
Familiares de Desaparecidos de Guatemala (FAMDEGUA)
Fundación Myrna Mack
Fundación Rigoberta Menchú Tum (FRMT)
Grupo de Apoyo Mutuo (GAM)
GuaUnidos

Guinea-Bissau
Guinean League of Human Rights

Haiti
Haitian Human Rights Organizations Platform (POHDH)
National Coalition for Haitian Rights (NCHR)
Justice et Paix

Honduras
Comité para la Defensa de los Derechos Humanos (CODEH)
Comité de Familiares Desaparecidos (COFADEH)

India
Asian Center for the Progress of People (ACPP)
People's Union for Civil Liberties (PUCL)
People's Watch - Tamil Nadu

Indonesia
Commission for Missing Persons and Victims of Violence (KONTRAS)
Urban Poor Consortium (UPC)
National Human Rights Commission (KOMNAS HAM)

Iran
Ligue pour la Défense des Droits de l'Homme en Iran (LDDHI)

Israel
ACRI
Adalah
B'Tselem
Hamoked
Public Committee Against Torture in Israel (PCATI)
New Israeli Fund
Palestinian Human rights Monitoring Group
Physicians for Human Rights
Rabbis for Human Rights
The Association of Forty

Jordan
Amman Center for Human Rights Studies (ACHRS)
Jordan Society for Human Rights (JSHR)
Mizan
Sisterhood Is Global Institute

PARTNER ORGANISATIONS AND CONTRIBUTORS

Kazakhstan

Kazakh-International Bureau for Human Rights and the Rule of Law (KIBHRRL)

Kenya

Kenya Human Rights Commission (KHRC)

Kyrgyzstan

Committee for Human Rights (KCHR)

Laos

Lao Movement for Human Rights (MLDH)

Lebanon

Fondation des droits de l'Homme et du droit humanitaire Liban (FDDHL)

Frontiers Center

Soutien aux Libanais détenus arbitrairement (SOLIDA)

Palestinian Human Rights Organisation (PHRO)

Liberia

Liberia Watch for Human Rights (LWHR)

Malaysia

Aliran Kesedaran Negara (Aliran)

National Human Rights Society (Hakam)

Suara Rakyat Malaysia (Suaram)

Mauritania

Association mauritanienne des droits de l'Homme (AMDH)

SOS Esclaves

Mexico

ACAT - Mexico

Asociación de Familiares de Detenidos Desaparecidos y Víctimas de Violaciones a los Derechos Humanos en México (AFADEM - FEDESAM)

Centro de Analisis Politico de Investigaciones Sociales y Economicas (CAPISE)

Centro de Derechos Humanos «Fray Bartolomé de Las Casas»

Centro de Derechos Humanos «Miguel Agustín Pro Juárez» (PRODH)

Ciudadanos en Apoyo a los Derechos Humanos Asociación Civil (CADHAC)

Comisión mexicana de defensa y promoción de los derechos humanos (CMDPDH)

Ligue Mexicaine pour la Défense des Droits de l'Homme (LIMEDDH)

Réseau National des Organisations Civiles des Droits de l'Homme «Todos los Derechos para Todos»

Morocco

Association Marocaine des Droits Humains (AMDH)

Forum Vérité Justice

Organisation Marocaine des Droits Humains (OMDH)

ANNEXES

Nepal

Informal Sector Service Center (INSEC)
International Institute for Human Rights (NSHR)

Nicaragua

Centro Nicaraguense de Derechos Humanos (CENIDH)

Niger

Association nigérienne de défense des droits de l'Homme (ANDDH)

Nigeria

Centre for Law Enforcement Education (CLEEN)
Civil Liberties Organisation (CLO)
Consulting Centre for Constitutional Rights and Justice (C3RJ)

Northern Ireland

Committee on the Administration of Justice (CAJ)

Pakistan

Human Rights Commission of Pakistan
Institute for Peace and Justice (IDARA-E-AMAN-O-INSAF)

Palestine

Apartheid Wall Campaign/Campaign Emergency Centre
Addameer
Al-Haq
Al-Mezan Centre for Human Rights
Defense for Children International (DCI) - Palestine section
Independent Commission for Citizens Rights
Jerusalem Centre for Legal Aid
Palestinian Centre for Human Rights (PCHR)
Palestinian Red Crescent Society
Women's Centre for Legal Aid and Counselling

Panamá

Servicio Paz y Justicia (SERPAJ)
Coordinadora popular de derechos humanos de Panamá (COPODEHUPA)
Comité de Socorro Jurídico

Peru

Asociación Pro Derechos Humanos (APRODEH)
Coordinadora Nacional de Derechos Humanos (CNDDHH)

Philippines

Alliance for the Advancement of People's Rights (KARAPATAN)
PREDA Foundation
TFDP/Task Force Detainees of the Philippines

Russian Federation

Memorial
Comité Tchétchénie, France

PARTNER ORGANISATIONS AND CONTRIBUTORS

Rwanda

Ligue Rwandaise pour la Promotion et la Défense des Droits de l'Homme
(LIPRODHOR)

