



ASIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

REGIONAL ANALYSIS

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In 2010–2011, the elections that took place in several countries of the Asian region were often accompanied by widespread frauds and irregularities as well as by increased restrictions in terms of freedoms of expression and assembly as Governments tightened their control on opposition voices and dissent (*Afghanistan, Bangladesh, Burma, Malaysia, Sri Lanka, The Philippines, Viet Nam*). In particular, in *Burma*, the first national elections that were held in twenty years in November 2010, were marred by a series of serious irregularities and draconian restrictions on freedom of association and of the press, rendering it neither free nor fair. Although 2010 also saw the historic release from house arrest of opposition leader Daw Aung San Suu Kyi after the elections, a general amnesty had yet to take place in *Burma* and over 2,000 political prisoners remained in detention.

Inadequate public security and the lack of a conducive environment for human rights defenders continued to significantly impact the work of activists throughout the region (*Afghanistan, India, Nepal, Pakistan, Sri Lanka, Thailand, The Philippines*), in particular in areas not fully under the control of the Government, such as the southern Terai districts in *Nepal*, the three southern border provinces of *Thailand*, Balochistan, the Federally Administered Tribal Areas (FATA) and the North West Frontier Province (NWFP) in *Pakistan*, in areas under Taliban control in *Afghanistan*, in the northern areas of *Sri Lanka* as well as in States where the Government of *India* had to fight the Naxalite (Maoist) insurgency and in Manipur, Jammu and Kashmir, where extrajudicial killings, enforced disappearances and other forms of violence remained rampant, often left unpunished. In such a context, several States in the region continued to use the pretext of political instability and national security to increase the grip on fundamental freedoms, in particular through the use of security or emergency laws (*India, Sri Lanka, Thailand, The Philippines*). For example, in *Thailand*, in the context of the crackdown of anti-Government protests led by the so-called “Red shirt” movement, the Emergency Decree on Public Administration in Emergency Situation (2005) gave the authorities wide-ranging powers to arbitrarily interrogate, detain without charge and impose censorship.

Past and present human rights violations, including acts of torture, ill-treatment and extrajudicial killings, continued to be unpunished during 2010–2011 (*Bangladesh, Indonesia, Nepal, Pakistan, Sri Lanka, The Philippines*), while public confidence and trust in the judiciary continued to erode in most Asian countries throughout the reporting period (*Cambodia, Iran, Malaysia, Viet Nam*). Corruption and political interference, information peddling, bribes and extortions affected the functioning of judicial bodies, which remained susceptible to outside influence and continued to be used as an instrument of repression. At the same time, the poor and the marginalised, including those involved in land disputes, continued to experience difficulties in obtaining justice from the judiciary.

The space for freedom of opinion and expression continued to shrink during the reporting period and tolerance for dissenting voices and opinions decreased. Access to information remained heavily restricted, and attacks on and harassment of journalists, closure of and restrictions placed on newspapers and TV stations, and the filtering of Internet content, including the closure of websites, remained widespread (*Bangladesh, Democratic People's Republic of Korea, China, Iran, Laos, Malaysia, Nepal, Sri Lanka, Thailand, Viet Nam*). The revolutions in the Middle East and North Africa also had an effect on the environment human rights defenders operated in, as they resulted in further restrictions on Internet, and on the use of mobile phones and social networking tools such as *Facebook* and *Twitter*. In addition, the responses of the authorities were extremely harsh to even the smallest signs of attempts to organise and act in favour of human rights (*China, Iran*).

The Intergovernmental Commission on Human Rights (AICHR) of the Association of Southeast Asian Nations (ASEAN) held its inaugural meeting in Jakarta, Indonesia, from March 28 to April 1, 2010. At its first meeting, the Commission confirmed its view that it cannot consider individual complaints of human rights violations because it has yet to adopt its Rules of Procedures on how to address such submissions. Instead, the body only discussed procedural matters in its three meetings in 2010 and adopted the Guidelines of Operations of AICHR in its fourth meeting in February 2011. The Guidelines, as well as the full account of the decisions and agreements made at the meeting, had not been published as of April 2011. Although the Commission's mandate calls for it to “develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN community”¹, the body did not interpret this provision as extending to the ability to examine

1/ See Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights, Jakarta, October 2009.

individual cases of human rights violations. Moreover, Viet Nam's chairmanship of the ASEAN and its new human rights mechanism in 2010, did not have any tangible positive effect on the domestic human rights situation. On the contrary, human rights violations are said to have increased during this period.

Awarding Chinese human rights defender **Liu Xiaobo** the Nobel Peace Prize in 2010, increased the recognition of human rights defenders and provided new hope and impetus to human rights defenders not only in China, but across Asia. Yet, the fact that he was prevented from attending the award ceremony as he is currently serving an eleven-year prison sentence and that Chinese authorities censored all information concerning the award illustrate even more the plight human rights defenders continue to face, as violations of their rights remained widespread in 2010-2011. Indeed, while the primary responsibility to protect human rights defenders and to prosecute authors of violations against them lies with the States, they again often failed to do so in most countries of the region.

Stigmatisation and use of legislation to restrict human rights activities and the working environment of human rights defenders

In 2010-2011, Governments across the region continued to resort to legislative methods to further restrict human rights activities and the space available for human rights defenders (*Bangladesh, Cambodia, China, Indonesia, Iran, Pakistan, Thailand, Viet Nam*). Freedoms of association and expression also remained seriously hampered. In *Cambodia*, the adoption of ill-defined and restrictive laws gave rise to further concerns as a number of provisions of those laws and bills pave the way for more arbitrary administrative and judicial harassment against human rights defenders. In *China*, the amendments to the Law on Guarding State Secrets that came into effect in October 2010, still make it possible that virtually any information can be considered State secret. In *Iran*, vaguely worded provisions of the Criminal Code and the interests of national security were frequently invoked to curtail human rights activities. Provisions relating to defamation, incitement and blasphemy laws continued to be used in *Cambodia, Indonesia, Iran, Pakistan* and *Thailand* to crack down on any criticism of the Government and local authorities. Emergency and security laws, in some cases in force for several decades, were still used by several Governments in Asia as a means to curb the activities of human rights defenders and to prosecute them on various criminal charges (*India, Malaysia, Sri Lanka, Thailand*).

The right to peaceful assembly also continued to be restricted in a number of Asian countries (*Bangladesh, Cambodia, China, Malaysia, Thailand, Viet Nam*) throughout 2010 and in early 2011, by means of

further tightened legislation and through the denial of permits by the authorities, in some cases in breach of legislation in force. Additionally, law enforcement authorities often resorted to excessive use of force when dispersing peaceful demonstrations.

In countries such as *Laos*, *Viet Nam* and the *Democratic People's Republic of Korea*, systematic repression was again such that it renders impossible any independent or organised human rights activity, and the defence of human rights was still not regarded as a legitimate activity in many other countries in the region. Indeed, human rights defenders were often arbitrarily labelled as “terrorists”, “insurgents”, “militants”, “belonging to leftists groups”, “anti-patriotic” or “acting against the country” in *Iran*, *Nepal*, *Pakistan*, *Sri Lanka*, *The Philippines*, *Viet Nam*, and faced the consequences of targeted smear and slandering campaigns that merely aim at discrediting their work. Such labelling also rendered human rights defenders vulnerable to further acts of harassment against them.

Repression of human rights defenders and NGOs denouncing violations committed by security forces and impunity thereof

Throughout the region, human rights defenders continued to face harsh consequences for their efforts to expose and denounce human rights violations committed by security forces and other law enforcement agencies, and for calling for accountability for such acts as they were subjected to assassinations, attacks, arbitrary arrests and detention, judicial harassment and other obstacles to their legitimate human rights work against impunity (*Bangladesh*, *Fiji*, *India*, *Indonesia*, *Nepal*, *Sri Lanka*, *The Philippines*). In *Bangladesh*, a human rights defender was killed and a human rights NGO faced serious hindrances as authorities decided to cancel several of its proposed human rights projects. Similarly, in *Sri Lanka*, human rights defenders exposing human rights abuses committed during the civil war as well as continuing rights abuses, faced assassination, threats, attacks and lengthy prison sentences. In *Fiji*, in January 2010, prominent human rights lawyer Ms. **Imrana Jalal** and her husband were investigated by the Fiji Independent Commission Against Corruption (FICAC), and charged with seven misdemeanour offences after Ms. Jalal, a founding member of the Fiji Women's Rights Movement, had spoken out against human rights violations committed by the military when it overthrew the Laisenia Qarase-led Government in December 2006. All charges against Ms. Jalal were finally dismissed in July 2010².

2/ Charges against her husband on a related matter remained pending until June 2011, when they were in turn dismissed. See Women Human Rights Defenders International Coalition (WHRDIC) Statement, January 14, 2010.

Harassment of environmental and land rights activists opposing forced evictions and illegal exploitation of natural resources

In 2010–2011, environmental and land rights activists as well as defenders denouncing forced evictions routinely faced violence and arrests in a number of Asian States, and authorities frequently used judicial proceedings or the threat thereof, to restrict their activities and to intimidate them (*Cambodia, China, India, Indonesia, Malaysia, Republic of Korea, Sri Lanka, The Philippines*). In *Cambodia, India* and *Malaysia*, land rights activists and community leaders often faced criminal charges for their activities in defence of the land rights of rural or indigenous communities, including when denouncing development projects that threaten or destroy the land, natural resources and livelihood of communities. Demonstrations organised in favour of victims of forced evictions and land grabbing were also severely repressed. In *The Philippines*, activists opposing the establishment and extension of economic zones were assaulted and a leader of an alliance of displaced farmers opposing evictions, was shot dead. Defenders documenting ecological protection, including from mining and illegal logging, were arbitrarily arrested and detained (*India, Indonesia, Sri Lanka*), and were victims of attacks or even assassinations (*Indonesia, Sri Lanka, The Philippines*). Those denouncing forced evictions also continued to be subjected to judicial harassment in *China* as well as in the *Republic of Korea*, where Messrs. **Park Lae-gun** and **Lee Jong-hoi**, who led various protests calling for justice for those killed in the January 2009 police action against protests by evicted tenants at a building in the Yongsan district of Seoul, were sentenced on January 24, 2011 to respectively, a three-year-and-one-month jail sentence suspended for four years and a two-year jail sentence suspended for three years for “hosting an illegal protest” and “blocking traffic”³.

Reprisals against human rights lawyers

Lawyers taking on sensitive or human rights related cases, such as judicial proceedings against opposition activists, journalists and human rights activists, continued to face reprisals for such activities in 2010–2011 (*Burma, China, Indonesia, Iran, Malaysia, Pakistan, Viet Nam*). In *Burma*, lawyers defending farmers who denounced the military occupation and confiscation of their lands were harassed by the police and local authorities. In *China* and *Viet Nam*, lawyers working on human rights cases, in particular those which are deemed “sensitive” by the authorities, such as the defence of political prisoners, bloggers, democracy and religious activists, human rights defenders, ethnic minorities, as well as independent religious groups,

still faced serious repression by the authorities, including lengthy prison sentences and disbarment, and frequently had their licences cancelled or revoked. Lawyers who took on cases related to blasphemy and religious minorities in *Indonesia* and *Pakistan* often found themselves harassed and intimidated, mostly by non-State actors, such as Islamic extremist groups. In *Iran*, the authorities continued to target human rights lawyers as part of an ongoing attempt to purge the human rights community, trying to reduce the number of those who are prepared to defend victims of the overtly flawed judicial system. In *Malaysia*, a human rights lawyer faced judicial proceedings in 2011 for helping Burmese migrant workers.

Repression of human rights defenders denouncing corruption

While corruption remained rampant in many countries of the region (*Bangladesh, Burma, Cambodia, China, India, Indonesia, Sri Lanka*), human rights defenders including journalists, who exposed such acts by Government officials and local politicians but also private actors, continued to face severe consequences for their work. Governments deployed increasingly creative methods including judicial harassment, torture and ill-treatment, and the adoption of hostile legislation, in order to curb such activities and to threaten those who might consider exposing such abuses in the future. In *Bangladesh*, the Editor of a newspaper faced arbitrary detention and the offices of the newspaper were raided by police. The paper was subsequently closed down. In *Burma*, human rights defenders who spoke out about widespread corruption by local authorities continued to face serious repercussions, often with the support of a subservient judicial system. In *India*, several Right to Information (RTI) activists who exposed corruption, were assassinated in 2010-2011. Activists who have been documenting cases of corruption related to the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) also faced assaults and received death threats. Human rights activists and journalists continued to face judicial harassment on politically motivated charges for questioning the Government's role in various scandals such as the 2008 earthquake in Sichuan and tainted milk scandal in *China*. In *Sri Lanka*, human rights defenders denouncing corruption sustained attacks as well as defamation campaigns in Government-controlled media.

Trade union leaders still subjected to serious harassment

As in previous years, trade union leaders were killed, harassed, threatened, dismissed from their jobs and criminally prosecuted for their work promoting labour rights (*Bangladesh, Burma, Cambodia, Fiji, Iran, Pakistan, Republic of Korea*). In *Bangladesh*, a peaceful demonstration that was organised in favour of workers' rights was violently dispersed by the police and several protesters and union leaders were arrested and faced prosecution.

The non governmental license of a trade union was also cancelled, thus depriving it of its legal right to operate in the country. In *Cambodia*, while the trade union movement remained shaken by the assassination of three trade union leaders in 2004 and 2007, acts of reprisals against trade union representatives continued unabated, including through judicial harassment. Additionally, Cambodian authorities regularly used violence, or the threat thereof, to prevent and disperse peaceful protests by workers relating to labour issues. In *Burma* and *Iran*, several trade union leaders continued to face lengthy detention in harsh conditions and criminal charges. In *Pakistan*, a trade union leader was shot dead. Moreover, in the *Republic of Korea*, members of the Seoul-Gyeonggi-Incheon Migrants Trade Union (MTU), a trade union established for and by migrant workers in South Korea, continued to be subjected to harassment and deportation because of their work in favour of undocumented migrants. On February 10, 2011, the Immigration Service cancelled the visa of Mr. **Michel Catuira**, MTU President and a documented Filipino migrant worker, and ordered him to leave the country by March 7, 2011. Since MTU was founded in 2005, five of its officers have been deported, supposedly for violations of Immigration Control Act. In addition, the South Korean Government continued to refuse to recognise MTU's status as a legal union⁴. In *Fiji*, in February 2011, Mr. **Felix Anthony**, Secretary General of the Fiji Trade Union Congress (FTUC) as well as of the Sugar Workers' Union, was subjected to threats, assault and intimidation acts by military officers, along with Messrs. **Mohammed Khalil** and **Anil Kumar**, respectively President and Vice-President of Fiji Sugar and General Workers' Union, Ba branch, and *Fiji Times* reporter **Felix Chaudhry** following an article that was published in the national newspaper *Fiji Times* with respect to the sugar industry⁵.

Ongoing reprisals against women human rights defenders

Women's rights defenders continued to face harsh repression for their legitimate work on human rights issues throughout 2010-2011 (*Afghanistan, India, Iran, Malaysia, Nepal*). Their freedom of assembly was routinely denied by the authorities. In *Iran*, many faced intimidation, harassment and in some cases, detention or travel bans. In particular, dozens of members of the "One Million Signatures" Campaign were repeatedly imprisoned on often spurious charges such as "propaganda against the system" and "acting against national security". In *India*, defenders of women's rights continued to face harassment from non-State actors, and were frequently unable to receive the attention and support of law enforcement agencies to their plight. A group of women human rights defenders

4/ See MTU Statement, February 2011.

272 5/ See International Trade Union Confederation (ITUC) Statement, March 2, 2011.

advocating for women's rights in *Malaysia* also faced judicial harassment. In *Nepal*, women human rights defenders remained particularly vulnerable as they often faced hostility from their own families and communities, as well as from the police. Finally, in areas under Taliban control in *Afghanistan*, women human rights defenders were often subjected to threats, intimidation and violence. For instance, two Afghan aid workers were killed in Helmand after returning from Garmseer district where they were running a project for women's economic empowerment⁶.

Acts of harassment against defenders of the rights of minorities or marginalised communities

In 2010–2011, defenders of the rights of cultural, ethnic and religious minorities or marginalised communities were again in 2010–2011 victims of various acts of harassment as reprisals to their activities (*China, India, Indonesia, Iran, Nepal, Pakistan*). In *India*, defenders working to promote and protect the rights of marginalised groups, including the Dalits and Adivasis (tribals), religious minorities and sexual minorities, faced particular risks when carrying out their activities, including arbitrary arrest and detention, and criminal charges such as “sedition” and “conspiracy”. Similarly, in *Nepal*, those defending the rights of marginalised communities, including the Dalits, faced serious obstacles in carrying out their activities given the lack of social recognition and legitimacy of their work. In *China*, activists promoting and protecting the rights of persons living with HIV/AIDS faced harassment by the judiciary and tax authorities. In *Indonesia*, activists promoting the rights of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) people faced threats and attacks by radical, extremist religious groups. Several human rights defenders who promoted rights of the Kurdish and Azeri people remained arbitrarily detained in *Iran*. Human rights defenders working on the rights of religious minorities also faced increased risks in *Indonesia* and *Pakistan*.

Urgent Intervention issued by The Observatory from January 2010 to April 2011 on countries of the region for which there is no country fact-sheet

COUNTRY	Names	Violations / Follow-up	Reference	Date of Issuance
REPUBLIC OF KOREA		Lack of consultation with NGOs	Press Release	April 14, 2011

6 / See Amnesty International Annual Report 2011.

BANGLADESH

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In 2010-2011, while torture, ill-treatment and extrajudicial killings continued unabated, impunity for such acts remained widespread. The space for freedom of opinion and expression also further shrank. In such a context, journalists exposing cases of corruption and denouncing human rights violations were victims of judicial harassment, attacks and threats, and human rights defenders and organisations were subjected to various acts of harassment, including killings, in particular when denouncing human rights violations committed by security forces. Freedom of peaceful assembly also continued to be hampered.

Political context

Since June 2010, the Bangladeshi Parliament has conducted its work without opposition MPs, when the Bangladesh Nationalist Party (BNP)-led opposition MPs walked out of the Parliament in protest over the arrest of a *Amar Desh* journalist¹. Although similar tactics were used by the opposition parties in the past, it raised concerns about the effectiveness of the legislative process and about opposition's ability to influence Government policy².

Impunity for acts of torture and ill-treatment, as well as extrajudicial (or "crossfire") killings continued during 2010-2011³. Despite high-level assurances to the contrary⁴, successive Governments have shown indifference to these practices, committed mainly by the Rapid Action Battalion (RAB) and members of the police⁵. During the course of 2010, 127 persons were reportedly killed extra-judicially, the majority of them by members of RAB, mostly in "crossfire" incidents. Between January and March 2011, 33 persons were killed extra-judicially⁶. Furthermore, although torture is prohibited by Article 35.5 of the Constitution, torture and ill-treatment remained pervasive and was practiced regularly by law

1/ See *infra*. Since then, they only returned to Parliament once for a very brief time.

2/ See Odhikar, *Human Rights Report 2010*, January 1, 2011.

3/ According to Odhikar, one person is killed extra-judicially every three days in Bangladesh. See Odhikar, *Human Rights Monitoring Report on Bangladesh, January 1 - March 31, 2011*, April 1, 2011.

4/ See Annual Report 2010.

5/ See Odhikar, *Human Rights Report 2010*, January 1, 2011.

6/ Although the Ministry of Home Affairs concluded in two cases during the reporting period that the deaths caused by the RAB or the police were summary executions, no perpetrators were convicted.

enforcement agencies⁷. One of the contributing factors was the fact that despite its Constitutional prohibition, torture is not a criminal offence under Bangladeshi law. Torture also remained routine in remand detention. In addition, despite the widespread and well-known practice, Magistrates continued to admit statements from accused persons held in remand detention. The Border Security Force (BSF) of India also continued to commit human rights violations, including killings, abductions and torture and other forms of violence along the India-Bangladesh border. The BSF also frequently conducted operations deep in Bangladeshi territories. Yet, these concerns were not raised by Prime Minister Sheikh Hasina during her official visit to India in January 2010⁸.

In 2010-2011, the space for freedom of opinion and expression continued to shrink as attacks on and harassment of journalists by supporters of political parties, closure of and restrictions placed on newspapers and TV stations remained widespread.

On April 26, 2010, the Government approved the amendments to the Anti-Corruption Commission (ACC) Act of 2004, which was tabled in the Parliament on February 28, 2011. The amendments, if adopted in their current form, risk increasing political and administrative corruption, since the Government's prior permission would be necessary for filing a case against Government officials. Furthermore, the proposed amendments would significantly strengthen the Government's control over the Commission, since it would become accountable to the President and the Secretary of the ACC would be appointed by the Government⁹. However, on a positive note, Bangladesh ratified the Rome Statute of the International Criminal Court (ICC) on March 22, 2010¹⁰. The Cabinet also ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC) on April 11, 2011, but the Government had yet to deposit the instrument of ratification with the United Nations as of the end of April 2011.

Reprisals against journalists denouncing corruption and human rights violations

Journalists exposing cases of corruption and denouncing human rights violations continued to suffer severe consequences, including judicial

7/ According to Odhikar, in 2010, 67 persons had been tortured by various law enforcement agencies. See Odhikar, *Human Rights Report*, January 1, 2011.

8/ See Odhikar, *Human Rights Monitoring Report on Bangladesh, January 1-31, 2010*, February 1, 2010.

9/ See Odhikar, *Human Rights Monitoring Report on Bangladesh, January 1 - March 31, 2011*, April 1, 2011.

10/ See Odhikar Press Statement, March 22, 2010.

harassment, torture and ill-treatment. In particular, the daily newspaper *Amar Desh*, which regularly reports on corruption cases and is critical of the Government, and its staff members were targeted by the police and the judiciary. On June 1, 2010, the press office of *Amar Desh* was raided by armed forces, and declared closed. This harassment followed the publication of reports on cases of corruption of high-ranking Government officials as well as of sensitive and undisclosed sections of a Government-appointed investigation committee report on violations committed by the Bangladesh Rifles¹¹. On June 2, 2010, agents of the Tejgaon police station entered the *Amar Desh* offices, arrested Mr. **Mahmudur Rahman**, *Amar Desh* Acting Editor, and charged him under Sections 419, 420 and 500 of the Code of Criminal Procedure for “cheating by impersonation”, “dishonestly inducing delivery of property” and “defamation”. The Tejgaon police station also filed a case against Mr. Rahman as well as against *Amar Desh* Deputy Editor Mr. **Syed Abdal Ahmed**, Assistant Editor Mr. **Sanjeeb Chowdhury**, City Editor Mr. **Jahed Chowdhury**, reporter **Alauddin Arif** and the office assistant **Saiful Islam**, as well as 400 unnamed people for, *inter alia*, “obstructing Government officials to perform their duties” during Mr. Rahman’s arrest, under Sections 143, 342, 332, 353, 186, 506, 114 of the Criminal Code. As of April 2011, the investigating officer had not submitted the charge sheet yet and Messrs. Syed Abdal Ahmed, Sanjeeb Chowdhury, Jahed Chowdhury, Alauddin Arif and Saiful Islam had to appear before the court every month as the case remained under investigation. On June 6, 2010, another case was filed against Mr. Rahman for, *inter alia*, “obstructing Government officials to perform their duties” under Sections 143, 186, 332, 353, 225B/34 of the Criminal Code, while he was already in custody. Moreover, on June 8, 2010, the Magistrates Court No. 7 issued another four-day detention period against Mr. Mahmudur Rahman for “printing banned leaflets” under Section 6(1) of the Anti-Terrorism Act 2009, as well as an additional four-day detention period for “conspiring against the State” on the basis of a case lodged under Sections 121A (“waging war or attempting to wage war against the State”), 124A (“sedition”) and 114 (“abettor present when offence is committed”) of the Criminal Code, leading to a total remand period of twelve days. Furthermore, on the night of June 10, five or six men entered Mr. Rahman’s cell and removed his clothes, and then proceeded to hit him so hard that he lost consciousness. On June 12, 2010, Mr. Rahman was brought before the Magistrates Court where he reported that he was subjected to acts

11 / The Bangladesh Rifles are paramilitary forces that deal with security matters at the borders of the country.

of inhuman and degrading treatment while in detention¹². On the same day, Mr. Rahman was remanded for four days under the Anti-Terrorism Act. On June 24, 2010, the Magistrates Court ordered Mr. Mahmudur Rahman's transfer to the Dhaka central jail. On August 19, 2010, the Appellate Division of the Supreme Court sentenced him to six months of imprisonment for "gross contempt of court" for having published a report on April 21, 2010 that criticised the role of the Attorney General's office for placing false submissions about some cases, and fined him for 100,000 taka (about 1,130 euros). On the same day, the Court also sentenced Mr. **Oliullah Noman**, staff reporter of *Amar Desh*, and Mr. **Hashmat Ali**, publisher of the same newspaper, to fines of 10,000 taka (about 113 euros) for "contempt of court" in relation to their responsibility in the publication of the report. Moreover, Mr. Noman was sentenced to one month imprisonment. On March 17, 2011, Mr. Mahmudur Rahman was released on bail from the Gazipur district jail after having served nine and a half months in prison but remained prosecuted for 49 cases under numerous charges including "defamation", "sedition" and several offences defined in the Anti-Terrorism Act 2009. On March 28, 2011, Mr. Mahmudur Rahman, who was scheduled to appear before two different courts - the Chief Metropolitan Magistrate's Court of Dhaka and the District Court of Gopalganj, located at a distance of 250 km from each other - on "defamation" and "cheating" charges, under Section 420, 469, 500, 501 and 34 of the Criminal Code, in relation to articles published in *Amar Desh*, appeared at Dhaka while his lawyer appeared before the Gopalganj Court and applied for the postponement of the trial and displayed the documents related to the Dhaka Court's summon. The Judge in Gopalganj rejected the application and issued an arrest warrant against Mr. Mahmudur Rahman, who was subsequently granted bail. During the same hearing, the Judge in Gopalganj also issued arrest warrants against Messrs. **H. M. Mehedi Hasnat**, correspondent of the *Dainik Destiny* in Kotalipara, and **Jahangir Hossain Sheikh**, Acting Editor of the weekly *Matrimukti*, in relation to a report published in *Amar Desh* on April 4, 2010 alleging that some Awami League leaders and their relatives had been involved in war crimes committed in 1971. Both were subsequently released on bail¹³.

Journalists were also victims of physical attacks and threats for reporting on human rights issues. For instance, on February 23, 2010, Mr. **Khalilur Rahman Sumon**, a human rights defender with Odhikar and staff member

12/ Mr. Rahman lost weight and suffered from pain due to the acts of ill-treatment suffered while in custody. For instance, on June 23, he was kept blindfolded and handcuffed to the window bar of a small room for ten hours.

13/ On August 2, 2011, the case was withdrawn by the complainant.

of the *Daily Probaho*, was stabbed and severely wounded by a group of unknown persons as he was returning home from his office. Two unidentified persons grabbed him close to the Bangobashi school at Khalishpur, while a group of seven or eight persons blindfolded him and stabbed him in the chest. On February 27, 2010, Mr. Khalilur Rahman Sumon lodged a complaint with the local police, which submitted its final report in December 2010¹⁴. On February 23 and 26, 2010, Mr. **Nurul Kabir**, Editor of the newspaper *New Age* well-known for covering human rights issues, in particular abuses committed by law enforcing agencies, and who published many articles on the misuse of power, corruption and torture against various intelligence agencies, received threats by phone from an unknown person who identified himself as “Mamun”. He was threatened with dire consequences for himself and his family if he continued “to write and speak against terrorism and violence”. Mr. Kabir filed a general diary at the police station. However, the police only recorded his complaint and no investigation was carried out¹⁵.

Repression of human rights defenders and NGOs denouncing violations committed by security forces

Human rights defenders and organisations continued to be subjected to various acts of harassment, including killings, in 2010-2011 when denouncing human rights violations committed by security forces. Indeed, on March 15, 2010, Mr. **Abdullah Al Farooq**, a lawyer and human rights defender with Odhikar, who provided legal support to the poor victims and was very much vocal in the Bar Association against injustices and corruption, was killed by unknown persons. Mr. Al Farooq was on his way home from a meeting with a senior lawyer when he was stabbed. As of April 2011, the investigation had not been completed yet¹⁶. On March 22, 2010, an exhibition organised by Drik Gallery highlighting the crossfire killings committed by RAB was closed down by the police on March 22, 2010, before being later allowed to reopen by a decision of the High Court on March 29, 2010¹⁷. Moreover, the human rights NGO Odhikar contin-

14 / When the police do not get any evidence, clue, witness in relation to a specific case, they submit a final report to the Court after investigation. It means the case has no more valid reason to continue and the case will subsequently be closed if the Court approves the final report. However, the case can be re-opened and re-investigated if the complainant submits an objection petition against the final report claiming that the police did not properly investigate the case and was biased. In the case of Mr. Khalilur Rahman Sumon, no witness was found during the investigation and he did not submit any objection petition against the police final report. See Odhikar, *Human Rights Monitoring Report on Bangladesh, February 1-28, 2010*, March 1, 2010.

15 / See Odhikar, *Human Rights Monitoring Report on Bangladesh, February 1-28, 2010*, March 1, 2010.

16 / See Odhikar, *Human Rights Monitoring Report on Bangladesh, January-March 2010*, April 1, 2010.

ued to face serious obstacles in carrying out its activities, as Bangladeshi authorities decided to cancel several of its proposed human rights projects. On February 11, 2010, the NGO Affairs Bureau (NGO-AB) under the Prime Minister's office refused to give permission for the extension until March 31, 2010 of a project entitled "Human Rights Defenders Training and Advocacy Programme in Bangladesh", based on a previous objection from the Ministry of Home Affairs¹⁸. Similarly, on July 7 and 12, 2010, two projects funded by the Finnish NGO Foundation for Human Rights (KIOS) and the Embassy of the Kingdom of the Netherlands respectively on human rights documentation in Bangladesh were submitted to the NGO-AB. After submission, the NGO-AB sent a number of queries to Odhikar for clarification, to which Odhikar duly submitted responses. The NGO-AB then sent the proposals to the Ministry of Home Affairs and the National Human Rights Commission (NHRC) for their opinion on September 9 and 27, 2010. The Home Ministry asked the National Security Intelligence (NSI) and the Special Branch of police to investigate the matter. On December 28, 2010, Odhikar also submitted a request to the NGO-AB for approval of a EU-funded project aiming at campaigning to criminalise torture under the laws of Bangladesh, creating awareness about the Convention Against Torture (CAT) and its Optional Protocol through monitoring and policy advocacy, and to improve the human rights situation of Bangladesh. Although according to its Rules of Business, the NGO-AB has to make a decision on a proposed project within 45 days after the reception of all relevant information, and that after it has examined the project proposal; the Bureau sends it to the relevant Ministry, which has 21 days to provide its comments regarding the project, as of April 2011, the NGO-AB had yet to give its approval, despite the numerous clarifications that Odhikar made to the Bureau's queries. The officials from the Special Branch of police and NSI also visited Odhikar and collected information about Odhikar and its Executive Committee members and the organisation's previous activities.

Meanwhile, Odhikar members came under close scrutiny by the authorities and continued to be harassed by the security forces and the intelligence apparatus. For example, on October 5, 2010, a person, who identified himself as a policeman from the Special Branch, approached the gate of the building housing Odhikar's offices and requested entry, but was turned away by the security guard. A second person, who asked after Mr. **Adilur Rahman Khan**, Odhikar Secretary and a member of OMCT General Assembly, was similarly turned away. A third person, who also

identified himself as an officer of the Special Branch, finally gained access to Odhikar's offices and told its Director, Mr. **Nasiruddin Elan**, that his superior wanted to talk to him. On October 6, 2010, two persons from the City Special Branch (Gulshan zone) again wanted to access Odhikar's offices but they were closed. On October 7, two officers from the City Special Branch visited Odhikar again and enquired about Mr. Adilur Rahman Khan, requesting to receive his CV, passport details and information about his political background. Mr. Khan refused to cooperate since the officers were not in possession of a valid warrant. On October 9, the Additional Superintendent of the police of the City Special Branch invited Mr. Khan to a meeting at his office in order to "develop a relationship". This was again refused by Mr. Khan. On October 23, 2010, Mr. Nasiruddin Elan went to the Munshiganj NSI office and was questioned about his political views and was informed that the current investigation was carried out upon order from "higher officials". On November 3, 2010, while checking on the status of one of Odhikar's projects in a Government office, Mr. Nasiruddin Elan was warned that "the government was extremely annoyed" with Odhikar; that the Secretary of Odhikar should "take care when travelling"; and that Odhikar's offices were constantly monitored by the Special Branch. Odhikar received further phone calls and visits from the Special Branch of the police on December 25 and 26, 2010.

Obstacles to freedom of peaceful assembly

Freedom of peaceful assembly continued to be hampered in 2010-2011. For instance, in July 2010, a peaceful demonstration that was organised in favour of workers' rights was violently dispersed by the police. Following a growing social unrest in June 2010 among garment factory workers, who suffer from harsh living conditions due to extremely poor wages that barely allow them to ensure the survival of their families, the Governmental Committee on the Minimum Wage decided on July 27, 2010 to raise minimum wages by 80% up to 3,000 taka per month (about 34 euros), a decision that was officially announced on July 29 by the Labour and Employment Ministry. However, workers considered this minimum wage insufficient and demanded a raise up to 5,000 taka (about 56 euros). On July 30 and 31, 2010, following the Labour and Employment Ministry's announcement, the textile workers expressed their extreme discontent by demonstrating in the streets, when the police forces reportedly fired tear gas on the demonstrators and brutally charged at them. Several protesters and union leaders were arrested, including union leaders Ms. **Kalpona Akter**, Secretary General of the Bangladesh Centre for Worker Solidarity (BCWS), Mr. **Babul Akhter**, BCWS Law and Research Secretary, and Mr. **Aminul Islam**, also a member of the BCWS, who were all accused of "inciting workers unrest during the protests". On September 10,

2010, they were released on bail from the Dhaka central jail but, as of April 2011, the charges against them remained pending. Moreover, on June 3, 2010, the NGO-AB cancelled the non-governmental license of the BCWS, thus depriving it of its legal right to operate in the country. The bank account of the institution was closed, following an order issued by the Director General of the NGO-AB¹⁹. Furthermore, as of April 2011, Messrs. **Ashish Koroa** and **Prince Mahmud**, two leaders of the cultural organisation “Lampost”, remained prosecuted under Sections 352 and 232 of the Criminal Code (“punishment for assault or criminal force otherwise than on grave provocation” and “counterfeiting Bangladesh coin”). Messrs. Koroa and Mahmud had been arrested on July 5, 2009 for taking part in a peaceful protest in front of the Indian High Commission to demand the cessation of the construction of the Tipaimukh dam at Monipur, India, as this will affect Bangladesh’s environment. The demonstration also aimed at protesting against police abuses at Lalgar²⁰, India, along with human rights violations and interference of India in Bangladeshi politics. The baton-charge of the police left around thirty people, both men and women, injured. Although Messrs. Ashish Koroa and Prince Mahmud were subsequently released on bail, the case has since then remained pending against them. Since February 22, 2010, when the charges against them were framed, six hearings have taken place. Yet, the prosecution failed to produce any witness. The next hearing was to take place on August 23, 2011.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Odhikar	Obstacles to freedom of association	Open Letter to the authorities	February 18, 2010
Odhikar / Mr. Adilur Rahman Khan	Harassment / Surveillance	Urgent Appeal BGD 001/0311/OBS 039	March 22, 2011
Amar Desh / Messrs. Mahmudur Rahman, Syed Abdal Ahmed, Sanjeeb Chowdhury, Jahed Chowdhury, Alauddin Arif and Saiful Islam	Arbitrary detention / Closure of newspaper / Judicial harassment / Ill-treatments	Urgent Appeal BGD 001/0610/OBS 075	June 15, 2010
	Ongoing arbitrary detention / Judicial harassment / Ill-treatment	Urgent Appeal BGD 001/0610/OBS 075.1	July 1, 2010

19 / On July 17, 2011, the NGO-AB issued a letter saying that Ms. Kalpona Akter and Mr. Babul Akter would have to be removed for the organisation and, as a consequence, the Social Welfare Department rejected BCWS’s registration on July 31, 2011, adding that “from now on the BCWS should be abolished”, since BCWS could not submit its annual report for 2010 to the Department.

20 / Lalgar is an area in the West Bengal State of India where radical left activists have developed a movement on land rights issues and the West Bengal State Government with the support of the Central Government had unleashed atrocities against the local people of Lalgar.

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Mahmudur Rahman, Oliullah Nomana and Hashmat Ali	Release on bail / Judicial harassment	Urgent Appeal BGD 001/0610/OBS 075.2	March 21, 2011
Messrs. Mahmudur Rahman, H. M. Mehedi Hasnat and Jahangir Hossain Sheikh	Judicial harassment	Urgent Appeal BGD 001/0610/OBS 075.3	April 8, 2011
Ms. Kalpona Akter and Messrs. Babul Akhter and Aminul Islam	Harassment	Open Letter to the authorities	August 20, 2010

BURMA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010-2011, human rights defenders continued to face harsh repression. Many remained detained in very harsh conditions, as they were subjected to torture and forced labour, and denied medical treatment, which led to the death of at least one human rights defender in May 2010. In particular, the crackdown on trade unionists, land rights activists, lawyers who provided legal assistance to political prisoners as well as on individuals active in relief efforts in the aftermath of Cyclone Nargis, continued unabated.

Political context

2010 was largely dominated by the first national elections in twenty years in Burma, which were held on November 7, 2010. Yet, it is estimated that at least 1.5 million voters were excluded from the electoral process – largely on ethnic basis¹. The pre-election period, election day, and the post-election period were marred by restrictions as well as widespread repression and human rights abuses². Concerns were raised about restrictions in terms of campaigning, registration, freedoms of expression and assembly, limited access to the media and lack of free and balanced reporting³. Additionally, Directive 2/2010 which was issued on June 23, 2010, prohibited most activities related to electoral campaigning, including the holding of flags, chanting slogans, and walking to and from assembly

1/ On March 9, 2010, the Political Parties Legislation Law was enacted, which bars monks, nuns, leaders of other religions, civil servants and political prisoners, among others, from participating in the elections. On September 16, 2010, the regime announced that voting would be cancelled in approximately 3,400 villages in ethnic nationality areas, supposedly due to security concerns. See Assistance Association for Political Prisoners (AAPP) Report, *Silencing dissent: The ongoing imprisonment of Burma's political activists in the lead up to the 2010 elections*, November 2010.

2/ The elections were considered as not having met internationally accepted standards. See Declaration by Catherine Ashton on behalf of the European Union (EU) on the elections in Burma/Myanmar, November 7, 2010 and EU Council Conclusions on Burma/Myanmar, April 12, 2011. The EU Council concluded that the general elections were not free, fair or inclusive, but considered that they may provide the potential for peaceful change and greater pluralism. The EU also decided to renew the sanctions against Burma for an additional twelve months, while at the same time pledging to closely monitor developments and adjust measures if necessary.

3/ See UN General Assembly Report, *Situation of human rights in Myanmar, Report of the Secretary-General*, UN Document A/65/367, September 14, 2010. The Human Rights Council considered the elections a “missed opportunity” and expressed its concerns about the lack of independence of the electoral commission and the restrictions imposed by electoral laws. See Human Rights Council Resolution, UN Document A/HRC/16/24, March 25, 2011.

venues⁴. Serious restrictions were introduced on the media, which were prohibited from publishing interviews with various opposition figures, as well as commenting on electoral laws and the 2008 Constitution. International observers and media representatives were also barred from following the electoral process on election day. In light of the restrictive electoral laws and a Constitution that effectively guarantees military dominance for the new Government, the largest opposition party, the National League for Democracy (NLD), and the second-largest vote winner in the 1990 elections, the Shan Nationalities League for Democracy (SNLD), decided to boycott the elections⁵. The military-backed Union Solidarity and Development Party (USDP)⁶ took 80% of the parliamentary seats. On November 13, six days after the elections, Daw Aung San Suu Kyi, General Secretary of the NLD, was released after spending seven years under house arrest.

The new military-dominated Parliament held its first meeting on January 31, 2011 and subsequently elected high-ranking officials from the former ruling State Peace and Development Council (SPDC) to Burma's top political offices, ensuring the continued dominance of the political system by the same group of people who ruled Burma for the past decades. Human rights abuses committed under the previous regime continued unabated. Extrajudicial killings, forced labour, torture, rape and recruitment of child soldiers were still committed in Burma with total impunity.

Individuals continued to be subjected to imprisonment on political grounds and without being accorded the right to a fair trial and due process, such as legal representation and open trials⁷. Incommunicado detention as well as torture and ill-treatment remained rampant in Burma's prisons and detention centres⁸. Conditions in prisons were also very poor, lacking in hygiene and often not providing adequate nutrition and medical care to prisoners. Many political prisoners were kept in remote locations far away from their hometown, making it extremely difficult for family members to

4/ See AAPP Report, *Silencing dissent: The ongoing imprisonment of Burma's political activists in the lead up to the 2010 elections*, November 2010.

5/ The NLD was dissolved on May 7, 2010, after it failed to re-register as a political party within the deadline imposed by the Election Commission. On September 14, the Election Commission officially confirmed the dissolution of the NLD.

6/ USDP was formed in April 2010 by Prime Minister (and former General) Thein Sein and 27 other SPDC cabinet ministers.

7/ See AAPP Report, *Silencing dissent: The ongoing imprisonment of Burma's political activists in the lead up to the 2010 elections*, November 2010.

8/ See AAPP Reports, *Torture, Political Prisoners and the Un-rule of Law: Challenges to Peace, Security and Human Rights in Burma*, as well as *Silencing dissent: The ongoing imprisonment of Burma's political activists in the lead up to the 2010 elections*, October and November 2010.

deliver food and medicine. As of April 2011, a general amnesty for political prisoners had yet to take place and over 2,000 of them remained detained⁹, despite repeated calls by the international community.