Senegal

Organisation nationale des droits de l'Homme (ONDH)
Rencontre africaine des droits de l'Homme (RADDHO)

Singapour

Think-Center-Singapour

South Korea (Republic of Korea)

Korean Confederation of Trade Union

Sudan

Sudanese Human Rights Group (SHRG)
Sudan Organization Against Torture (SOAT)

Syria

Comités de Défense des Libertés Démocratiques et des Droits de l'Homme en
Syrie (CDF)

Tanzania

Lawyers Environmental Action Team (LEAT)
Legal and Human Rights Center (LHRC)

Togo

Ligue Togolaise des droits de l'Homme (LTDH)
ACAT-Togo

Tunisia

Comité pour le Respect des Libertés et des Droits de l'Homme en Tunisie
(CRLDHT)
Conseil National pour les Libertés en Tunisie (CNLT)
Ligue Tunisienne des Droits de l'Homme (LTDH)
Rassemblement pour une alternative internationale du développement (RAID)

Turkey

Association des Droits de l'Homme (IHD)
GIYAV
Human Rights Foundation in Turkey (HRFT)

United States of America

Centre for Constitutional Rights (CCR)

Uganda

Foundation for Human Rights Initiative

Uzbekistan

Human Rights Society of Uzbekistan (HRSU)
Legal Aid Society

ANNEXES

Venezuela

Comité de Familiares de Víctimas del 27 de Febrero (COFAVIC)
Foro por la Vida

Yemen

Sisters Arab Forum for Human Rights
Human Rights Information and Training Center
Legal Assistance Center

Vietnam

Bureau international d'information bouddhiste (UBCV)
Comité Vietnam pour la Défense des Droits de l'Homme (CVDDH)

Zimbabwe

Zimbabwe Human Rights Association (ZIMRIGHTS)

ANNEX 2

THE OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS: AN FIDH AND OMCT JOINT PROGRAMME

Activities of the Observatory

The Observatory is an action programme based on the conviction that strengthened co-operation and solidarity among defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

With this aim, the Observatory seeks:

- a) a mechanism of systematic alert of the international community on cases of harassment and repression against defenders of human rights and fundamental freedoms, particularly when they require an urgent intervention;
- b) the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- c) international missions of Investigation and Solidarity;
- c) a personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- d) the preparation, publication and world-wide diffusion of reports on violations of the rights and freedoms of individuals or organisations, that work for human rights around the world;
- e) sustained action with the United Nations (UN) and more particularly the Special Representative of the Secretary General on Human Rights Defenders and as necessary with geographic and thematic Special Rapporteurs and Working Groups;
- f) sustained lobbying with various regional intergovernmental institutions, especially the Organisation of American States (OAS), the African Union (AU), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Labour Organisation (ILO) and the Intergovernmental Organisation of the Francophonie (OIF).

The Observatory's activities are based on the consultation and the co-operation with national, regional, and international non-governmental organisations.

ANNEXES

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the «operational definition» of human rights defenders adopted by the OMCT and FIDH:

«Each person victim or risking to be the victim of reprisals, harassment or violations, due to his compromise exercised individually or in association with others, in conformity with international instruments of protection of human rights, in favour of the promotion and realisation of rights recognised by the Universal Declaration of Human Rights and guaranteed by several international instruments».

To ensure its activities of alert and mobilisation, the Observatory has a system of communication devoted to defenders in danger.

This system, known as the Emergency Line, is accessible through:

Email: observatoire@iprolink.ch

Tel.: + 33 (0) 1 43 55 20 11 / Fax : + 33 (0) 1 43 55 18 80 (FIDH)

Tel.: + 41 22 809 49 39 / Fax : + 41 22 809 49 29 (OMCT)

Animators of the Observatory

From the headquarters of FIDH (Paris) and OMCT (Geneva), the Observatory's Programme is supervised by Antoine Bernard, Executive Director of FIDH and Eric Sottas, Director of OMCT. The programme managers are: for OMCT, Immaculada Barcia, (until August 2003, the position was occupied by Laurence Cuny), and for FIDH, Juliane Falloux, Deputy Executive Director, and Catherine François, Programme Officer of the Observatory. With the assistance of Laurence Cuny, Catherine Ferry and Alexandra Kossin, and the collaboration of Clemencia Devia Suarez, Michael Anthony, German Vargas, Christine Ferrier, Laetitia Sédou and Anne-Laurence Lacroix for OMCT, as well as Isabelle Brachet, Antoine Madelin, Jimena Reyes, Rosa Sanchez, Stéphanie David, Elin Wrzoncki, Marceau Siveude, Carole Berrih, Alan Dreanic, Alexandra Koulaeva, Gaël Grilhot, Daniel Bekoutou, Florent Geel, Nicolas Diaz, Corinne Bezin, and Babacar Fall for the FIDH.

The Observatory's activities are assisted by the local partners of the FIDH and the OMCT.