Relations with UN human rights mechanisms remained strained throughout the reporting period. In particular, the Special Rapporteur on the Situation of Human Rights in Myanmar, Mr. Tomás Ojea Quintana, has been denied access to the country since February 2010. On March 26, 2010, the Human Rights Council adopted a resolution calling for the release of all political prisoners, to ensure a free, transparent and fair electoral process and to lift the restrictions on freedoms of assembly, association, movement and expression¹⁰. A similar resolution was adopted on March 25, 2011, which strongly condemned the ongoing systematic violations of human rights and fundamental freedoms which also forced thousands of people to seek refuge in neighbouring countries¹¹. The human rights record of Burma was examined in the framework of the Universal Periodic Review (UPR) mechanism of the Human Rights Council in January 2011, during which Burma denied there were any political prisoners and rejected seventy recommendations¹².

Targeting of trade unionists and land rights activists

In 2010-2011, trade unionists continued to be subjected to arbitrary detention and harsh sentences. As of April 2011, Mr. **Bo Min Yu Ko**, aka **Phyo Gyi**, a member of the Mandalay branch of the All Burma Federation of Student Unions (ABFSU), the largest national student organisation, outlawed by the regime, remained detained in Mandalay. Arrested in September 2008, he was sentenced on January 3, 2009 to a total of 104 years of imprisonment by the Obo Prison Court in Mandalay. Moreover, on May 21, 2010, with his first sentence set to expire in one year, Mr. **Kyaw Ko Ko**, a leader of ABFSU, received an additional five-year jail sentence

9 / According to AAPP, as of December 31, 2010, there were 2,189 political prisoners in Burma. See AAPP Report, *AAPP 2010 Annual Report: Political Prisoners in Burma*, 2011.

10 / See Human Rights Council Resolution, UN Document A/HRC/13/25, March 26, 2010.

11 / See Human Rights Council Resolution, UN Document A/HRC/16/24, March 25, 2011.

12 / On the recommendations proposed, the Government accepted, among others, calls for the ratification of the core international human rights instruments; to bring the judiciary in line with international standards; to cooperate effectively with Human Rights Council special procedures and mechanisms; to end and prohibit torture, forced labour and child labour; and to undertake further efforts to prevent the use of child soldiers and demobilise existing ones. The seventy recommendations rejected were calling, among others, to take immediate steps to end continuing violations of international human rights law; to amend the Constitution to bring it in line with international human rights standards; or to repeal Article 445 of the Constitution that effectively grants immunity to military and State officials even for criminal offences. See Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Myanmar*, UN Document A/HRC/17/9, March 24, 2011.

by a Rangoon's Kyauktada Township Court for "unlawful association" and "subversion", which according to his defence lawyer, he was alleged to have committed during the monks' protests in 2007. Mr. Kyaw Ko Ko was arrested in March 2008 along with Mr. **Nyan Linn Aung**, another leader of ABFSU. Both men were sentenced on February 9, 2009 to three years of imprisonment each by Rangoon Mingalar Taung Nyunt Township Court for "possessing illegal videos" of the 1988 uprising under the Video Act, which regulates uncensored videos. As of April 2011, Messrs. Kyaw Ko Ko and Nyan Linn Aung remained detained in Taunggyi prison. As of April 2011, Ms. **Su Su Nway**, a labour activist and a member of the youth wing of the NLD, also remained detained in Hkamti prison. Arrested in November 2007 during a UN visit to Myanmar to investigate the September 2007 crackdown, after attempting to put up leaflets near the hotel where a UN investigator was staying, she was sentenced on November 11, 2008 to twelve years and a half in prison¹³.

Land rights activists also continued to face repression in 2010-2011. As of April 2011, Mr. **Ko Zaw Htay** remained detained in Thayet prison. On January 23, 2009, Mr. Ko Zaw Htay was found guilty of giving out official secrets and sentenced by Magwe Township Court to ten years in prison on charges of "leaking sensitive information", for taking video footage of army-confiscated land and sending it abroad in order to help farmers in Natmauk township, Magwe division, to lodge complaints before the International Labour Organisation (ILO) on the seizure of more than 5,000 acres of land by the military. On a positive note, on March 5, 2010, Mr. **Pho Phyu**, a labour rights lawyer who had assisted farmers whose land had been forcibly seized by the army, was released from prison after his sentence was reduced to one year imprisonment following pressure by the ILO. Yet, shortly after his release, he received a notice that his licence had been revoked. He had been arrested on January 15, 2009 and sentenced to a four-year imprisonment on March 17, 2009 after representing labour activists detained for reporting the seizure of farmland to the ILO¹⁴. On August 24, 2010, Messrs. **Myint Maung** and **Thura Aung**, two activists who had assisted farmers in central Burma in filing legal proceed-

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

14/ Following the ILO Liaison Office in Rangoon intervention, on February 17, 2010, the Magwe Divisional Court reduced to four months the initial jail terms against the eleven arrested farmers who had complained to the ILO over land confiscation by the regime. They were all released from Thayet prison, as they had already served more than four months in pre-trial detention.

ings against the seizure of their farmlands by local industry, were released from Thayet prison after winning an appeal through the Central Court in Mandalay division, which reduced their sentences to six months and one year, respectively. Mr. Myint Maung had been sentenced in December 2009 to two years in prison under section 427 of the Criminal Code, while Mr. Thura Aung had been given seven years in late 2008 under section 6 (1) of the Public Property Protection Act¹⁵.

Moreover, on June 23, 2010, Mr. Pho Phyu and six others labour rights activists were summoned by the Rangoon police chief and told that their request to form an independent labour union had been rejected, with officials from the Burmese Government's Labour Department reportedly citing "international law". He added that Rangoon authorities had said that if, following the rejection, the group published any manifesto or other written material, then they would be charged under Burma's draconian Press Law¹⁶.

Ongoing arbitrary detention of relief workers assisting Cyclone Nargis victims

As of April 2011, a dozen of individuals who were arrested in 2008 for carrying out relief activities in the Irrawaddy delta following the passage of Cyclone Nargis remained under detention, including Mr. **Nyan Tun**, who was given a fourteen years' imprisonment sentence in September 2008 and remained detained in Tharawaddy prison, Mr. **U Thura**, aka **Zarganar**, prominent comedian, film director and activist, who remained detained in Myitkyina prison in Kachin State, in the country's far north, where he was transferred in December 2008¹⁷, as well as Ms. **Phyo Phyo Aung** and Messrs. **Aung Thant Zin Oo** and **Shein Yarza Tun**. The three were arrested in June 2008 along with Ms. Phyo Phyo Aung's father, Dr. **Nay Win**, and Messrs. **Aung Kyaw San** and **Phone Pye Kywe** for organising to collect bodies of Cyclone Nargis victims for burial, and had started an organisation called "The Group that Buries the Dead". On April 10, 2009, the six relief workers were sentenced by a special court in Insein prison to jail terms ranging from two to four years¹⁸. In January 2011, Dr. Nay Win and Messrs. Aung Kyaw San and Phone Pyae Kywe were released¹⁹.

15/ See APPP Monthly Chronology of Burma's Political Prisoners for August 2010.

16/ See APPP Monthly Chronology of Burma's Political Prisoners for June 2010.

17/ On February 13, 2009, he was granted a 24-year reduction of his original 59-year sentence by Rangoon Divisional Court.

18/ Messrs. Aung Thant Zin Oo and Shein Yarza Tun and Ms. Phyo Phyo Aung were sentenced to four years each, while Dr. Nay Win and Messrs. Aung Kyaw San and Phone Pye Kywe were sentenced to two years each.

19/ See APPP Monthly Chronology of Burma's Political Prisoners for January 2011.

Furthermore, on February 17, 2010, Mr. **U Ghawthita**, a Buddhist monk who was active in relief efforts for Cyclone Nargis victims, was sentenced by the Rangoon Western District Court to seven years of imprisonment for “meeting and obtaining support from anti-Government groups in Thailand”. He had been arrested at Rangoon airport on August 26, 2009 upon his return from a missionary tour in Thailand. As of April 2011, he remained detained in Yamethin prison²⁰.

Harsh conditions of detention of defenders in prison, leading to the death of one defender

Human rights defenders who are arbitrarily detained in Burmese prisons face very harsh conditions of detention, including torture and the denial of food and medical treatment. In some cases, this led to the tragic death of prisoners. Many died from curable diseases such as diarrhoea, tuberculosis or malaria. On May 19, 2010, Mr. **Ko Kyaw Soe**, a member of the Human Rights Defenders and Promoters Network (HRDP), passed away in Myingyan prison hospital, at the age of 39, due to prolonged ill-treatment in custody and the denial of medical treatment for respiratory problems. Mr. Ko Kyaw Soe had been arrested on September 17, 2007 and sentenced to ten years in prison on November 11, 2008 under Article 17.1 of the Unlawful Association Act, Article 13.1 of the Immigration Act and Article 505.B of the Criminal Code. He was tortured during interrogation, reportedly beaten, burnt with cigarettes and electrocuted. In Myingyan prison, he suffered from a respiratory disease and stomach problems. When his relatives had requested the prison authorities to buy him appropriate medicine, authorities replied that they were taking care of him adequately and carefully²¹. Furthermore, in November 2010, when detained human rights defender Ms. **Sanda** complained about the conditions of her detention, she was transferred to Putao prison, in Kachin State, 1,150 miles from her family. Ms. Sanda was arrested in May 2010 after she raised concerns at Twante township hospital after witnessing a car accident where a woman did not receive necessary medical treatment due to the absence of medical staff. On May 7, 2010, she was sentenced to one year and six months in prison under Article 353 of the Criminal Code in relation to her complaint. In detention, Ms. Sanda’s health declined severely²².

20/ See AAPP Monthly Chronology of Burma’s Political Prisoners for February 2010.

21/ See AAPP Press Release, May 19, 2010.

22/ See AAPP Report, *AAPP 2010 Annual Report: Political Prisoners in Burma*, 2011.

CAMBODIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010-2011, the space for civil society continued to shrink, with increased limitations on the freedoms of opinion, expression and peaceful assembly, in particular through unfair and illegitimate judicial proceedings. Human rights defenders operating in an increasingly restrictive legal environment, found it extremely difficult and risky to denounce human rights abusers and bad practices, while peaceful demonstrations were prevented or violently dispersed. Also, acts of intimidation continued. In addition to NGO members, many trade union leaders, land rights activists, community leaders and journalists faced fierce retaliation for documenting and denouncing abuses.

Political context

The year 2010 and early 2011 were marked by a deterioration of the situation of human rights in Cambodia, confirming the negative trend witnessed in previous years. The political space indeed considerably narrowed, with the Government increasing harassment of its critics. Democratisation has not yet fully taken root in the country and there was a further drift towards a *de facto* one party system¹. Corruption was still widespread and systematic, affecting all public institutions and the functioning of most public services². Cambodia remained accordingly one of the most corrupt countries in Asia³.

Illegal land confiscations and forced evictions continued. The use of military police by companies with connections to high-ranking Government officials to forcibly evict villagers, remained a common practice and featured prominently in land grabbing cases, leaving over 2,500 families at risk of losing their homes or livelihood during the first quarter of 2010⁴. Land conflicts with indigenous peoples also continued, with the Government

1/ See Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in Cambodia*, UN Document A/HRC/15/46, September 16, 2010 and European Parliament Resolution No. RSP/2010/2931 on Cambodia, October 21, 2010.

2/ See Committee Against Torture (CAT), *Concluding observations of the Committee Against Torture*, UN Document CAT/C/KHM/CO/2, January 20, 2011.

3/ See Transparency International Corruption Perceptions Index 2010.

4/ See Cambodian League for the Protection and Defence of Human Rights (LICADHO) Statement, April 2, 2010.

granting concessions to companies in territories inhabited by indigenous groups or designated as national parks⁵.

The first judgement of the Extraordinary Chambers in the Courts of Cambodia (ECCC) was delivered on July 26, 2010 in the case of Mr. Kaing Guek Eav, aka “Duch”, who supervised the systematic torture and execution of thousands of prisoners at the S-21 detention centre in Phnom Penh during the Khmer Rouge regime, and four former Khmer Rouge leaders were indicted by the ECCC on September 16, 2010. However, concerns relating to the lack of independence and effectiveness of the ordinary courts in Cambodia increased, with various United Nations (UN) actors expressing strong concerns⁶. In particular, corruption and political interference appeared to affect the functioning of the judicial bodies at a very significant level and the courts continued to be used as an organ of repression, including to silence dissent voices. As a result, accountability for human rights violations was frequently not established and impunity remained widespread.

Furthermore, relations with the UN came under significant strain during 2010. The Government threatened to expel the UN Resident Coordinator after he released a statement on March 10, 2010 calling for a more transparent and participatory process on the draft Anti-Corruption Law. Similarly, in October 2010, Prime Minister Hun Sen, in a meeting with UN Secretary General Ban Ki-moon, demanded the removal of the top UN human rights official in Cambodia, and stated that the Government intended to force the closure of the country office of the High Commissioner for Human Rights (OHCHR). This came after a strong criticism by the Country Representative of the OHCHR regarding the deportation of two Thai citizens in June 2010⁷.

5/ To that extent, in its concluding observations adopted on April 1, 2010 following the examination of the 8-13th Periodic Report of Cambodia, the Committee on the Elimination of Racial Discrimination (CERD) expressed its concern at reports of intimidation and acts of violence against indigenous peoples during forced evictions or land disputes. CERD also found it worrisome that there appears to be a widespread tendency to press charges against indigenous peoples and arrest them when they protest against their forced eviction or contest the granting of a concession on indigenous land. See CERD, *Concluding Observations of the Committee on the Elimination of Racial Discrimination - Cambodia*, UN Document CERD/C/KHM/CO/8-13, April 1, 2010.

6/ See CAT, *Concluding Observations of the Committee Against Torture - Cambodia*, UN Document CAT/C/KHM/CO/2, January 20, 2011 and CERD, *Concluding Observations of the Committee on the Elimination of Racial Discrimination - Cambodia*, UN Document CERD/C/KHM/CO/8-13, April 1, 2010.

7/ In April 2011, the UN Resident Coordinator eventually left his post but the OHCHR country office keeps functioning.

On the other hand, Cambodia accepted in March 2010, all 91 recommendations stemming from the Universal Periodic Review process of the UN Human Rights Council, including recommendations to strengthen efforts to protect freedom of expression and the right of all human rights defenders to conduct their work without hindrance or intimidation, including by safeguarding freedoms of assembly and association. Other recommendations suggested that a policy be developed to protect human rights defenders and that the work of NGOs and other civil society groups be facilitated⁸. The country also acceded to the UN Optional Protocol of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in October 2010.

Legislative reforms restricting the environment for human rights activities

In 2010, the adoption of ill-defined and restrictive laws gave rise to further concerns as they could potentially undermine Cambodians' exercise of their fundamental rights and freedoms and human rights activities. Indeed, a number of provisions of those laws and bills pave the way for more arbitrary administrative and judicial harassment against human rights defenders. Furthermore, the drafting process was not transparent and the Government failed to genuinely and adequately consult civil society on these laws and bills.

Adoption of the Anti-Corruption Law

On March 11, 2010, the Anti-Corruption Law was hastily adopted, only seven days⁹ after the draft was released, severely limiting the opportunity for public consultation and comments from civil society organisations. The law entered into force in November 2010. Among the numerous concerns relating to the new law, is the lack of independence of the National Anti-Corruption Commission (NAC), which will be responsible for developing anti-corruption policies at the national level, and the Anti-Corruption Unit (ACU) within the Council of Ministers, which will be in charge of examining allegations of governmental corruption¹⁰. Neither the NAC

8 / Other recommendations related, among others, to the ratification of the remaining core international human rights instruments; ensuring the independence of the judiciary and completing the judicial reform; adopting a law against corruption; and allowing the visits of UN thematic special procedures mandate holders. See Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Cambodia*, UN Document A/HRC/13/4, January 4, 2010.

9 / Including one official holiday and a weekend.

10 / The eleven members of NAC, responsible for developing the anti-corruption strategy, are appointed by the King, the Senate, the Assembly and eight other Government institutions and are accountable to the Prime Minister. ACU operates under the supervision of the Council of Ministers, and manages day-to-day anti-corruption actions.

nor the AUC is required under the new law to release public reports on their activities and findings. Additionally, provisions relating to the protection of witnesses and whistle-blowers are vague and may put the latter in danger as they could face prosecution if their allegations are deemed to be false¹¹.

Entry into force of the Law on Peaceful Demonstration

In April 2010, the Law on Peaceful Demonstration, which had been promulgated in December 2009, entered into force. The broad terms of the law give to the authorities sweeping discretion to deny Cambodians permission to peacefully assemble and protest. The law is inconsistent with Cambodia's Constitution and international human rights obligations. It is worrisome since authorities often refuse to authorise demonstrations or delay granting authorisation until the eleventh hour, even though the letter of the law only contains notification requirements. It thus risks to be abused to silence critical voices.

Entry into force of the new Penal Code

The new Penal Code, adopted in October 2009, entered into force on December 10, 2010 and had an immediate effect on freedom of expression, by further reinforcing some already existing restrictions. Article 495 of the Code defines the act of incitement in a vague manner as sharing or exposing the public to speech, writings, drawings or audiovisual communications that could "directly result" in a crime being committed, or in "serious social unrest". Under this definition, the law does not actually require the incitement to be effective in order to be punishable. The law further allows for the criminal prosecution of peaceful expressions of opinion, which "affect the dignity" of individuals, public officials, government institutions and even companies. Questioning a court judgement may come within the ambit of the crime of "disturbing public order"¹². The provisions of the

11/ In particular, the law allows for whistle-blowers to be prosecuted if the allegations they raise are declared to be false by the anti-corruption body. This is a clear threat against anti-corruption initiatives and against NGOs and journalists working in this field. On November 9, 2010, the CAT expressed its concern that ACU had not yet taken any steps against alleged perpetrators of acts of corruption and was not yet fully operational. See CAT, *Concluding Observations of the Committee Against Torture - Cambodia*, UN Document CAT/C/KHM/CO/2, January 20, 2011.

12/ Article 523 makes it a separate crime to discredit judicial acts and decisions, in order to disturb public order or endanger Cambodian institutions. The distinction between a judicial act and a judicial decision is not defined, and the inclusion of both indicates a broad prohibition. Similarly, "disturbing public disorder" and "endangering Cambodian institutions" are both alarmingly vague phrases. The crime carries a potential prison sentence of one to six months, and a fine of 100,000 to one million riels (about 16 euros to 167 euros).

Code make it significantly more risky for civil society representatives to criticise corrupt officials or abusive police and military agents.

Release of the draft Law on Associations and NGOs

While its imminent adoption was announced by Prime Minister Hun Sen in September 2008, the text of the draft Law on Association and Non-Governmental Organisations (NGOs) was finally released by the Interior Ministry on December 15, 2010. While the Government has failed to provide an adequate answer as to why this new law is needed alongside other existing laws and regulations that govern civil society¹³, the draft confirmed that the intention of the Government is to control, rather than strengthen, civil society as it could too easily be used to refuse registration or close down organisations that displease the authorities. The draft law introduces compulsory registration for all associations and NGOs, banning any activity by groups that are not registered. It also places considerable bureaucratic and administrative requirements on them¹⁴, and appears to be the most serious threat to civil society in years. This may prove to be particularly problematic for unregistered community-based and grassroots NGOs and other types of informal associations operating in the country. The draft law also introduces intrusive reporting requirements for organisations and allows for wide discretionary power for Government officials, without any possibility of appeal against those decisions. The vague and ambiguous wording of certain provisions of the draft law also poses the risk of arbitrary implementation. A revised draft was released on March 24, 2011, however with only marginal changes.

Draft Law on Trade Unions

In January 2011, the second draft Law on Trade Unions was released, which was still under consideration at the Ministry of Labour as of April 2011. Although Prime Minister Hun Sen's Government alleges that the draft law aims at protecting trade union workers, the latter risks to further curtail trade union activities. In particular, it is feared that the Law, if adopted in its current form, would allow the Government to block

13/ In particular, the enactment of the 2007 Civil Code serves as an adequate legal framework to regulate both for-profit and non-profit entities based on voluntary registration, making the introduction of this new law unnecessary.

14/ A newly added clause allows the Government to remove applicants that fail to submit a bank statement within 30 working days of notification of registration from the registration list. Such a decision will disproportionately affect community-level groups. They will also be vulnerable to prosecution for carrying out legitimate activities without the proper legal status.

protests, imprison union leaders¹⁵, disband existing unions and prevent others from forming. The draft also allows trade unions to be dissolved by court order following complaints by a third party or the Government. It further foresees excessive fines and prison terms for union leaders in breach of regulations.

Acts of reprisals against trade union leaders

Acts of reprisals against trade union representatives continued unabated throughout 2010 and early 2011, while impunity for such acts were still widespread. In particular, the trade union movement remains shaken by the assassination of three leaders of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) in 2004 and 2007 – Mr. **Chea Vichea** (2004), Mr. **Ros Sovannareth** (2004) and Mr. **Hy Vuthy** (2007) –, all the more as their real assassins have yet to be brought to justice, and police investigations are at an apparent standstill. Moreover, on September 30, 2010, Mr. **Phao Sak**, a trade union representative for FTUWKC in Kampong Speu province, was severely beaten by unknown assailants. Mr. Sak had been involved in negotiations at the Generation International Company for factory workers to be granted bonuses for Pchum Ben Day. He was hospitalised after the attack and treated for head injuries. No suspect was arrested in connection with the case and the police denied that it was an attempted murder, with the Samrong Thong district police chief labelling it merely as “drunken altercation”¹⁶.

Trade union leaders also faced judicial harassment. For instance, on November 18, 2010, Mr. **Sous Chantha**, a trade union leader with the United Apparel Garment Factory, was stopped by military police officers close to the factory and searched. The officers produced nine packages of illegal drugs. Despite highly contradicting accounts of the incident, on November 19, the municipal court decided to place Mr. Chantha in pre-trial detention on charges of “drug trafficking” (Article 33 of the Law on the Control of Drugs). He has been held in pre-trial detention in CC1

15/ The draft Law on Trade Unions prohibits union leaders from a wide variety of ill-defined, broadly worded “unfair labour practices” under Articles 67 and 68. A “workers’ union, its officers, or representatives” must not: “violate the duty of good faith in collective bargaining, or refuse to bargain collectively with the employer”; “violate or cause to violate a collective bargaining agreement”; “agitate for purely political purposes or commit acts of violence at the workplace”; or “strike illegally”. Chapter 15, which describes the punishment for engaging in such unfair labour practices, uses the word “guilty” throughout, indicating an intent to impose criminal sanctions for such conduct. Violations of Article 68 could also potentially form the basis of a criminal prosecution under the new Penal Code for incitement (Article 495), which carries a prison sentence of up to two years.

16/ See LICADHO Report, *Freedom of Expression in Cambodia: The Illusion of Democracy*, December

prison since. He risks two to five years in jail¹⁷. The trial was scheduled to begin on June 24, 2011.

Furthermore, requests for peaceful demonstrations made by workers relating to labour issues were frequently denied by the authorities and police often resorts to excessive use of force to crack down on them. For instance, on July 27, 2010, approximately 3,000 workers were demonstrating for the reinstatement of a sacked union representative when police moved in with riot gear and assault rifles to disperse the peaceful demonstration. At least nine female garment workers of a factory owned by PCCS Garments were injured¹⁸. Authorities also cracked down on a demonstration organised on August 19, 2010 by workers of the Sunlee Fong factory in Phnom Penh, who demanded improved working conditions. Union leaders Messrs. **Ien Pao, Heng Bora and Nun Chamnan** later faced criminal charges of “incitement” and “destruction of private property”. If found guilty, they could be sentenced to up to five years in prison¹⁹. In September 2010, thousands of garment workers participated in a nationwide strike in a bid to increase minimum wages for garment workers. The first wave of the strike lasted for four days, from September 13 to 16, and was called to an end by union leaders after trade union representatives and employers were invited by the Ministry of Social Affairs, Veterans and Youth Rehabilitation for a meeting to discuss their demands on September 27, 2010. The following day, at least six judges issued orders authorising factory owners to suspend over 200 union representatives and organisers because of their involvement in the strike. Dozens of legal cases were also filed against union leaders and, as of April 2011, 141 workers from thirteen factories were still waiting for reinstatement²⁰. The affected factories also obtained court orders declaring the second wave of the strike illegal and filed for compensation for lost revenues. On September 18, 2010, police forcibly cracked down on

17/ Since 2008, Mr. Chantha acted as the factory leader of the local union affiliated with the Independent & Democratic Union Federation (IDUF). In late 2010, Mr. Chantha and his union members, roughly 1,000 workers, found themselves increasingly at odds with IDUF, the latter being perceived as pro-factory management. On November 16, 2010, Mr. Chantha approached the Coalition of Cambodian Apparel Workers Democratic Union (CCAWDU) to request for his union members to join the CCAWDU federation. The next day, he and CCAWDU met again to discuss the paperwork needed to leave IDUF and join CCAWDU. On November 18, Mr. Chantha signed the documents at the factory, formalising his union's 1,000 workers transfer from IDUF to join CCAWDU. Two hours later, Mr. Chanta was arrested. See LICADHO as well as Clean Clothes Campaign Statement, December 14, 2010.

18/ See LICADHO Report, *Freedom of Expression in Cambodia: The Illusion of Democracy*, December 2010.

19/ See LICADHO Report, *Freedom of Expression in Cambodia: The Illusion of Democracy*, December 2010 and Community Legal Education Centre (CLEC).

20/ See CLEC.

the second wave of strikes, resulting in twelve factory workers being injured. Several trade union leaders also reported having subsequently received threats by phone and SMS²¹.

Intimidation of land rights defenders and community leaders

The intimidation of land rights defenders and community leaders continued throughout 2010-2011. Land rights activists routinely faced violence and arrests, and those in power frequently used judicial proceedings to restrict their activities²². As of April 2011, fifteen land rights activists were detained in Cambodia's prisons - most on trumped-up charges designed to remove them from their role as community leaders²³. Countless others suffered forced evictions and harassment. On March 24, 2010, Mr. **You Thon**, an Omlaig Commune Council member, and Mr. **Khem Vuthy**, community leader, were arrested on charges of inciting villagers to burn down two temporary shelters used by construction workers belonging to Ly Yong Phat's Phnom Penh Sugar Company. The villagers' land was allegedly confiscated by Ly Yong Phat, a Senator from the ruling Cambodian People's Party. Mr. You and Mr. Vuthy were released on bail on March 29, 2010, and remained under surveillance. As of April 2011, the charges against them remained pending²⁴. On January 25, 2011, Mr. **Sam Chankea**, Coordinator of the Cambodian Human Rights and Development Association (ADHOC) in Kampong Chhnang, a human rights defender active in land rights issues, was sentenced to 3 million riel (about 502 euros) in compensation and 1 million riel (about 167 euros) in fine by the Kampong Chhnang Provincial Court for defaming the work of KDC International Company, owned by the wife of the Minister of Mining and Energy. Mr. Chankea's lawyer will appeal the sentence. The complaint against Mr. Sam Chankea followed a radio interview broadcast on December 26, 2009 in which he expressed his opinion over a land dispute between dozens of villagers and the KDC International Company in Kampong Chhnang province²⁵. He was subsequently quoted in *Koh Santepheap* newspaper on December 30, 2009. Two community leaders,

21/ See LICADHO Report, *Freedom of Expression in Cambodia: The Illusion of Democracy*, December 2010.

22/ In 25 per cent of the land grabbing cases, individuals and organisations accused of land grabbing used military police units to threaten, intimidate and arrest land activists and community representatives involved in land disputes, and to prevent peaceful demonstrations by villagers. See LICADHO Statement, April 2, 2010.

23/ See LICADHO.

24/ See LICADHO Press Release, March 25, 2010.

25/ The dispute, which dates back to 2002, is a long-standing land conflict between the above-mentioned company and more than 100 families that have sued the company for having bulldozed their land, damaged their properties, grabbed their land and violated their rights. The proceedings are still on-going.

Mr. **Pheng Rom** and Mr. **Reach Seima**, were also prosecuted before the Kampong Chhang Provincial Court for defaming and obstructing KDC International Company's development attempts by staging repeated protests to denounce the activities of the company. Mr. Seima was fined 2 million riel (about 335 euros) and ordered to pay 8 million riel (about 1,339 euros) in compensation to the firm. Charges against Mr. Rom were dropped.

Moreover, demonstrations organised in favour of victims of forced evictions and land grabbing were severely repressed. On March 1, 2010, villagers from Proka Village in Dangkor district who are involved in a land dispute with Mr. In Samon, Deputy Secretary General of the Interior Ministry, attempted to hold a demonstration outside the home of Prime Minister Hun Sen in Takhmao²⁶. The villagers were blocked by the police with shields and electric batons. After confrontations with villagers, the police placed eight of them under arrest, without disclosing the reason for their detention²⁷. In addition, the police confiscated cameras belonging to rights monitors from ADHOC and LICADHO and deleted photographs taken by the monitors. Seven out of the eight villagers were released on the same day, after succumbing to threats by the police of imprisonment in Prey Sar prison if they refused to withdraw their complaints. The eighth detainee was released after spending a night in detention and forced to thumbprint documents withdrawing land complaint. On August 8, 2010, a peaceful gathering of about 45 villagers was violently dispersed by municipal and district police, and security guards. The villagers had peacefully assembled near Prime Minister Hun Sen's villa in central Phnom Penh in order to raise awareness of the long-standing land dispute between the villagers in Doun Ba commune and the local authorities. The villagers also demanded the release of a community representative, Mr. **Hun Seng Ly**, who has been in detention since August 2008. On October 28, 2010, riot police and administrative police officers cracked down on a group of approximately fifty villagers gathered in front of the Khmer-Soviet Friendship Hospital in Phnom Penh to seek intervention by the visiting UN Secretary General into the ongoing Boeung Kak land grab in Phnom Penh by Shukaku Company, owned by a ruling party Senator. During the incident, Mr. **Suong Sophorn**, a land activist from the Boeung Kak Lake area, was arrested and beaten, resulting in a severe wound to the head. He was released on the same day without charge²⁸.

26 / See Cambodian Centre for Human Rights (CCHR), LICADHO, ADHOC and CLEC Joint Press Release, March 5, 2010.

27 / The names of the villagers are not disclosed for security reasons.

28 / See LICADHO Press Release, October 28, 2010.

Judicial harassment of anti-corruption activists

Human rights activists and journalists continued to face judicial harassment on politically motivated charges for denouncing corruption cases. On February 9, 2010, the trial of Cambodian Centre for Human Rights (CCHR) members Mr. **Cheab Chiev** and Ms. **Khoem Sarum**, as well as of Mr. **Sok Serey**, a *Radio Free Asia* journalist, and two Cham community representatives started before the Takeo Provincial Court on charges of “disinformation” (Article 62 of the United Nations Transitional Authority in Cambodia Penal Code). Charges had been brought against the five individuals in September 2009, following an interview on *Radio Free Asia* broadcast in December 2008 that discussed a dispute between Cham community leader Rim Math and 206 members of his mosque in Kampong Youl village, and during which they further alleged corruption on the part of the local officials in Kampong Youl village in Takeo province. On February 19, 2010, the Takeo Provincial Court acquitted the five individuals on charges of disinformation. The ruling was not appealed. On April 13, 2010, Mr. **Hang Chakra**, the Editor of opposition daily newspaper *Khmer Makras Srok*, was released under a royal pardon to mark the Khmer New Year, after ten months in prison on charges of disinformation. Mr. Hang Chakra had been arrested on June 26, 2009 after being convicted on the same day to one year imprisonment and a 9 million riel (about 1,507 euros) fine for publishing articles regarding alleged Government corruption²⁹.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
	Obstacles to freedoms of expression, association and assembly	Press Release / International Fact-Finding Mission Report	September 2, 2010
Mr. Ath Thorn, Ms. Morn Nhim and Mr. Tola Moeun	Threat of arrest / Obstacle to freedom of peaceful assembly	Urgent Appeal KHM 001/0910/OBS 110	September 20, 2010
Mr. Sam Chankea	Judicial harassment	Urgent Appeal KHM 001/0111/OBS 002	January 18, 2011
Mr. Sam Chankea, Mr. Pheng Rom and Mr. Reach Seima	Sentencing / Judicial harassment	Urgent Appeal KHM 001/0111/OBS 002.1	January 25, 2011
	Obstacles to freedom of association	Joint Press Release	April 7, 2011

298 29 / On August 11, 2009, the Appeal Court had upheld Mr. Hang Chakra's conviction.

CHINA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In China, human rights activities and fundamental freedoms remained severely restricted throughout 2010 and 2011. In addition, the Chinese authorities increased their repression against any form of dissent in response to anonymous online calls for a “Jasmine Revolution” that started in February 2011 following the events in the Middle East and North Africa. In that context, human rights defenders, including the signatories of “Charter 08”, human rights lawyers as well as defenders working on HIV/AIDS, who denounced forced evictions, corruption and who questioned the Government’s role in various scandals, continued to be subjected to various acts of harassment and intimidation, including arbitrary detention and enforced disappearance. The authorities also continued to crackdown on defenders and restrict freedoms of expression, assembly and association on the eve of key sensitive anniversaries and events, such as the Shanghai World Expo 2010.

Political context

Following the events in the Middle East and North Africa in early 2011, Chinese authorities became increasingly concerned that the revolutions may have a spill-over effect in China as well. Their reactions especially intensified after an anonymous call online on February 19, 2011, urging people to start a “Jasmine Revolution-style uprising”, similar to those in Tunisia and Egypt. The online post urges protestors to chant slogans on February 20, 2011, in several cities across China. Although faced with a massive response from the police, another online post called on people to march peacefully on February 27 to certain central or symbolic places. Dozens of opposition activists, bloggers, lawyers, human rights defenders and artists were reportedly arrested, disappeared, put under house arrest or tight surveillance, had their movements restricted or were subjected to lengthy interrogations as part of the massive security counter-operation, a crackdown that is considered to be one of the most severe of the past decade. Some faced subversion charges for posting or re-posting calls for peaceful gatherings on Internet¹.

1/ See Human Rights in China (HRIC) Press Release, February 23, 2011 and Chinese Human Rights Defenders (CHRD). On April 8, 2011, the UN Working Group on Enforced or Involuntary Disappearances expressed serious concerns over the wave of disappearances over the preceding months, stressing that there is a pattern of enforced disappearances in China, where persons suspected of dissent are taken to secret detention facilities and are then often tortured and intimidated before being released or put into soft detention. See UN Working Group on Enforced or Involuntary Disappearances Press Release, April 8, 2011.

In 2010-2011, freedom of expression and access to information continued to be severely restricted. Journalists were jailed or dismissed from employment as a form of reprisal against reporting, which was considered inappropriate by the authorities. The use of Internet, in particular access to independent news and microblogging and social networking websites continued to be tightly restricted by the so-called Great Firewall of China. Bloggers and activists posting messages online that were considered threatening by the authorities, were facing increasingly severe consequences as a result, including lengthy jail sentences². On a positive note, in March 2010, *Google* announced that it had redirected *Google.cn* to the Hong Kong-based search engine *Google.com.hk*, where it now provides uncensored search results. This was done in response to cyber attacks on e-mail accounts of dissidents and human rights activists, which reportedly originated from Government-affiliated servers³.

Moreover, in October 2010, the amendments to the Law on Guarding State Secrets, adopted on April 22, 2010, came into effect. The revised law still does not contain a precise definition of what actually constitutes State secrets, which makes it possible that virtually any information, including maps or economic statistics, can be considered as State secrets. This is all the more worrying since authorities frequently resort to the law in order to avoid disclosing information. Additionally, the amendments bring electronic data under the scope of the law, by obliging Internet providers and telecommunications companies to provide information on persons leaking or simply sharing information considered to be State secrets. It is feared that the Government will use the new provisions of the revised law to tighten its crackdown on freedom of expression, and in particular on cyber-dissidents and human rights defenders exposing Government misconduct⁴.

In October 2010 also, the Fifth Plenum of the 17th Congress of the Chinese Communist Party appointed Vice-President Mr. Xi Jinping, the Vice-Chair of the Central Military Commission. The appointment of Mr. Xi Jinping into this position foreshadows that he will succeed Hu Jintao as the President of the People's Republic of China in 2012.

The Shanghai World Expo 2010 was held from May to October and was surrounded by a number of human rights-related controversies. It is indeed believed that approximately 18,000 families were displaced from their homes in order to provide space for the exhibition. To prevent victims of forced

2/ See CHR, *Annual Report on the situation of human rights defenders in China 2010*, March 3, 2011.

3/ See HRIC, *China Rights Forum* No. 2, April 2010.

4/ See CHR, *China Human Rights Briefing*, April 27- May 3, 2010 and HRIC Press Release, April 29, 2010.

evictions from drawing attention to their grievances during the Expo, police detained, harassed and threatened petitioners. Many were held under “soft detention” at home or received a notice warning them not to gather with others or petition on or near the Expo grounds for the duration of the Expo, threatening “strict punishment” for any who disregards the instructions⁵.

Ongoing crackdown on “Charter 08” activists

Signatories of “Charter 08”, an online petition calling for political reforms that promote human rights and democracy in the country⁶, continued to be judicially harassed and intimidated by the authorities in 2010-2011. In particular, as of April 2011, Mr. **Liu Xiaobo**, a prominent human rights activist and scholar, and co-author of the Charter 08, remained detained in Jinzhou, Liaoning province, after being sentenced on December 25, 2009 to eleven years of imprisonment and two years’ deprivation of political rights for “inciting subversion of State power”. On February 11, 2010, the Beijing Municipal High People’s Court confirmed Mr. Liu Xiaobo’s sentence. The court session lasted only a few minutes and the Judge gave his verdict without allowing the defence lawyers to take the floor. The Court was surrounded by security forces that prevented the media and a dozen of diplomats from accessing the courtroom. After Mr. Liu Xiaobo was awarded the Nobel Peace Prize “for his long and non-violent struggle for fundamental human rights in China” in October 2010, Chinese authorities censored all information concerning the award and blocked foreign broadcasters, including the *BBC* and *CNN*, and started an aggressive diplomatic campaign in order to discourage as many Governments as possible from attending the award ceremony in Oslo. Furthermore, during the months from the announcement leading up to the ceremony, in December, the crackdown on human rights activists, lawyers, intellectuals and dissidents intensified significantly as they were detained, interrogated, placed under house arrest or surveillance. Some of them were forced to leave or stay away from Beijing, while others were put under house arrest or “soft detention”. Internet and cell phone connections were also widely disrupted around the time of the ceremony⁷.

5/ See HRIC Press Release, April 1, 2010 and CHRD Urgent Action, April 28, 2010.

6/ Charter 08 was published on December 10, 2008, on the 60th anniversary of the Universal Declaration of Human Rights. Since its release over 10,000 people have signed it.

7/ The Special Rapporteur on the Situation of Human Rights Defenders, the Special Rapporteur on Freedom of Opinion and Expression and the Working Group on Arbitrary Detention expressed their serious concerns over the crackdown on human rights defenders since Liu Xiaobo was awarded the Nobel Peace Prize. In their statement the experts stated that since 8 October 2010, they had received reports of over 20 arrests or detentions of human rights defenders, and over 120 other cases of house arrests, travel restrictions, forced relocations, acts of intimidation, and blocking of means of communication, including removal of content on the Internet regarding the Nobel Peace Prize. See Special Rapporteur on the Situation of Human Rights Defenders, Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and Chairperson of the Working Group on Arbitrary Detention Joint Press Release, December 13, 2010.

On October 10, 2010, Mrs. **Liu Xia**, Mr. Liu Xiaobo' wife, was placed under house arrest by Beijing municipal State security officers after a visit to her imprisoned husband. As of April 2011, she remained under house arrest. On June 28, 2010, Mr. **Liu Xianbin**, a human rights activist and signatory of Charter 08 who previously served two prison terms for his human rights and democracy activism, was detained on suspicion of “inciting subversion of State power” by police in Suining city, Sichuan province, after writing a series of articles and essays calling for democratic reform and human rights. The police raided his home, and the following day officers summoned, harassed and threatened his wife and thirteen-year old daughter. Mr. Liu also worked to increase public awareness of other persecuted democracy activists and human rights defenders. On March 25, 2011, he was sentenced to ten years in prison, on charges of “incitement to subvert State power”. The sentence is the second longest handed down for inciting subversion after Mr. Liu Xiaobo⁸. Chinese artist Mr. **Wu Yuren**, a signatory of Charter 08, was detained on June 1, 2010 while reporting a theft to the police station, and was allegedly beaten while in detention. His detention relates to the protests he organised in February 2010 to draw attention to the forced demolition of the 008 Arts District. Mr. Wu is known to have been involved in other protests over land seizures that threatened art studios. On April 3, 2011, Mr. Wu was released on parole pending a verdict to be handed down in his case for “obstructing public affairs with violence”⁹.

Increased repression of human rights defenders working on HIV/AIDS

Human rights defenders promoting and protecting the rights of persons living with HIV/AIDS continued to face serious obstacles and to be harassed by judicial and tax authorities. In particular, as of April 2011, Mr. **Hu Jia**, an HIV/AIDS activist, co-founder and former Director of the Beijing Aizhixing Institute of Health Education¹⁰ as well as winner of the 2008 Sakharov Prize for Freedom of Thought, remained detained in Beijing municipal prison. His health gradually deteriorated while he was in detention and he was suspected of suffering from liver cancer. Yet, the authorities rejected applications for medical parole¹¹. Furthermore, on

8 / See CHRDR, *China Human Rights Briefings*, June 22-30, 2010 and HRIC Press Releases, June 29, July 6, 2010, February 1 and March 25, 2011.

9 / See CHRDR, *China Human Rights Briefings*, November 16-23, 2010 and January 25-February 1, 2011 and HRIC.