Operators of the Observatory

FIDH

The International Federation for Human Rights (FIDH) is an international nongovernmental organisation for the defence of the human rights enshrined in the Universal Declaration of Human Rights of 1948. Created in 1922, it includes 115 national affiliates throughout the world. To date, FIDH has undertaken more than a thousand missions for investigation, observation of trials, mediation or training in more than one hundred countries. These last years the FIDH has developed with its partners organisations, an action programme for economic, social and cultural rights and for the promotion of international justice and hel-

THE OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS

ping victims to achieve greater justice. In recent years, FIDH has adopted legal intervention as a mode of action.

FIDH has either consultative or observer status with the United Nations Economic and Social Council, UNESCO, the Council of Europe's Permanent Human Rights Committee, the African Commission for Human and Peoples' Rights, the Inter-governmental Organisation of the Francophonie, and the International Labour Organisation.

FIDH is also in constant and systematic contact with the European Union and the United Nations through its permanent delegations in Brussels and in Geneva. FIDH facilitates each year the access and use of existing international mechanisms to more than 200 representatives of its member organisations, and also relays and supports their activities on a daily basis.

The International Board is comprised of: Sidiki Kaba, President; Catherine Choquet, Driss El Yazami, Anne-Christine Habbard, Claude Katz, François-Xavier Nsanzuwa, general secretaries; Philippe Vallet, Treasurer; and Dobian Assingar (Chad), Akin Birdal (Turkey), Hafez Abu Sa'eda (Egypt), Karim Lahidji (Iran), Lucie Lemonde (Canada-Quebec), Siobhan Ni Chulachain (Ireland), Vilma Núñez de Vilma Nunez de Escorcía (Nicaragua), Jose Rebelo (Portugal), Cheikh Saad Bouh Kamara (Mauritania), Fransisco Soberon Garrido (Peru), Raji Sourani (Palestine), Thierno Sow (Guinée), Michel Tubiana (France), Alirio Uribe (Colombia), Vo Van Ai (Viet Nam), vice-presidents.

OMCT

Created in 1986, the World Organisation Against Torture (OMCT) is currently the largest international coalition of NGOs fighting against torture, summary executions, forced disappearances and all other types of cruel, inhuman or degrading treatment. It co-ordinates the SOS-Torture network that is made up of 266 nongovernmental organisations in 89 countries and seeks to strengthen and accompany their activities on the field. The structure of the SOS-Torture network has allowed OMCT to reinforce local activity while favouring the access of national NGOs to international institutions. Support is granted to individual victims or potential victims of torture through urgent campaigns (notably in favour of children, women, human rights defenders and those related to economic, social and cultural rights violations) and urgent legal, social and medical assistance. It is also more general in nature, through the submission of reports to the different United Nations mechanisms.

Two delegations of the International Secretariat have been appointed to promote activities in North America and Europe. OMCT has either consultative or observer status with the United Nations Economic and Social Council (ECOSOC), the International Labour Organisation (ILO), the African Commission on Human and Peoples' Rights and the Council of Europe.

Its Executive Council is composed of: Elisabeth Reusse-Decrey, President, Denis von der Weid, Vice-President, Olivier Mach, Vice-President, José Domingo Dougan Beaca, Treasurer, Dan Cunniyah, Frej Feniche (resigning end 2003), Alphonse Mac Donald, Florence Notter, Christine Sayeg and Katherine Shiraishi. Delegates Assembly, elected in December 2001 is composed of twenty

ANNEXES

ty four members. For Africa: Madeleine Afite, Innocent Chukwuma, Aminata Dieye, Osman Hummaida and Guillaume Ngefa; for Latin America: Ernesto Alayza Mujica, Helio Bicudo, Alberto León Gómez, and Alicia Pérez Duarte; for North America: Al Bronstein, for Asia: Joseph Gathia, Sanjeeva Liyanage, Ravi Nair, Elisabeth P. Protacio and Khalida Salima ; for Europe : Panayote Elias Dimitras, Nazmi Gür, Hélène Jaffe, Tinatin Khidasheli and Frauke Seidensticker ; for Maghreb and Middle East : Mohammad Abu-Harthieh, Hassam Moosa, Radhia Nasraoui and Lea Tsemel.

Thanks

The Observatory wishes to thank for their support the Swedish International Development Cooperation Agency (SIDA), HIVOS, the French Ministry for Foreign Affairs, the German Ministry for Foreign Affairs, the Intergovernmental Agency of the Francophonie, the Foundation Un Monde par Tous, along with all the persons, national and international organisations, intergovernmental organisations and media which responded to the Observatory's requests and supported its actions.

TABLE OF CONTENTS

Foreword by Shirin Ebadi	5
Let's join forces! Testimonies	7
Introduction : Human Rights Defenders in a «security first» environment	9
Africa	13
Americas	77
Asia	155
Europe and the CIS	199
Maghreb and the Middle East	273
International and Regional protection	331
UN Declaration on Human Rights Defenders	333
International protection (UN)	343
Protection of Human Rights Defenders within the African Union (AU)	347
Protection of Human Rights Defenders within the Organisation of American States (OAS)	349
Annexes	353
Partner Organisations and Contributors	355
The Observatory for the Protection of Human Rights Defenders, a joint FIDH and OMCT Programme	365