10 / A grassroots organisation that aims at educating the public about HIV/AIDS and at advocating for the rights of persons suffering from AIDS.

11 / Mr. Hu Jia was arrested on December 30, 2007 and charged with “inciting subversion of State power”, and was sentenced on April 3, 2008 to three years and six months in prison. On June 26, 2011, he was released after completing his sentence. Yet, he remained subjected to a one-year deprivation of his

May 19, 2010, two inspectors from the Beijing Local Taxation Bureau arrived at the offices of the Aizhixing Institute. They questioned employees and left a note that the Institute should produce tax records dating back to 2002. Given the fact that according to the Law on the Management of Tax Collection, an organisation cannot be punished for tax violations not discovered within five years, the actions of the tax inspectors might be illegal and aimed at pressuring the Institute into closing down. On September 7, 2010, the Institute received a notice from the Beijing Local Taxation Bureau, informing that the authorities had resumed their inspection of the NGO's tax compliance status. On March 15, 2011, the municipal information office of Beijing issued an order to shut down the website of the Aizhixing Research Foundation, after it published an open letter in December 2010 about the trade in blood plasma and its role in spreading HIV. Mr. **Wan Yanhai**, Founder of the Aizhixing Research Foundation and Director of the Aizhixing Institute of Health Education, received several requests from the authorities to remove the letter, which was written by Mr. **Chen Bingzhong**, a former head of the China Health Education Research Institute. In this letter, Mr. Bingzhong accused two former party leaders of covering up the link between the Government-supported sale of blood for transfusions and an epidemic of HIV. On February 11, 2011, Mr. **Tian Xi**, a Beijing-based AIDS activist, was sentenced by the Xincui County People's Court in Zhumadian city, Henan province, to one year in prison for "intentional destruction of property". In recent years, Mr. Tian, who contracted AIDS as a result of a tainted blood transfusion when he was nine years old, has campaigned for the granting of compensation to thousands of people infected with HIV/AIDS through contaminated public blood supplies. He also worked for the Aizhixing Institute. On August 2, 2010, Mr. Tian was arrested after an argument with the Director of the Government hospital, who had dismissed him. Mr. Tian had visited him in order to obtain more medicine and request compensation from the hospital both for himself and for others similarly infected. Prior to his detention, Mr. Tian Xi was reportedly subject to frequent police harassment and monitoring as a result of his campaigning¹².

Crackdown on human rights lawyers

Lawyers working on human rights cases, in particular those who are taking on cases that are deemed "sensitive" by the authorities, such as the defence of political prisoners, human rights defenders, Uyghurs and Tibetans, as well as Falun Gong practitioners, continued to face serious

12 / See CHR, *China Human Rights Briefing*, February 9-14, 2011 and HRIC.

repression by the authorities and frequently had their licences cancelled or revoked. The authorities apply different approaches to the licences of human rights lawyers. In most cases the licences are cancelled, which still leaves open the possibility of reapplying for a licence at a later date. However, the administrative punishment of revocation is more severe than denying renewals, since this decision permanently bars lawyers from practicing¹³. For instance, Mr. **Tang Jitian** and Ms. **Liu Wei**, two Beijing human rights lawyers, were subjected to judicial harassment and saw their licenses definitively revoked in May 2010, by the Beijing Bureau of Justice (BBJ)¹⁴. Both were accused of “disrupting court order and interfering with the normal conduct of litigation activities”, on the basis of Article 49 of the Lawyers’ Law¹⁵. On the day of the hearing, on April 22, 2010, about twenty supporters who had gathered outside the building of the BBJ in a show of strong support along with 200 lawyers, activists and petitioners, were taken away by the police and at least eight other lawyers and activists were prevented from attending the hearing by Beijing police, including Ms. Liu Wei’s representative. In June 2010, Mr. Tang and Ms. Liu appealed for administrative reconsideration of the revocation of their licenses; and on September 3 and August 27, 2010, respectively, they received written notice that the original decisions were upheld. Chinese human rights lawyers also faced restrictions on their freedom of movement. Mr. Tang Jitian faced restrictions on travel and, in January 2011, Mr. **Jiang Tianyong**, a Beijing human rights lawyer, was prevented from leaving China to attend a seminar on human rights in the United States.

Lawyers were also subjected to arbitrary detentions and assaults as reprisals to their human rights activities. Mr. **Chen Guangcheng**, a prominent self-taught human rights lawyer, was finally released from prison on September 9, 2010 after having served over four years of imprisonment for his work exposing human rights abuses in Linyi city, Shandong province¹⁶. However, despite having served his full sentence, Mr. Chen and his family

13/ See CHRD Urgent Action, April 22, 2010.

14/ Mr. Tang and Ms. Liu are two of about 20 lawyers whose licenses were not renewed by their local bureaus of justice in June 2009 in reprisal for taking on some of these “sensitive” cases.

15/ The accusations refer to the trial of a Falun Gong practitioner that took place on April 27, 2009 where Mr. Tang Jitian and Ms. Liu Wei, representatives of the defendant, had walked out the courtroom after pointing out the repeated interruptions by the Presiding Judge and court officials. See HRIC Press Release, April 20, 2010.

16/ Mr. Chen, a lawyer involved in denouncing the extensive use of violence by the authorities of Linyi in relation to birth planning policies, had been arbitrarily detained since March 2006. In December 2006, he was sentenced to four years’ and three months’ imprisonment for “intentionally disrupting traffic” and “inciting material destruction”. While in detention, he was denied appropriate medical care and would reportedly be in very poor health. See HRIC profile, “Incorporating Responsibility 2008: Chen Guangcheng”.

were subjected to extrajudicial house arrest under very harsh conditions. On February 8, 2011, Mr. Chen Guangcheng and his wife were beaten by national security officers from Linyi city and police from Shuanghou town at their home and were subsequently prevented from seeking medical treatment. The beating was reportedly related to the release of a videotape detailing the illegal house arrest and the abuses he and his family suffered during this period¹⁷. Moreover, as of April 2011, the whereabouts of Mr. **Gao Zhisheng**, Director of the Beijing-based Shengzhi Law Office, who took on high-profile human rights cases, remained unknown. Mr. Gao, who had been under constant police surveillance, along with his family, since receiving a suspended sentence for “inciting subversion” in 2006, was last heard on April 20, 2010. He had only reappeared on March 28, 2010 following a 14-month detention during which he had been subjected torture. The authorities subsequently denied that Mr. Gao was in custody and the police refused to register him as missing¹⁸. Likewise, Mr. **Li Fangping**, a Beijing-based human rights lawyer, working as a legal advisor with the health rights NGO Beijing Yirenping Centre, was kidnapped by unknown individuals on April 29, 2011, outside of his NGO’s office. He returned home after a few days of disappearance¹⁹. Finally, in September 2010, Beijing Public Security Bureau (PSB) dismissed the case of suspected “tax evasion” against Beijing NGO Gongmeng (also known as the Open Constitution Initiative) because the “company has paid its fines”. The police also removed the bail measure against Gongmeng’s Director, Mr. **Xu Zhiyong**, and staffer **Zhuang Lu**, who had been out on bail awaiting trial since they were released from detention in August 2009. The PSB also returned the company’s account books as well as other confiscated items²⁰.

Arbitrary detention and judicial harassment of those denouncing the harassment of other human rights activists

Human rights defenders expressing their opposition to the judicial harassment of prominent human rights activists were in return targeted by the authorities. For instance, on February 23, 2010, Ms. **Mao Hengfeng**, a Shanghai activist who has been active in defending housing rights, opposing forced evictions and also promoting women’s reproductive rights, was arrested at her hotel in Beijing by Beijing and Shanghai police officers

17/ See CHR, *China Human Rights Briefing*, February 9-14, 2011 and HRIC Press Release, February 11, 2011.

18/ See HRIC Press Releases, February 4, 10, 17 and April 8, 2010

19/ See CHR Urgent Action, April 29, 2011.

20/ On August 17, 2009, Gongmeng had been shut down for providing “false data” when it registered as a company, and for having public interest activities inconsistent with its commercial enterprise designation.

and placed under administrative detention for ten days for “disturbing social order”. She was arrested and detained because of the slogans she shouted outside the Beijing Municipal No. 1 Intermediate People’s Court on December 25, 2009 to denounce the arbitrary sentencing of Mr. Liu Xiaobo. On March 4, 2010, Ms. Mao Hengfeng, who had already been detained several times and subjected to ill-treatment in the past years due to her human rights activities, was ordered by the Shanghai Municipal Committee for the Management of Re-education Through Labour (RTL) to serve one and a half year of RTL. Likewise, on February 13, 2010, Mr. **Tong Guojing**, another Shanghai protester who shouted slogans outside the Beijing Court on December 25, 2009, was also ordered to serve one and a half year of RTL, though his RTL decision cited his participation in a gathering of more than 100 people in Shanghai in January 2010 – not the Beijing court incident – as the basis for the punishment²¹. While detained at the Anhui RTL facility, Ms. Mao was subjected to ill-treatments, including beatings by the RTL guards and by the persons in charge of the facility. On February 22, 2011, Ms. Mao Hengfeng was granted medical parole because of her very high blood pressure. Yet, on the morning of February 23, 2011, more than ten police officers blocked the entrance of her home and did not allow her to leave. The police officers stayed in front of the house until February 24, 2011, when the Head of the Anhui RTL facility, along with a dozen Shanghai and Anhui police officers, entered Ms. Mao’s home and took her away and announced that her medical parole had been rescinded²². It is not until June 9, 2011 that Ms. Mao’s husband received official notice regarding Ms. Mao’s whereabouts, when he was informed that she had been kept in the Shanghai prison general hospital from February 24 for treatment of her high blood pressure²³. In February 2011, Messrs. Jiang Tianyong, Tang Jitian and **Teng Biao**, a human rights legal scholar²⁴, disappeared after a meeting in a restaurant with several other lawyers and human rights activists from Beijing to discuss the case of Mr. Chen Guangcheng, on February 16, 2011. During the meeting, the restaurant had been surrounded by police officers from the Beijing Municipal PSB, who stayed until the end of the meeting. The police then arrested Mr. Jiang Tianyong, who was interrogated at the police station of Haidian district, before being released five hours later. During his

21/ See HRIC Press Release, March 9, 2010.

22/ The Anhui RTL facility authorities cited Ms. Mao Hengfeng’s “illegal activities inconsistent with [the stipulations of] medical parole” as the basis of the decision, but did not specify what those activities were.

23/ Ms. Mao was released from RTL on July 28, 2011, one month before the completion of her 18-month RTL order. The decision to release her early was based on the prison hospital’s suggestion that she get hospital treatment outside of prison. See HRIC Press Release, July 28, 2011.

24/ On June 3, 2008, Mr. Teng Biao, who represented AIDS activists, Falun Gong practitioners, Tibetan protesters, and farmers fighting land seizures, he was denied the renewal of his license.

detention, Mr. Jiang Tianyong was allegedly ill-treated. On the evening of February 16, 2011, two police officers entered Mr. Tang Jitian's home and dragged him away. On the morning of February 21, 2011, Mr. Tang Jitian's wife went to the Guang'anmenwai police station to ask about her husband. She was told that he would return home "within four or five days". On February 19, 2011, men identified by Mr. Jiang Tianyong's family as Beijing policemen took him from his brother's home, where he was temporarily staying. That same evening, the Beijing police returned to Mr. Jiang Tianyong brother's house and confiscated a computer. On February 19, 2011, Mr. Teng Biao was also called by the police and on February 20, policemen from the Beijing Municipal PSB's National Security Unit searched his home, confiscating two computers, a printer, articles, books, DVDs and photos of Mr. Chen Guangcheng. Messrs. Tang Jitian and Teng Biao were released respectively on April 5 and April 29, 2011, but remained under house arrest, while Mr. Jiang Tianyong returned home on April 19, 2011, after two months of enforced disappearance.

Ongoing repression against defenders who questioned the Government's role in various scandals and corruption

Although more than two years had passed since the devastating earthquake in Sichuan in May 2008, activists providing assistance to victims, or merely publicising information on the number of casualties and the irregularities in construction, continued to face judicial harassment throughout the reporting period. On February 8, 2010 the Chengdu City Intermediate Court rejected the appeal lodged by Mr. **Huang Qi**, a cyber-dissident and Director of the Tianwang Human Rights Centre, who remained detained in Chengdu as of April 2011. On November 23, 2009, Mr. Huang had been sentenced to three years in prison for "illegal possession of State secrets". Mr. Huang was not given any oral appeal hearing before the decision was made and Mr. Huang's wife and his lawyer were not formally notified of the decision. Mr. Huang was arbitrarily arrested on June 10, 2008, after he visited the Sichuan earthquake zone numerous times, provided aid to victims of the disaster and published information on his website about the plight of parents who had lost their children. He also provided reports and interviews to foreign journalists about the protests carried out by the families of children who died in the Sichuan earthquake²⁵. On June 9, 2010, the Sichuan Provincial High People's Court upheld Mr. **Tan Zuoren's** previous sentence to five years in prison, with an additional three years' deprivation of political rights, issued on February 9, 2010 by the Chengdu Municipal Intermediate People's Court, on the charge of

25 / On June 10, 2011, Mr. Huang Qi was released after completing his three-year term. See HRIC Press Releases, December 26, 2010 and January 2 and June 11, 2011.

“inciting subversion of State power”. Mr. Tan Zuoren, an environmental activist based in Chengdu, Sichuan province, was detained in March 2009, three days after the online release of a report entitled *Independent Investigation Report by Citizens*, which presented findings of his investigation into the causes of the widespread collapse of school buildings during the May 2008 earthquake in Sichuan. However, he was tried on the basis of attempting to organise commemorative activities for the 20th anniversary of the Tiananmen Massacre and conducting interviews with “hostile foreign forces” such as the exiled student leader Wang Dan. On August 12, 2009, his trial took place before the Chengdu Municipal Intermediate People’s Court but the verdict was only announced on February 9, 2010²⁶. The court session in June reportedly lasted only a few minutes. The court was surrounded by security forces that prevented supporters, the media, and diplomats from accessing the courtroom. At least four of his supporters, including Mr. Tan Zuoren’s daughter, Mr. **Chen Yunfei**, a Chengdu activist, and Mr. **Li Tinghui**, a petitioner, were taken away by the police.

Likewise, although more than two years had passed since the tainted milk scandal, activists and relatives of victims trying to establish accountability and raise awareness of the violations and irregularities committed continued to face severe consequences for their activities. Mr. **Zhao Lianhai**, a children’s rights activist and founder of the website *Kidney Stone Babies*, was sentenced to two and a half years in prison on November 10, 2010, on charges of “causing a serious disturbance” and “disturbing social order”, for organising a victims’ association in connection with the 2008 tainted milk scandal. He announced his intention to appeal the sentence. However, on November 22, 2010, the final day on which he could file an appeal, Mr. Zhao’s lawyers received a note stating that he no longer needed their services. It is feared that he was pressured by authorities to fire his lawyers and drop his plan to appeal his conviction. On December 28, 2010, Mr. Zhao was released on medical parole²⁷.

Activists exposing the abuse of power of local authorities were also repressed and received harsh prison sentences ostensibly in retaliation of their activities. As of April 2011, Mr. **Qi Chonghuai**, a reporter and former Shandong Bureau Chief for the *Fazhi Morning Post*, remained detained in Zaozhuang prison, Tengzhou city, Shandong province. Mr. Qi was arrested

26 / The appeal decision was handed down four months after the appeal, in violation of Article 196 of the Criminal Procedure Law, which stipulates that an appeal trial should be concluded within one and a half months after the filing of the appeal.

27 / See HRIC Press Releases, March 10 and 30 and November 10, 2010 and CHRD Urgent Action, December 15, 2010 and *China Human Rights Briefing*, December 28, 2010 - January 3, 2011.

on June 25, 2007 and sentenced to four years in prison in May 2008 for “extortion and blackmail” after reporting on corruption in Tengzhou city²⁸. As for Messrs. **Chime (Jigme) Namgyal** and **Rinchen Samdrup**, two Tibetan environmental activists in their village of Gonjo county, Chamdo prefecture, Tibetan Autonomous Region (TAR), they have been in detention in Tibet since August 2009 for running an environmental group in their village and accusing local officials of poaching endangered species²⁹. In addition, their brother, Mr. **Karma Samdrup**, also a Tibetan human rights activist and philanthropist, was arrested on January 3, 2010 after he tried to protest their detention. On June 24, 2010, he was sentenced to 15 years in prison and fined for 10,000 yuan (about 1,100 euros), on charges of “robbing graves” in Yanqi county, in the Xinjiang Uighur Autonomous Region, dating back to 1998, and “trading in looted artefacts”. On July 3, 2010, the Chamdo Intermediate People’s Court sentenced Mr. Rinchen Samdrup to five years in prison on charges of “incitement to split the country”, reportedly for posting an article about the Dalai Lama on his website. As of April 2011, they all remained detained³⁰.

Increased repression of human rights defenders on the eve of key sensitive anniversaries and events

The authorities continued in 2010-2011 to repress defenders and restrict freedoms of expression, assembly and association on the eve of key politically sensitive events. The authorities reacted particularly harshly to peaceful gatherings commemorating politically sensitive anniversaries, such as the Tiananmen Square massacre. For instance, as the Guizhou Human Rights Symposium was planning to hold a meeting on June 4, 2010 to commemorate the 21st anniversary of the Government crackdown on the 1989 democracy movement, many of its members were detained by the police, summoned for questioning, or suffered ill-treatment during their detention in Guiyang, Guizhou province, before being subsequently released. For instance, on May 28, a large number of police officers prevented the group’s weekly meeting, scheduled to take place at Hebin park. A few days before, on May 24, the police had detained Messrs. **Mo Jiangang**, **Xu Guoqing** and **Du Heping** for 72 hours. Several members of the group were also summoned by the PSB. On May 9, the police had already prevented a meeting of the Guizhou Human Rights Symposium,

28 / Although Mr. Qi was to complete his four-year term on June 25, 2011, he was sentenced on June 9, 2011 to eight additional years in prison for “extortion and blackmail and embezzlement”. On July 25, 2011, his appeal was rejected by a court in Shandong. See HRIC Press Releases, May 30, 2010 and June 11 and July 28, 2011.

29 / In November 2009, Mr. Chime Namgyal received a sentence of 21-months of RTL for “harming social stability”.

30 / See Tibetan Centre for Human Rights and Democracy (TCHRD) Press Release, July 9, 2010.

stopping the participants in front of their homes and arresting some of them, including Mr. Mo Jiangan, who was severely beaten while in detention at the police station.

Furthermore, ahead of the opening of the 2010 Shanghai World Expo on May 1, 2010, officials in Shanghai detained, placed under surveillance, or threatened activists, dissidents, and petitioners across the city and in surrounding areas. Police in other cities also warned activists not to travel to Shanghai. Police sought out high-profile local activists and made it clear that any efforts to criticise the Government were to be met with swift and serious retaliation. For example, Mr. **Feng Zhenghu**, a veteran Shanghai activist who for years has sought to draw attention to the failures of the Shanghai judicial system, had planned to set up a “Shanghai Expo of Unjust Court Cases” during the Expo. Around midnight on April 19, 2010, Shanghai police raided his home, confiscated his computer equipment and took him away for a four-hour interrogation. Police threatened that if he spoke out during the Expo they would “make him disappear like Gao Zhisheng”. Other activists were placed in detention to ensure that they will be out of sight for the duration of the Expo. A number of activists in the provinces surrounding Shanghai, such as Messrs. **Wen Kejian** and **Zou Wei** in Zhejiang province, and **Zhang Lin** in Anhui province, were warned by local police against travelling to Shanghai during the Expo. Activists in cities as far away as Guangzhou, Xi’an and Beijing were warned not to travel to Shanghai or speak out during the World Expo. Several Shanghai activists were sent to RTL for reasons related to the World Expo. Finally, some veteran Shanghai petitioners were detained as a warning to others ahead of the event. For example, Ms. **Shen Peilan**, who has been petitioning since the forced demolition of her home in 2003, was administratively detained for 15 days in the Minhang district detention centre in late March and early April 2010. Ms. Shen, who was beaten during her detention, was subsequently released, and went into hiding in Shanghai³¹.

In that context, human rights defenders denouncing forced evictions continued to be victim of judicial harassment. For instance, in August 2010, Mr. **Liu Zhengyou**, a Sichuan activist who has provided continued assistance to petitioners and victims of forced evictions and reported on human rights abuses in his hometown of Zigong city, was sentenced to two years in prison. Mr. Liu was arrested on November 11, 2009 and shortly thereafter criminally detained on suspicion of “fraud”. Eight officers also searched his apartment and copied the contents of his computer.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Liu Xiaobo	Sentencing / Arbitrary detention	Urgent Appeal CHN005/0809/OBS 126.2	January 4, 2010
		Urgent Appeal CHN005/0809/OBS 126.3	February 12, 2010
		Press Release	October 8, 2010
Mrs. Liu Xia	House arrest / Ongoing arbitrary detention	Urgent Appeal CHN004/1010/OBS 124	October 11, 2010
Mr. Huang Qi	Ongoing arbitrary detention / Judicial harassment	Urgent Appeal CHN004/068/OBS 105.3	February 8, 2010
Mrs. Mao Hengfeng, Mr. Liu Xiaobo and Mr. Tong Guojing	Arbitrary detention / Judicial harassment	Urgent Appeal CHN001/0310/OBS 034	March 10, 2010
Mrs. Mao Hengfeng	Release on medical parole / Re-arrest / Ill-treatments in detention	Urgent Appeal CHN001/0310/OBS 034.1	March 2, 2011
Mr. Hu Jia	Ongoing arbitrary detention / Critical health condition / Judicial harassment	Urgent Appeal CHN009/1107/OBS 141.7	April 13, 2010
Mr. Tang Jitian and Ms. Liu Wei	Judicial harassment	Urgent Appeal CHN002/0410/OBS 051	April 26, 2010
Guizhou Human Rights Symposium / Messrs. Mo Jiangang, Xu Guoqing and Du Heping	Obstacles to freedom of assembly / Arbitrary detention / Harassment	Press Release	June 3, 2010
Mr. Tan Zuoren	Sentencing in appeal / Arbitrary detention	Urgent Appeal CHN003/0610/OBS 074	June 10, 2010
Messrs. Jiang Tianyong, Tang Jitian, Teng Biao and Chen Guangcheng	Enforced disappearances / Fear for safety	Urgent Appeal CHN 001/0311/OBS 028	March 1, 2011
Aizhixing Research Foundation	Censorship / Obstacles to freedoms of expression and association	Urgent Appeal CHN002/0311/OBS 050	March 25, 2011

INDIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010-2011, human rights defenders who denounced extrajudicial killings and other abuses committed by security forces, in particular in the context of the Naxalite (Maoist) insurgency and the volatile situation in Jammu, Manipur and Kashmir, and those who stood up against widespread impunity for such violations, continued to face judicial harassment. Those working to promote and protect the rights of marginalised groups also faced serious reprisals, including when protesting against development projects that threaten or destroy the land, natural resources and livelihood of their communities. Defenders of women's rights and of environmental rights were also targeted, and several activists who denounced corruption were assassinated.

Political context

In 2010-2011, the Government of India was forced to battle the consequences of an increased Naxalite (Maoist) insurgency in seven States, which was singled out by Prime Minister Manmohan Singh on April 21, 2010 as the biggest internal security threat, asserting that "no quarter can be given to those challenging the authority of the Indian State". Despite lengthy peace talks with Pakistan, the situation in Jammu and Kashmir also remained volatile. In the context of both conflicts, security forces frequently resorted to excessive use of force and were responsible for extrajudicial killings, torture, enforced disappearances and other forms of violence, often without being held accountable. Security laws, including the Public Safety Act and the Armed Forces Special Powers Act (AFSPA), which is at the origin of many acts of police violence in the State of Manipur, Jammu and Kashmir. Public Safety Act and the Unlawful Activities Prevention Act¹ also continued to be arbitrarily implemented and contributed to the climate of impunity surrounding the security and military operations in question.

Additionally, the reform of the police had still not been implemented neither by the Government of India nor by several State Governments as of April 2011, despite a 2006 ruling by the Supreme Court in that regard. The Government also faced a number of high-profile corruption scandals, including in connection with the 2010 Commonwealth Games, as corruption remained widespread and affected most segments of the public sector.

1/ This law was widely criticised for being extremely vague and subjective on what is deemed unlawful by the authorities. Moreover, it includes no provision for the granting of bail to detainees or for the right to appeal.

Furthermore, India continued to have the world's largest number of poor people in a single country. Of its nearly one billion inhabitants, an estimated 260.3 million are below the poverty line, of which 193.2 million are in the rural areas and 67.1 million are in urban areas. More than 75% of poor people reside in villages². The poorest and most marginalised groups, primarily the Dalits and Adivasis, continued to live in deep poverty and face discrimination despite the illegality of the caste system. Landless farmers and marginalised groups were also subjected to forced evictions in several States due to industrial and other business projects.

Following the official visit she carried out to India from January 10 to 21, 2011, the United Nations (UN) Special Rapporteur on the Situation of Human Rights Defenders, Ms. Margaret Sekaggya, noted that despite a number of laws aimed at promoting and protecting human rights, there were still widespread deficiencies in their implementation both at the central and State levels, adversely affecting the work and safety of human rights defenders. She further noted that human rights defenders were killed, tortured, ill-treated, disappeared, threatened, arbitrarily arrested and detained, falsely charged, put under surveillance, forcibly displaced, or had their offices raided and files stolen, in relation to their legitimate work in defending human rights and fundamental freedoms³.

Judicial harassment of defenders protesting against extrajudicial executions and other abuses committed by security forces

In 2010-2011, the cycle of violence in the areas affected by conflict had again serious repercussions on the environment human rights defenders operated in. Human rights defenders denouncing abuses committed by security forces, seeking justice for victims of such violations or who called for the repeal of the mentioned emergency laws indeed continued to be subjected to arbitrary arrests and detentions, judicial harassment and other obstacles to their legitimate human rights work against impunity. On December 24, 2010, Dr. **Binayak Sen**, National Vice-President of the Peoples' Union for Civil Liberties (PUCL) and Secretary General of the PUCL branch in the Chhattisgarh State, was sentenced to life imprisonment by the Chhattisgarh High Court, on charges of "sedition" and

2/ See Banglar Manabadhikar Suraksha Mancha (MASUM).

3/ In particular, Ms. Sekaggya called for the repeal of the AFSPA and the Public Safety Act, and stressed that the application of other security laws that adversely affect the work and safety of human rights defenders should also be reviewed. She also expressed concerns about the amendment to the Foreign Contribution Regulations Act, which provides that NGOs must reapply every five years for the review of their status by the Ministry of Home Affairs in order to receive foreign funding. See Human Rights Council, *Statement of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, as she concludes her visit to India*, January 21, 2011.

“conspiracy” under Sections 124(A) and 120(B) of the Criminal Code⁴. On February 10, 2011, the Chhattisgarh High Court refused to grant him bail on the grounds that he was closely associated with members of the Naxalite Maoist guerrilla, which made him guilty of sedition. On April 15, 2011, the Supreme Court of India overruled the decision and ordered the release on bail of Dr. Sen. Yet, as of the end of April 2011, the charges against Dr. Sen remained pending as the appeal was pending before the High Court of Chattisgarh. Moreover, as of April 2011, Ms. **Irom Chanu Sharmila**, a human rights defender on hunger strike since November 2, 2000 in protest against the AFSPA, continued to be detained for “attempting suicide” (Section 309 of the Criminal Code)⁵. Moreover, in the night of January 31, 2010, Mr. **Devi Singh Rawat**, a human rights lawyer in Ajmer district of the State of Rajasthan, was arrested and accused of “voluntarily causing hurt to deter public servant from his duty” and “assault or criminal force to deter public servant from discharge of his duty” (Sections 332 and 353 of the Criminal Code), as well as “mischief causing damage to public property” (Section 3 of the Public Property Damages Act). A dozen villagers were also arrested⁶. On January 5, 2010, Mr. Devi Singh Rawat had filed a case for torture in the court of Judicial Magistrate No. 4 against officials of the Adarsh Nagar police station, at the request of People’s Watch National Project on Prevention of Torture (NPPT). On January 30, 2010, the police officials tried to persuade Mr. Singh Rawat for a compromise, threatening him that otherwise he would have to face dire consequences. However, Mr. Singh Rawat refused to withdraw the case. On February 2, 2010, Mr. Devi Singh Rawat was released on bail from central prison in Ajmer, along with the fifteen other arrestees in this case. As of April 2011, charges against him remained pending. Members of the human rights NGO Banglar Manabadhikar Suraksha Mancha (MASUM), West Bengal, were also subjected to judicial harassment because of their activities, in particular for denouncing abuses committed by the Border Security Forces (BSF), including extrajudicial killings, smuggling and

4/ Dr. Sen, who had helped to organise fact-finding investigations on human rights violations in the State of Chhattisgarh, including abuses against detainees and also denounced the alleged involvement of the police into the unlawful killing of twelve Adivasis in 2007, had been arrested in 2007 for alleged links with the Naxalite Maoist guerrilla.

5/ According to the Criminal Code, the maximum sentence for the charge of “attempting suicide” is of one year in detention. Therefore, Ms. Sharmila is released every year and then placed in detention shortly afterwards again for the same reasons. As a consequence, the authorities have since then regularly resorted to forced nasal feeding.

6/ He was accused of allegedly participating in a fight between villagers and police personnel that occurred the same day during local elections in Palra village. However, at the time of the confrontation, Mr. Singh was not at the place of the incident. During their detention, Mr. Devi Singh Rawat and the other villagers who were arrested were forced by the police to remove their clothes, following which they were photographed. The pictures were then made available to the press.

trafficking, as illustrated by the proceedings against Messrs. **Kirity Roy**, Secretary of MASUM, **Gopen Chandra Sharma** and **Julfikar Ali**, both District Human Rights Monitors in Murshidabad district of MASUM⁷. As of April 2011, proceedings remained pending against Messrs. Kirity Roy and Gopen Chandra Sharma. Furthermore, on March 3, 2011, the Supreme Court of India reportedly issued an order stating that Ms. **Teesta Setalvad**, Head of the organisation Citizen for Justice and Peace (CJP), a human rights organisation involved in the legal support of victims of the Gulbar Society Massacre of February 2002, should not send any communication to the High Commissioner for Human Rights (OHCHR) in Geneva anymore concerning the investigation of the massacre⁸. No information could be obtained as to the reasons provided by the court to justify this restriction.

Reprisals against defenders of the rights of marginalised communities

In 2010–2011, human rights defenders working to promote and protect the rights of marginalised groups, including the Dalits and Adivasis (tribals), were subjected to reprisals when carrying out their activities. For instance, on August 15, 2010, Messrs. **Ghana Diraviam** and **Anandan**, and Ms. **Bharathi Pillai**, Ms. **Niharga Priya** and Ms. **Sudha**, members of the Dalit Foundation⁹, were arrested and detained at the Veeravanallur police station in the Tirunelveli district of the State of Tamil Nadu, which they had visited as part of a fact-finding team sent to inquire about the alleged case of torture inflicted on a Dalit youth from Veeravanallur by police officials at that station¹⁰. They were accused of “impersonating a public servant”, “assault or criminal force to deter public servant from discharge of his duty”, “cheating by personating” and “punishment for criminal intimidation”, under Sections 170, 353, 416 and 506(i) of the

7 / On April 7, 2010, Mr. Kirity Roy was arrested under sections 120(B) (“conspiracy”), 170 (“impersonating a public servant”) and 229 (“impersonation of a juror or assessor”) of the Criminal Code. Those charges were initiated following a People’s Tribunal on Torture (PTT) that had been conducted by MASUM under the NPPT in India in June 2008 in Kolkata. Mr. Kirity Roy was released on bail on the same day. Mr. **Henri Tiphagne**, Executive Director of People’s Watch and a member of the OMCT Executive Council, was also accused in the case which, as of April 2011, was at trial stage. Mr. Tiphagne obtained anticipatory bail and was yet to get bail from the High Court in Kolkata.

8 / This massacre, causing the death of 69 people, happened during the riots in the State of Gujarat in 2002. Ms. Teesta Setalvad has been actively involved into the investigation of the massacre through legal support to victims, including the documentation of several cases and their defence in hearing sessions at the Supreme Court. She also denounced the lack of protection given to witnesses and victims.

9 / The Dalit Foundation is committed to the eradication of caste discrimination and the empowerment of Dalits and other marginalised communities.

10 / The fact-finding team was one of the thirteen different teams that were sent in the field to gain experience on human rights fact-finding in the framework of a training programme co-organised by People’s Watch and the Dalit Foundation from August 11 to 20, 2010 in Madurai.

Criminal Code respectively. The remand report also referred to Mr. **Henri Tiphagne**, Executive Director of People's Watch and a member of the OMCT Executive Council, as the "absconding accused", which means that he could be arrested at any time claiming that he was involved in this case. Subsequently, Messrs. Ghana Diraviam and Anandan, and Ms. Bharathi Pillai, Ms. Niharga Priya and Ms. Sudha were all released on bail. As of April 2011, the National Human Rights Commission (NHRC) was investigating the case¹¹. On August 17, 2010, Mr. **Naba Dutta**, Head of "Nagarik Mancha", a civil society organisation focusing on environmental and labour rights, three other members of the organisation, the driver and a victim of the "Lodha" tribal people, were arrested by police officials in plain clothes who did not show them any warrant or inform them of the reason of their arrest. They were coming back from a sit-in organised in front of the Block Development Officers at Narayangarh, West Midnapur district, to protest against the lack of effective investigation into an attack against the Lodha tribe on May 5, 2010¹². Subsequently, all persons concerned were released except Mr. Naba Dutta, who was sent back to the Sadatpur Investigation Centre due to his alleged connection with a criminal dated December 18, 2009. Mr. Dutta remained detained incommunicado until August 18, 2010, when he was released on bail. Yet, he remained charged under seventeen sections of the Criminal Code and three sections of the Arms Act in connection to his alleged involvement in the burning of a factory in Paschim Medinipur district in December 2009. As of April 2011, the case against Mr. **Marimuthu Barathan**, President of the Human Rights Education and Protection Council, who has been working closely with Dalit communities in Tirunelveli and surrounding southern districts of Tamil Nadu State, was also still pending trial¹³.

Moreover, human rights defenders engaged in denouncing development projects that threaten or destroy the land, natural resources and livelihood of their communities were targeted by State agents and private actors. For instance, on April 2, 2011, Ms. **Ibempishak Takhellambam**,

11/ Subsequently, the NHRC observed that the police officers had committed a grave violation of the victims' human rights and sent a notice to the Government of Tamil Nadu on May 25, 2011, calling upon its Chief Secretary to provide compensation to the defenders.

12/ On May 5, 2010, eleven Lodha huts were ransacked and set on fire by hoodlums, allegedly supported by the ruling party. A complaint was filed before the competent authorities but no effective investigation was carried out.

13/ Mr. Marimuthu Barathan has been subjected to judicial harassment since May 27, 2009, when he was arrested by the police and accused of the murder of a man, as well as of being involved in the killing of twenty Dalit people. Following those killings, the Tirunelveli police arrested several Dalit people. The victims sought the assistance of Mr. Barathan in front of Government officials and the police. He was charged for various offences, including "rioting armed with deadly weapons" and "murder". He had been released on bail on June 27, 2009.

Ms. **Memcha Sagolsem**, Ms. **Anita Konjengbam** and Ms. **Momon Mayanglambam**, four indigenous Meitei human rights defenders, members of Manipur Chanura Leishem Marup (also known as “Macha Leima”), an organisation dedicated to the empowerment and the defence of the rights of indigenous women, received death threats by two unidentified men, who entered their homes and told their family members that they should stop their activities or otherwise would face dire consequences. These threats occurred following the refusal of the State Public Information Officer of the State of Manipur to inform them on steps taken by local authorities of Pallel Gram Panchayat to implement the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)¹⁴. On April 6, 2011, Ms. Konjengbam and Ms. Takhellambam filed complaints at the police stations of Kakching and Pallel, but officers of the two police stations reportedly refused to file a First Information Report (FIR) on their case. Moreover, on February 9, 2011, Messrs. **Rabindra Kumar Majhi**, **Madhusudan Badra** and **Kandera Hebram**, members and activists of the Keonjhar Integrated Rural Development and Training Institute (KIRDTI), an organisation that advocates for the land rights of Adivasis, and for ecological protection from mining and illegal logging in Keonjhar district, in the State of Orissa¹⁵, who had been arrested in July 2008, were granted bail by Keonjhar Lower Court.

Killing of and death threats against defenders denouncing corruption

Several right to information activists who exposed corruption by relying on the Right to Information (RTI) Act were assassinated in 2010–2011. On January 13, 2010, Mr. **Satish Shetty**, an anti-corruption activist of Pune, Maharashtra, was killed by three or four masked men armed with swords. Mr. Shetty had exposed many land scams in and around Talegaon, involving local politicians, industrialists and some land registration department officials. On February 11, 2010, Mr. **Vishram Laxman Dodiya** of Ahmedabad, Gujarat, was found dead, shortly after meeting with officials from the company Torrent Power. He had filed an application under the RTI Act to obtain details about illegal electricity connection by Torrent Power. Three people were arrested in the case. On February 14, 2010, Mr. **Shashidhar Mishra** of Begusarai, Bihar, was killed after exposing the nexus between railway police and criminals at the Barauni railway station.

14 / MGNREGA is a job guarantee scheme that provides a legal guarantee for one hundred days of employment in every financial year to adult members of any rural household willing to do public work-related unskilled manual work at the statutory minimum wage of 2,22 US dollars (about 1,53 euros) per day in 2009 prices. This act was introduced with the aim of improving the purchasing power of the rural people, primarily semi or un-skilled work to people living in rural India.

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

On April 4, 2010, Mr. **Sola Ranga Rao**, an RTI activist in Krishna district, Andhra Pradesh, was found dead near his house. Although his death was initially reported as an accident, it is believed he was killed because of the RTI application he had filed with a district office regarding the misuse of funds sanctioned for the village's drainage system. On April 21, 2010, Mr. **Vitthal Gite** was seriously injured when a group led by the son of the educational society that runs Sainath Vidyalyaya at Waghbet village in Beed district, Maharashtra, attacked him. Mr. Gite had sought information under the RTI Act and exposed irregularities in the functioning of several schools in the village, which were published in a local newspaper. On May 22, 2010, Mr. **Datta Patil**, a RTI activist from Ichalkaranji, Kolhapur district, who exposed corruption amongst several politicians and bureaucrats, was found dead in Maharashtra. Through RTI, Mr. Patil had exposed black-marketing of foodgrains under the Public Distribution System, and how the sand mafia contractors were paying their way into silencing officials as they freeloaded on sand which belonged to the State. The Anti-Corruption Bureau (ACB) had also started investigations against certain local municipal contractors on the basis of complaints lodged by Mr. Patil. On July 20, 2010, Mr. **Amit Jethwa**, a RTI activist, was killed in Gujarat. Mr. Jethwa had filed several petitions in the Gujarat High Court against the Forest Department. On the day of his killing, he had been meeting with his lawyer in relation to a public interest litigation that he had filed in June about illegal mining in the Gir forests of Junagadh district (Western Gujarat). Mr. Jethwa had alleged that mining activities were being carried out in Una and Kodinar areas by family members of a local member of Parliament. He had furthermore alleged that the same politician was running illegal mines and stone crushing in another village bordering the Gir forest¹⁶.

Labour rights activists, in particular those who documented cases of corruption related to MGNREGA, or tried to receive information about it from public authorities, also faced dire consequences throughout 2010. On March 2, 2011, Mr. **Niyamat Ansari**, a human rights activist engaged in the defence of workers' rights in Manika Block, Latehar district, State of Jharkhand, was taken away from his home in the locality of Jerua, in the village of Kope by a group of unknown armed persons, brutally beaten and left unconscious. Mr. Niyamat Ansari died soon after he was taken to the hospital. His associate, Mr. **Bhukhan Singh**, also received death threats from the attackers but he was able to hide. The killing of Mr. Niyamat Ansari is believed to be related to his work in favour of workers

16 / See People's Watch as well as RTI Group, *Register of Attacks on Activists in 2010 & 2011*, February 1, 2011.

covered by the MGNREGA and his denunciation activities about corruption in relation to this employment scheme in the State of Jharkhand¹⁷. On March 3, 2011, the police of Latehar recorded a FIR against seven private local contractors or their associates and against Mr. Sudarshan, a local Maoist leader belonging to the Koel Sankh zone of Communist Party of India of Pratappur block in Chatra district, also believed to be involved in the murder. As of April 2011, only one of the private contractors had been arrested. On March 5, 2011, the local newspapers *Prabhat Khabar* and *Dainik Bhaskar* published a statement written by the South Latehar Sub-zonal Committee of the Communist Party of India, claiming responsibility for the murder, and warning Mr. Bhukhan Singh that if he remained under police protection, he would meet the same fate.

Acts of harassment against defenders of women's rights

In 2010–2011, defenders of women's rights continued to face harassment from non-State actors, and were frequently unable to receive the attention and support of law enforcement agencies to their plight. For instance, on March 25, 2010, a group of individuals entered the tuition centre run by Guria Swayam Sevi Sansthan (Guria)¹⁸ in Shivdaspur, verbally abused Mr. Ajeet Singh, President of Guria, who is also a member of the Advisory Committee on Combating Child Prostitution and Trafficking of Women and Children of the Government of India and the State Monitoring Committee for the abolition of child prostitution and the exploitation of women; and other staff members present at the premises and threatened to kill them. They also threatened Guria staff members that “they [would] break the arms and legs of anyone who attempt[ed] to continue teaching the children [t]here”. They also told staff members to warn Mr. Ajeet Singh not to enter the area otherwise he would face dire consequences. The assailants subsequently locked the premises of the tuition centre, making it inaccessible for evening classes. On March 29, 2010, staff members of Guria discovered that the door of the centre had been broken down, leaving it unprotected. On April 5, 2010, a group of individuals again entered the centre while the evening tuition was ongoing, and ransacked the premises, beat staff members and tore their clothes. The incidents were

17/ Since MGNREGA was launched in 2006, Mr. Niyamat Ansari and Mr. Bhukhan Singh have been working for the rights of workers subjected to the MGNREGA, particularly through the support of several cases of demands for unemployment allowance at the Latehar People's Court, which were accepted in February 2009. In the framework of their activities, they also collected information and investigated cases of corruption, especially by private contractors taking financial advantage of this employment system in Jharkhand.

18/ Guria is a NGO working on issues of forced prostitution and trafficking in Uttar Pradesh. Guria has been running a tuition centre for sixteen years in Shivdaspur.

reported to the Manduadih police station and to the Deputy Inspector General of the police in Varanasi.

Arbitrary arrest of defenders working on environmental issues

In 2010, ten human rights defenders who had peacefully protested against a nuclear power plant were arbitrarily arrested for a couple of hours. On October 6, 2010, Messrs. **Bankim Dutta, Mihir Bhonsle, Bidhan Chandra Dey, Achintya Pramanik, Nirbhik Mukherjee, Swapan Mallick, Subimal Chatterjee, Debashis Shyamal, Kaushik Haldar and Prasun Das**, members of the Science and Environment movement, a network of different organisations and individuals working against pollution of air, water and land, were arrested by the police in front of the Saha Institute for Nuclear Physics while peacefully protesting against a nuclear power plant on the eve of a scheduled visit of Dr. Srikumar Banerjee, the Chairman of the Atomic Energy Commission of India. The arrests occurred while the above-mentioned activists were distributing leaflets against the building of the nuclear power station at Haripur. They were transferred to the Bidhan Nagar police station without being provided any reason for their arrest. They were released later the same day without charge.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Devi Singh Rawat	Arbitrary detention / Judicial harassment / Ill-treatments / Release on bail	Urgent Appeal IND 001/0210/OBS 014	February 3, 2010
Ms. Irom Chanu Sharmila	Arbitrary re-arrest / Ongoing detention / Judicial harassment	Urgent Appeal IND 002/0310/OBS 037	March 16, 2010
Mr. Gopen Chandra Sharma	Ongoing judicial harassment	Closed Letter to the authorities	March 26, 2010
Mr. Kirity Roy	Arbitrary arrest / Release on bail / Judicial harassment	Urgent Appeal IND 007/0608/OBS 0973	April 7, 2010
KIRDTI / Messrs. Rabindra Kumar Majhi, Madhusudan Badra and Kandra Hebram, Ms. Mamina Munda	Ongoing arbitrary detention / Judicial harassment	Urgent Appeal IND 002/0510/OBS 060	May 12, 2010
Ms. K. Saraswathy	Assault / Death threats / Ill-treatments / Judicial harassment	Urgent Appeal IND 003/0610/OBS 082	July 1, 2010
Messrs. Ghana Diraviam, Anandan and Henri Tiphagne, Ms. Bharathi Pillai, Ms. Niharga Priya and Ms. Sudha	Arbitrary detention / Judicial harassment	Urgent Appeal IND 004/0810/OBS 102	August 18, 2010
Mr. Naba Dutta	Arbitrary detention/ Release / Judicial harassment	Urgent Appeal IND 005/0810/OBS 104	August 24, 2010

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Bankim Dutta, Mihir Bhonle, Bidhan Chandra Dey, Achintya Pramanik, Nirbhik Mukherjee, Swapan Mallick, Subimal Chatterjee, Debashis Shyamal, Kaushik Halder and Prasun Das	Arbitrary arrest / Release	Urgent Appeal IND 006/1010/OBS 121	October 7, 2010
Dr. Binayak Sen	Sentencing to life imprisonment	Urgent Appeal IND 004/0408/OBS 055.2	January 6, 2011
	Release on bail / Judicial harassment	Urgent Appeal IND 004/0408/OBS 055.3	April 18, 2011
Mr. Julfikar Ali	Judicial harassment	Urgent Appeal IND 001/0211/OBS 018	February 14, 2011
Ms. Teesta Setalvad	Restriction on communication with an international body	Urgent Appeal IND 002/0311/OBS 032	March 11, 2011
Messrs. Niyamat Ansari and Bhukhan Singh	Killing / Death threats	Urgent Appeal IND 003/0311/OBS 044	March 24, 2011
Ms. Ibempishak Takhellambam, Ms. Memcha Sagolsem, Ms. Anita Konjengbam and Ms. Momon Mayanglambam	Death threats	Urgent Appeal IND 004/0411/OBS 068	April 21, 2011

INDONESIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In a climate of impunity, human rights defenders documenting human rights violations by the police as well as incidents of corruption or environmental rights were subjected to attacks, including assassination and attempted assassination. Non-State actors, in particular extremist religious groups, were responsible for an increasing number of threats, harassments and intimidations to human rights defenders throughout the year, often accompanied with complicity of police officials. In particular, lawyers who take up cases related to blasphemy and religious minorities also faced acts of harassment and intimidation by non-State actors. As intolerance towards sexual minorities increased, freedom of assembly of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) activists was curtailed on several occasions.

Political context

No significant improvement was seen in the field of human rights. Accountability for past-Reformasi era¹ crimes remained low and public security and confidence in the police continued to erode during the course of 2010². Members of the police and military continued to enjoy an almost complete immunity from serious investigations and prosecutions. In addition, in the few cases that were prosecuted they resulted in disproportionately lenient sentences³.

Impunity for human rights violations committed during the Suharto era also remained the rule, with no high-level military figures having been convicted. The culture of impunity was accompanied with ambiguous political messages by the Government. On March 22, 2010, Defence Minister Purnomo Yusgiantoro pledged to suspend soldiers credibly accused of serious human rights violations, to cooperate with their prosecution, and to discharge those convicted. Despite such pledges, only relatively low-level officials were brought before military tribunals, and no cases were brought to civilian courts. Moreover, President Yudhoyono appointed Lieutenant General Sjafrie Sjamsoeddin to the post of Deputy Defence Minister in

1/ The post-Suharto era in Indonesia began with the fall of Suharto in 1998. Since then, Indonesia has been in a period of transition. This era - from 1998 to 2008 - has been called the period of "Reformasi" (Reform).

2/ See The Commission for Disappeared and Victims of Violence (KontraS) Report, *Void protection against citizens human rights*, December 28, 2010.

3/ See IMPARSIAL - the Indonesian Human Rights Monitor, KontraS and FIDH Report, *Shadows and clouds; Human rights in Indonesia: shady legacy, uncertain future*, February 2011.

January 2010, a military commander of Jakarta during the end of the Suharto era alleged to be responsible for the enforced disappearance of 23 student activists as well as for other human rights violations.

On April 19, 2010, the Constitutional Court upheld blasphemy restrictions included in Article 156(a) of the Criminal Code in a widely contested decision. This signalled a significant setback for religious freedom and freedom of expression, and serious concerns raised that the provisions may be used to discriminate against religious minorities⁴. Moreover, a Bill on State Secrecy and a Bill on Mass Organisation, which risk placing serious limitations on human rights activities, remained on the agenda of the National Legislative Programme 2010-2014⁵.

Ongoing impunity for the assassination of Mr. Munir Said Thalib

In the case of the 2004 murder of Mr. **Munir Said Thalib**, a prominent human rights defender and co-founder of the Commission for the Disappeared and Victims of Violence (KontraS), the suspected mastermind, the former Deputy Chief of Indonesia's National Intelligence Agency (*Badan Intelijen Nasional - BIN*), Mr. Muchdi Purwopranjono, continued to remain unpunished. Mr. Muchdi was prosecuted in 2008 on charges of ordering the murder, and the trial was seen as an important step in the fight against impunity, as it was the first time State authorities were held accountable for State-sponsored or tolerated violence. However, he was acquitted for lack of evidence on December 31, 2008 by the South Jakarta District Court. An appeal was filed by the Prosecutor against the verdict, which was rejected on June 15, 2009 by the Indonesian Supreme Court. The decision to launch a new investigation and subsequently to ask a review of the trial, lies now with the State Attorney General, but no substantive actions were taken towards that end.

Assassination of and attacks on journalists denouncing illegal logging, environmental degradation and police abuses

Journalists documenting illegal logging, environmental degradation or exactions committed by the police were subjected to attacks and fell victims of assassination. On July 30, 2010, the body of environmental journalist

4/ The article in question provides criminal penalties of up to five years of imprisonment for those who express religious beliefs that deviate from the cultural tenets of the six officially recognised religions. See IMPARSIAL, KontraS and FIDH Report, *Shadows and clouds; Human rights in Indonesia: shady legacy, uncertain future*, February 2011.

5/ The Bill on State Secrecy could indeed create difficulties for the victims and human rights groups to document human rights abuses, while the Bill on Mass Organisation plans to monitor NGOs' funding and to establish a commission to monitor the activities of NGOs, which could advise the Government to freeze NGOs' license and funds.

Mr. **Ardiansyah Matra'is** was found in the Maro river in Merauke, Papua. He had been reported missing since July 28, 2010. It is believed that his death may be linked to his work covering corruption and illegal logging involving police officers in Papua, as well as local elections that took place on August 2, in Merauke. He had received death threats in the days before his disappearance. In 2009, he had allegedly been kidnapped by soldiers who threatened to kill his family after he wrote a series of articles for *Jubi* magazine about illegal logging by local military officers. Although Indonesian police headquarters revealed on August 20, after a post-mortem examination of the body, that Mr. Matra'is was murdered and drowned in the river, the police chief of Merauke concluded the case to be a suicide. As of April 2011, the police was about to close the investigation⁶. On July 26, 2010, environmental journalist Mr. **Muhammad Syaifullah** was found dead in his home in Balikpapan, East Kalimantan. Mr. Syaifullah was the Borneo Bureau Chief of *Kompas*, Indonesia's biggest daily newspaper, and reported extensively on illegal logging and environmental degradation relating to coal mining. The forensic examination concluded that Mr. Syaifullah died of hypertension. However, the police failed to publicly present the cause for Mr. Syaifullah's death and closed the investigation⁷. Mr. **Alfreds Mirulewan**, Chief Editor of the *Pelangi Weekly*, was found dead at Nama Beach, Southwest Maluku, on December 17, 2010. Prior to his murder, Mr. Mirulewan had been looking into illegal fuel sales and smuggling involving local police officials. In January 2011, the local police arrested five men in connection with the murder, including a local policeman. Yet, the police subsequently closed the case⁸. On May 21, 2010, Mr. **Ahmadi**, an Aceh-based journalist working for *Harian Aceh*, was beaten and threatened with death by First Lieutenant Faizal Amin for investigating possible links between illegal logging in the province and the military. First Lieutenant Faizal Amin elbowed Mr. Ahmadi in the face and threatened to kill his family if he did not change or retract the content of the article published in *Harian Aceh* on the same day. Mr. Ahmadi, who suffered bruising and swelling to the face from the attack, lodged complaints with the police and the military. Subsequently, on January 20, 2011, the Military Court of Banda Aceh ruled that First Lieutenant Faizal Amin was guilty of grievous assault against Mr. Ahmadi and of damaging his cell

6/ See KontraS as well as International NGO Forum on Indonesian Development (INFID) and IMPARSIAL, *Written Statement to the 16th session of the UN Human Rights Council*, UN Document A/HRC/16/NGO/80, February 24, 2011.

7/ *Idem*.

8/ See KontraS Report, *Void protection against citizens human rights*, December 28, 2010 as well as INFID and IMPARSIAL, *Written Statement to the 16th session of the UN Human Rights Council*, UN

phone and laptop computer, and sentenced him to ten months in prison⁹. On March 3, 2011, Mr. **Banjir Ambarita**, a journalist with *Bintang Papua*, a local newspaper based in Jayapura, Papua province, was riding his motorcycle in front of the Jayapura Mayor's office when two unknown men on a motorcycle approached him, stabbed him twice in the chest and stomach and fled. Mr. Ambarita underwent surgery in Marthen Indey hospital in Aryoko, Jayapura, and subsequently recovered. The Papua regional police and the Jayapura police have set up a joint force to investigate the case but, as of April 2011, perpetrators remained unknown. Shortly prior to the attack, Mr. Banjir Ambarita had written articles in the *Bintang Papua* and in the *Jakarta Globe* about two alleged rape cases involving the police¹⁰.

Repressive legal framework and attacks against anti-corruption activists

Anti-corruption activists were also subjected to reprisals. Criminal libel, slander and "insult" laws prohibit intentionally publicising statements that may directly harm another person's reputation, even if the statements or allegations in question are true. Acts under these provisions of the Criminal Code are punishable with up to sixteen months of imprisonment. Another law, enacted in 2008, punishes defamation committed through Internet with imprisonment of up to six years and heavy fines. These provisions make anti-corruption activists and journalists uncovering grafting cases extremely vulnerable to criminal proceedings and had a chilling effect on investigative work, resulting in self-censorship in a number of cases. Moreover, a researcher for Indonesia Corruption Watch (ICW), Mr. **Tama Satya Langkun**, was severely beaten by four unidentified individuals on July 8, 2010 in Duren Tiga, South Jakarta. Prior to the attack, he had worked on a report to the Corruption Eradication Commission (KPK) on suspicious bank accounts of high-ranking police officers. In a related incident, the offices of the leading news magazine *Tempo*, which ran a story on the report two days before the assault, were attacked on July 6, 2010, when two unidentified men threw Molotov cocktails at the building housing the offices. As of the end of April 2011, the incidents were still

9/ See INFID and IMPARSIAL, *Written Statement to the 16th session of the UN Human Rights Council*, UN Document A/HRC/16/NGO/80, February 24, 2011.

10/ The three officers implicated in the cases were reportedly only given disciplinary punishments of 21 days of detention and a delay of their promotions. The media coverage of the second incident led to the resignation of Jayapura police Chief Adjunct Senior Commissioner Imam Setiawan on March 1, 2011, and a report on the incident filed by the woman's husband to the Papua branch of the National Human Rights Commission (Komnas HAM). See KontraS and IMPARSIAL.

being investigated by the Jakarta regional police¹¹. On a positive note, on February 16, 2010, the Denpasar District Court sentenced Mr. I Nyoman Susrama, a legislative council member for the district of Bangli, to life imprisonment for the murder of *Radar Bali* journalist, Mr. **Anak Agung Gede Bagus Narendra Prabangsa**. Before he was murdered in February 2009, Mr. Prabangsa had reported on alleged corruption in the Local Education Office in Bangli district, Bali. The verdict was subsequently upheld by the Court of Appeal on April 29, 2010 and by the Supreme Court on September 25, 2010¹².

Human rights lawyers working on religious freedom increasingly targeted

Lawyers who take up cases related to blasphemy and religious minorities often find themselves targets of harassment and intimidation, mostly by non-State actors, such as Islamist extremist groups. The situation is further aggravated by the fact that the police and other law enforcement agencies either fail to respond in the face of such incidents or, in some cases, even appear to openly side with extremist groups. Physical protection following such incidents is often not provided, and related complaints are not properly investigated, further adding to a climate of impunity and fear among minority groups and those defending their rights. For instance, Messrs. **Uli Parulian Sihombing, Nurkholis Hidayat** and **Choirul Anam**, lawyers of the Legal Aid Foundation (LBH) representing various human rights organisations¹³, who initiated the judicial review of the blasphemy related provisions of the Criminal Code at the Constitutional Court, were attacked by members of the Islamic Defenders Front (*Front Pembela Islam* - FPI) on March 24, 2010, during a recess in front of the Constitutional Court. The lawyers were harassed and verbally abused, and some of them were beaten. The camera of Mr. Nurkholis Hidayat was taken away as he was beaten on his arm. As of April 2011, the police had opened no investigation into the events¹⁴.

11/ See Legal Aid Institute (LBH), KontraS and ICW Jakarta Joint Statement, July 21, 2010 as well as INFID and IMPARSIAL, *Written Statement to the 16th session of the UN Human Rights Council*, UN Document A/HRC/16/NGO/80, February 24, 2011.

12/ See INFID and IMPARSIAL, *Written Statement to the 16th session of the UN Human Rights Council*, UN Document A/HRC/16/NGO/80, February 24, 2011.

13/ Including IMPARSIAL, the Institute for Policy Research and Advocacy (ELSAM), the Indonesian Legal Aid and Human Rights Foundation (PBHI), the Centre for Democracy and Human Rights Studies (DEMOS), Setara People's Union, Desantara Foundation and the Indonesian Legal Aid Foundation (YLBHI).

14/ See IMPARSIAL, KontraS and FIDH Report, *Shadows and clouds; Human rights in Indonesia: shady legacy, uncertain future*, February 2011.

Freedom of assembly of LGBTI activists curtailed

In recent years, there has been a marked increase in intolerance towards sexual minorities, blocking any progress in favour of the rights of LGBTI people. The latter faced violent attacks and harassment by radical, extremist groups, such as the FPI or the Hisbut Tahrir Indonesia (HTI). Besides, the police remained passive when confronted with such acts. The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) had scheduled to hold the Fourth Asian Regional ILGA conference¹⁵ in Surabaya, East Java, from March 26 to 29, 2010. More than 150 human rights defenders, representing over one hundred organisations from sixteen Asian countries, had planned to participate in the event. However, despite the fact that the organisers obtained all necessary permissions from the South Surabaya district police, they were later advised by the police to cancel the conference in light of information received that religious extremist groups were planning an attack at the venue. On the second day of the conference, the hotel venue was eventually attacked and taken over by mobs claiming to be affiliated to the FPI. They also sealed off the Surabaya office of Gaya Nusantara, the conference's host organisation, which remained closed and guarded by vigilantes until April 21, 2010. Although members of the police mobile brigade came to the hotel after a crowd had significantly grown there, it did not take adequate steps to disperse it and was eventually perceived by the LGBTI activists as overtly siding with the Islamic radical groups. Participants of the conference were subsequently forced to relocate to another hotel. A similar attack by FPI occurred during a meeting organised by the National Human Rights Commission (Komnas HAM) on transgender issues in Depok, West Java, on April 30, 2010. According to witness testimonies, city officials and police officers colluded with the attackers. Threats were also made by Lasykar Pembela Islam (LPI), the "military" wing of the FPI, against an HIV/AIDS seminar organised by the Indonesian Gay, Waria and Men Who Have Sex With Men (GWL) network in Bandung, West Java, on May 11, 2010, causing it to be relocated¹⁶.

Acts of harassment against environmental and land rights activists

In 2010–2011, acts of harassment continued against environmental and land rights activists. For instance, on July 5, 2010, a contingent of anti-riot police and immigration officials arrested twelve foreign anti-coal mine activists in Cirebon, West Java, as they were participating in a press conference held by Greenpeace and local groups in order to launch a regional

15/ See ILGA Press Release, April 27, 2010.

16/ See IMPARSIAL, KontraS and FIDH Report, *Shadows and clouds; Human rights in Indonesia: shady legacy, uncertain future*, February 2011.

manifesto against the expansion of coal power plants in Asia and to lodge complaints about the negative effects of a coal-fired power plant being set up in Cirebon¹⁷. The activists were charged under Article 42.1 of Indonesian Immigration Law¹⁸, and released on July 7, 2010 after being interrogated continuously by police and immigration officers. They were taken directly to the airport, following a seven-hour drive, and escorted by immigration officers to the departure gate. Immigration authorities confirmed that none of the activists would have any restriction on re-entering Indonesia, however they all received a “must leave Indonesia within three days” stamp with their standard exit stamp¹⁹. On July 28, 2010, Messrs. **Firman Syah** and **Dwi Nanto**, two environmental and land rights activists of Friend of the Earth (*Wahana Lingkungan Hidup* - WALHI) Bengkulu, who accompanied villagers during a rally protesting against State plantation firm PT Perkebunan Nusantara (PTPN) VII in a land dispute, were arrested along with eighteen peasants from New Pering village, Alas Maras district, Seluma²⁰, and named as suspects for obstructing PTPN VII. On February 18, 2011, the Bengkulu District Court sentenced all of them to three months and twenty days in prison, a fine of 250,000 rupiah (about 21 euros) and a fifteen-day detention period in breach of Act No. 18 of 2004 on Plantation²¹.

On a positive note, in August 2010, Mr. **Muhammad Rusdi**, a farmer and the village chief of Karang Mendapo, who was arrested in January 2009 for his leading role in campaigning against land-grabbing by PT Kresna Duta Agroindo (KDA), an oil palm plantation, won legal action

17/ Among the twelve activists were Ms. **Amalie Obusan**, Climate and Energy Campaigner for Greenpeace Southeast Asia, Mr. **Albert Lozada**, Solar Generation-Pilipinas Coordinator of Greenpeace Southeast Asia, and Ms. **Jean-Marie Ferraris**, team leader of the LRC-KsK Davao Regional Office (the Philippines); Ms. **Iris Cheng**, Climate and Energy Campaigner for Greenpeace International, Ms. **Alisa Meng** and Mr. **Fusheng Yan** (China); Ms. **Chariya Senpong**, Climate and Energy Campaigner for Greenpeace Southeast Asia, Ms. **Weerakarn Kengkaj**, Mr. **Sutti Atchasai**, Coordinator of the Eastern People Network of Thailand, and Ms. **Uaeng-Fa Chumket** (Thailand); Ms. **Preethi Herman**, Greenpeace India Climate Campaigner, and Mr. **Sudheer Kumar Puthiya Valappil** (India). Greenpeace staff and community leaders from China, India, Thailand and the Philippines were in Cirebon to take part in workshops to share experiences of living in the shadow of coal plants or coal mines, and to learn lessons from each other about how to campaign for clean and renewable energy solutions.

18/ “Immigration actions shall be taken against foreign nationals in the Territory of Indonesia who foster dangerous activities, or who are deemed to be probable cause of danger to public order or security, or who break or neglect existing laws or regulations”.

19/ See Greenpeace and The Legal Rights and Natural Resources Centre-Kasama sa Kalikasan/Friends of the Earth Philippines (LRC-KsK) Joint Press Release, July 7, 2010.

20/ WALHI helps the peasants to reclaim their land, which has been annexed by force by PTPN VII since 1986.

21/ See INFID and IMPARSIAL, *Written Statement to the 16th session of the UN Human Rights Council*,

against the company and was rehabilitated. Mr. Rusdi had been charged with “attempting to embezzle money” entrusted upon him by the citizens that elected him village chief.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Munir Said Thalib	Ongoing impunity	Joint Open Letter to the authorities	October 14, 2010
Mr. Banjir Ambarita	Attack	Urgent Appeal IDN 001/0311/OBS 049	March 25, 2011

IRAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010 and 2011, human rights defenders remained in a very precarious situation, in particular in the context of the intensified crackdown of peaceful social protests. Vaguely worded provisions of the Criminal Code and the interests of national security were frequently invoked in order to curtail human rights activities. Freedom of association also remained seriously hampered. Lawyers, women's rights defenders, trade unionists and activists working to protect ethnic and religious minorities were particularly targeted.

Political context

Following the crackdown on demonstrations in the wake of the disputed June 2009 presidential elections, opposition demonstrations, albeit on a smaller scale, continued in 2010 and early 2011, but indiscriminately faced very harsh treatment, including the use of live ammunition, from security forces and Basij militias¹. Impunity for human rights violations committed before and in the aftermath of the disputed June 2009 election also continued to prevail as no comprehensive investigations were launched.

Freedom of opinion and expression and access to information remained strictly restricted, with an increasing number of websites blocked by the authorities, including foreign broadcasters and major news sites. A large number of newspapers and other publications were closed down and dozens of journalists were arrested and subjected to travel bans, for merely expressing critical views of the Government². The few remaining reformist media outlets were subjected to censorship and increasingly difficult licensing requirements. The use of Internet, mobile phones, text messaging and access to social media websites continued to be strictly restricted, in particular in the context of demonstrations. Repeated summons to Government offices, prison premises and offices of the security apparatus were increasingly used to intimidate and harass journalists, bloggers, human rights

1/ For instance, on December 7, 2010, during the Student Day demonstrations security forces arrested about a dozen students who were calling for greater political freedom. On February 14, 2011, several thousand people who took to the streets in Tehran to show support for the uprisings in Tunisia and Egypt suffered a ruthless crackdown by security forces. Furthermore, following the placing under house arrest in February 2011 of two leaders of the opposition movement, opposition groups called for rallies. As a result, more than 200 participants of the demonstrations were arrested in March 2011.

2/ See UN Secretary General Report, *The situation of human rights in the Islamic Republic of Iran*, UN Document A/63/370, September 15, 2010.

defenders, lawyers defending high profile prisoners of conscience. Forced confessions, often broadcast by the State media, were routinely admitted by the courts as evidence. Torture and inhuman treatment remained a major problem.

In February 2010, the human rights record of Iran was examined under the Universal Periodic Review of the UN Human Rights Council. While the Government rejected 45 important recommendations out of 188, it did accept certain recommendations relating to, among others, the protection of human rights defenders, the enhancement of freedoms of expression and assembly, the independence of the judiciary as well as the investigation and prosecution of all those, including government officials and paramilitary members, suspected of ill-treatment, torture or killing³. Yet, as of April 2011, those recommendations had not been followed by any concrete implementation. On June 15, 2010, marking the first anniversary of the crackdown on anti-Government protests in June 2009, the Human Rights Council expressed serious concerns over continuing systematic human rights violations in Iran. And while in April 2010, the General Assembly elected Iran to the Commission on the Status of Women, the country failed in its attempt to secure a seat on the board of the newly established UN Women in November 2010. On March 24, 2011, the Human Rights Council during its 16th session voted to establish the post of a Special Rapporteur on the Situation of Human Rights in Iran⁴. Both the United States⁵ and the European Union⁶ adopted sanctions against Iranian officials in connection with human rights violations.

Obstacles to freedom of association and harassment of members of human rights NGOs

In 2010-2011, freedom of association remained seriously hampered, as several human rights organisations continued to be closed, such as the Defenders of Human Rights Centre (DHRC), which was arbitrarily shut down in 2008, the Centre for the Defence of Prisoners' Rights

3/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran*, UN Document A/HRC/14/12, March 15, 2010.

4/ See Human Rights Council Resolution, *Situation of human rights in the Islamic Republic of Iran*, UN Document A/HRC/16/9, April 8, 2011.

5/ The Obama administration announced sanctions against eight high level officials, responsible for systematic and widespread human rights violations from various branches of the Government, the judiciary and the executive branch on September 29, 2010.

6/ The EU released the names of 32 individuals on April 15, 2011, blocking all their financial resources, or those controlled through entities, individuals or organisations related to them. Additionally, no assistance or financial resources will be made available to these individuals through EU Member States whether directly or indirectly. Individuals and entities that operate under EU procedures will be fined for violating these procedures.

(CDPR) and the Journalists Association. Furthermore, as of April 2011, the Islamic Consultative Assembly – Iran’s Parliament – was carrying out a final reading of the Bill on the Establishment and Supervision of Non-Governmental Organisations (so-called NGO Law)⁷. The first 26 articles were even adopted in April 2011 but then, following strong criticisms on ambiguities, a motion was passed to send back the draft to the Committee on Social Affairs for three months of further study and amendment. Despite the fact that Article 26 of the Constitution provides for the formation of associations, if the bill were to be adopted, civil society organisations would face an increasingly restrictive environment, as several provisions would severely limit their independence⁸. Thus, Article 6 of the Bill provides for the formation of a Supreme Committee Supervising NGO Activities, a body with no accountability to public institutions. This is to be chaired by the Interior Ministry and will include representatives from the Intelligence Ministry, the police, the Basij, the Islamic Revolutionary Guards Corps (IRGC) and the Foreign Ministry, among others, but will have only one member representing NGOs. The Committee will be empowered to issue and revoke registration permits for all NGOs, and have ultimate authority over their boards of directors. Article 12(d) of the Bill requires that demonstrations must be “non-political” and permitted by the Supreme Committee. Yet, in practice, the Iranian authorities do not grant permission for demonstrations that are critical of official policies. Article 12 also bans all contacts with international organisations without prior authorisation, including membership in international organisations, participating in training sessions or meetings abroad, signing contracts or memoranda of understanding and receiving funds or other aid from international organisations. Article 43 of the Bill, if approved, will also require all existing NGOs and associations to reapply for official registration within six months or face the risk of becoming illegal. Under the current Iranian law, the courts have the authority to decide whether a registered organisation should be closed down.

Human rights defenders also continued to be routinely harassed and arbitrarily detained for lengthy periods for their membership in human rights NGOs. For instance, on June 10, 2010, Ms. **Nargess Mohammadi**, DHRC Spokesperson, was arrested at her home without an arrest warrant and subsequently detained in Evin prison, Tehran. Ms. Mohammadi was

7/ The draft bill will then need to be ratified by the Guardian Council.

8/ Civil society organisations that would be affected by the law range from human rights, environmental and women’s organisations, through charities and organisations for the disabled, to employers’ and professional associations such as teachers’ associations. Political parties, trade unions and the Bar Association are regulated by different laws in Iran.

released on July 1, 2010 on a 50,000 US dollars bail. On February 22, 2011, Ms. Mohammadi appeared before Branch 26 of the Islamic Revolutionary Court, on charges of “membership of the Supreme Council of the DHRC”, “founding the National Council of Peace”⁹, “assembly and collusion to commit offences” and “propaganda against the system”. As of April 2011, the charges against her remained pending. On October 29, 2010, Mr. **Mohammad Seifzadeh**, founding member of the DHRC and prominent human rights lawyer, was sentenced to nine years’ imprisonment and ten years’ ban on practice as lawyer by Branch 15 of the Revolutionary Court, on charges of “acting against national security” through founding the DHRC, and “propaganda against the regime” through interviews with foreign media. On April 23, 2011, his lawyer announced that his client, who had been missing since April 11, had been arrested on that day and was held in a detention centre of the Intelligence Department in the city of Urumiyeh. As of April 2011, judicial proceedings also remained pending against Messrs. **Mohammad Ali Dadkhah** and **Abdolfattah Soltani**, both lawyers and founding members of the DHRC, following their arrest in July and June 2009¹⁰. Although he was released on bail on June 23, 2010 on health grounds, Mr. **Emadeddin Baghi**, founder of the CDPR and laureate of the 2009 Martin Ennals Award for Human Rights Defenders as well as of the 2005 Human Rights Prize of the French Republic, was summoned on September 21, 2010 by the Tehran Revolutionary Court regarding the closure in 2009 of the CDPR. He was then informed that on August 17, 2010, he had been sentenced by Branch 26 of the Revolutionary Court to six years of imprisonment on charges of “propaganda against the system” and “colluding against the security of the regime” in relation to an interview with the late Grand Ayatollah Hussein-Ali Montazeri. The sentence was later reduced to one year by the Court of Appeal of Tehran. On July 27, 2010, Mr. Baghi was also sentenced by Branch 15 of the Revolutionary Court to one year of imprisonment and five years of ban on civil activities in another case for heading the CDPR, which was considered as spreading “propaganda against the system”. He was imprisoned on December 5, 2010 and remained detained as of April 2011¹¹. On March 17, 2011, Mr. **Abdolreza Tajik**, journalist and human rights activist cooperating with DHRC and winner of Freedom of Press Award of Reporters Without Borders (RSF) in 2010, was sentenced by Branch 26 of the Revolutionary

9 / A broad coalition against war and for the promotion of human rights.

10 / Mr. Soltani was released on bail in August 2009, following seventy days of arbitrary detention. However, he remains since then accused of “having acted against national security”. Mr. Dadkhah was released on bail in September 2009. On July 3, 2011, he was informed that he had been sentenced on May 21, 2011 to nine years in prison and a ten-year ban on practising law or teaching at university, on charges of alleged “actions and propaganda against the Islamic regime”.

11 / Mr. Baghi was released on June 20, 2011.

Court to five years in prison for “membership of an illegal group”¹² and one year for “propaganda against the regime”. As of April 2011, he remained accused of “publishing false reports in order to disrupt public opinion” and free on bail¹³.

Ongoing harassment of women’s rights defenders

Throughout 2010 and early 2011, women’s rights defenders continued to face serious reprisals for their legitimate work on human rights issues. Many faced intimidation, harassment and, in some cases, detention or travel bans, often on the basis of “external security threats” invoked by the authorities¹⁴. Their freedom of assembly was also routinely denied by the authorities. In particular, dozens of members of the “One Million Signatures” Campaign, a grassroots campaign to abolish gender discrimination in Iranian laws, were repeatedly imprisoned on often spurious charges such as “propaganda against the system” and “acting against national security”. As of April 2011, Ms. **Zaynab Bayazidi**¹⁵, Ms. **Mahboubeh Karami**¹⁶ and Ms. **Fatemeh Masjedi**, remained detained following their arrest, respectively, on July 19, 2008, March 2, 2010 and January 28, 2011. On January 14, 2010, Ms. **Atieh Youssefi**, who had been arrested in December 2009, was released on bail. She reportedly faced a charge of “acting against national security”. On February 5 and 25, 2010 respectively, Ms. **Mahsa Hekmat** and Ms. **Somayyeh Rashidi**, who had been arrested on January 2, 2010 and December 20, 2009, were also released. In March 2010, Ms. **Maryam Zia**, who had been arrested on December 31, 2009, was released after going on a hunger strike and being taken to the prison hospital. On September 9, 2010, she was sentenced to one year’s imprisonment on charge of “propaganda against the system” by Branch 28 of the Islamic Revolutionary Court but remained free as of April 2011, pending trial. Members of the group “Mourning Mothers”, whose children have been killed, detained or disappeared in post-election violence since June 2009, and who organise silent public protests each Saturday evening

12/ Reportedly for his alleged membership in the DHRC and even though Mr. Tajik is not a member but only cooperated in the preparation of a report for the Centre.

13/ In 2009 and 2010, Mr. Tajik was arrested three times. He was first detained immediately after the June 2009 presidential election for 46 days. Then, he was arrested in December 2009 and stayed sixty days in detention. He was last arrested on June 12, 2010 before being released on December 22.

14/ See UN Secretary General Report, *The situation of human rights in the Islamic Republic of Iran*, UN Document A/63/370, September 15, 2010.

15/ Ms. Bayazidi is serving an imprisonment sentence of four years and a half in internal exile in Zanjan prison for “propaganda against the State”, “membership of an illegal organisation” and “acting against national security”.

16/ In February 2011, Ms. Karami was sentenced to three years’ imprisonment on charges of “membership to human rights activists collective”, “propaganda against the system” and “assembly and collusion with intent to commit crimes against the national security”.

in Tehran's Laleh Park, also continued to be targeted with harassment, arbitrary arrest and detention. For instance, on February 6, 2010 and in the night of February 8, Ms. **Omolbanin Ebrahimi**, Ms. **Elham Ahsani**, Ms. **Jila Karamzadeh-Makvandi**, Ms. **Leyla Seyfollahi** and Ms. **Fatemeh Rastegari-Nasab** were arrested at their places of residence. Ms. **Farzaneh Zeynali** was arrested on January 9, 2010 in Laleh Park. They were reportedly detained at Evin prison before being subsequently released. On April 9, 2011, Ms. Jila Karamzadeh-Makvandi and Ms. Leyla Seyfollahi were sentenced to four years' imprisonment but remained free pending appeal. On May 17, 2010, Ms. **Shadi Sadr**, Director of "Raahi" (a legal advice centre for women), founder of *Zanan-e Iran* (a website dedicated to the work of Iranian women's rights activists) and a journalist for *Meydaan*, an on-line newspaper of the "Stop Stoning to Death" Campaign, and Ms. **Mahbubeh Abbas-Gholizadeh**, founding member of Stop Stoning to Death Campaign and Women's Charter, and Editor of the quarterly journal *Farzaneh* (Sage), were sentenced to respectively six years of imprisonment with 74 lashes and two and a half years of imprisonment with thirty lashes, on charges of "acting against national security and harming public order" after they participated in a rally within the framework of the One Million Signatures Campaign in March 2007 outside a revolutionary court where four fellow feminists were on trial. The two human rights defenders were tried *in absentia* and appealed the court's decision, which remained pending as of April 2011. On September 18, 2010, Ms. **Shiva Nazarahari**, a member of the One Million Signatures Campaign and of the Committee of Human Rights Reporters in Iran (CHHR), was sentenced to six years of imprisonment, banishment in Izeh in south-west Iran and 74 whip lashes for "attempts to deface the Islamic Government", "assembly and conspiracy against the Islamic Government", "disturbing the public peace of mind" and "waging war against God"¹⁷. On January 8, 2011, the Appeal Court upheld four years of her imprisonment in internal exile in Karaj prison and 74 lashes. As of April 2011, she remained free. On January 31, 2011, Ms. **Haleh Sahabi**, a member of Mothers for Peace group, started to serve a two-year sentence issued by Branch 26 of the Revolutionary Court after the Appeal Court upheld the sentence against her on charges of "propaganda against the system" and "disturbing public order"¹⁸. As of April 2011, Ms. **Alieh Eghdamdoust**, who is

17/ Ms. Nazarahari was arrested on June 14, 2009, before being released on a two billion rials bail (about 133,492 euros) on September 23, 2009. She was re-arrested on December 21, 2009 by security forces and transferred to Evin prison. Following international pressure, she was released on September 12, 2010 on a bail of five billion rials (about 333,721 euros).

18/ Ms. Sahabi had been violently arrested on August 5, 2009 in Baharestan, spent thirteen days in detention and again arrested at the end of December, 2009. She died as a result of an attack by security agents in June 2011.

currently serving a three-year imprisonment sentence for her activities in the Campaign for Equality and as a result of her participation in a June 12, 2006 protest in Haft Tir square, and Ms. **Ronak Safarzadeh**, a member of the women's rights organisation "Azar Mehr" in Sanandaj (Iranian Kurdistan) and an active member of the Campaign who has been detained since October 2007 and was sentenced in October 2009 to six years and seven months' imprisonment, remained detained.

Ongoing targeting of human rights lawyers

In 2010–2011, the authorities continued to target human rights lawyers as an attempt to reduce the number of those who are prepared to defend victims of the overtly flawed judicial system, in particular human rights defenders and women's rights activists, trade unionists and student activists, effectively criminalising human rights legal representation¹⁹. Several were arbitrarily detained, others faced possible imprisonment and ban on practising their profession, while some others had to leave the country to avoid harassment and detention. On May 1, 2010, Mr. **Mohammad Oliayfard**, lawyer of several students, human rights and labour activists, was arrested on May 1, 2010 following a sentence by Branch 26 of the Revolutionary Court dated February 7, 2010 to one year in prison for "propaganda against the system by giving interviews to the foreign media about Behnoud's case"²⁰. On April 18, 2011, Mr. Oliayfard was released after serving his sentence. On July 24, 2010, Mr. **Mohammad Mostafaei**, a renowned human rights lawyer who represented juveniles on death row and a number of high-profile human rights cases, was summoned to the Islamic Revolutionary Courts based within Evin prison, interrogated and released. Later on the same day, he was summoned again by phone. In the evening, his wife and brother-in-law were detained, after he refused to turn himself in, and charged with "helping Mr. Mostafaei hide". Mr. Mostafaei was subsequently forced to flee Iran in the face of repeated summons and harassment of family members. On September 4, 2010, Ms. **Nasrin Sotoudeh**, a prominent human rights lawyer known for defending juveniles facing death penalty, prisoners of conscience, human rights activists and children victims of abuse, was summoned by the Revolutionary Prosecutor's office to Evin prison court on charges of "propaganda against the State" and "collusion and gathering with the aim of acting against national security".

19/ See Iranian League for the Defence of Human Rights (LDDHI) and International Campaign for Human Rights in Iran.

20/ Mr. Behnoud Shojaee was a "juvenile offender" executed in October 2009 in Evin prison. Following his sentencing, Mr. Oliayfard had been briefly detained from March 8 to 15, 2010, and released because some legal technicality had not been complied with (i.e. the original sentence had not been communicated to all of his lawyers).

She was arrested after her questioning, during which her lawyer was not permitted to be present²¹. On January 9, 2011, she was sentenced to eleven years' imprisonment, twenty years of ban on professional activities and twenty years of ban on travelling abroad, for supposed "assembly and conspiracy with the intention to commit offences against the security of the State", "propaganda against the regime", and "membership in an illegal organisation [the DHRC]"²². As of April 2011, she remained arbitrarily detained in a solitary cell of Section 209 of Evin prison. On November 13, 2010, Ms. **Sara (Hajar) Sabaghian**, Ms. **Maryam Karbasi** and Ms. **Maryam Kianersi**, three women lawyers active in the defence of journalists, bloggers, young people and in the defence of women sentenced to death, were arrested at Tehran airport for "activities against State security". They were released on December 14, November 18 and December 14, 2010 respectively. Furthermore, on January 23, 2011, Messrs. **Farshid Yadollahi** and **Amir Eslami**, both members of the Human Rights Commission of the Iranian Bar Association and lawyers of Gonabadi Dervishes, were sentenced to six months of imprisonment by the Court of First Instance of Kish Island, on charges of "forging title of lawyer", "acting against national security", "publishing lies" and "disturbing public minds". A seven-month imprisonment sentence against the third lawyer of Gonabadi Dervishes, Mr. **Mostafa Daneshju**, was upheld by the Mazandaran Appeal Court in the northern city of Neka on charges of "publishing lies and disturbing public minds"²³. On February 2, 2011, Mr. **Khalil Bahramian**, a human rights lawyer and member of the International Committee Against Executions, was sentenced by Branch 28 of the Islamic Revolutionary Court to eighteen months in prison and banned from practising law for ten years for his defence of political activists on charges of "propaganda against the system", and "insulting the head of the judiciary". Mr. Bahramian appealed the sentence, which remained pending as of April 2011.

21/ A few days before her arrest, she had reported to the International Campaign for Human Rights in Iran how the authorities were using tax harassment against human rights lawyers, including Ms. Shirin Ebadi, in order to limit their working conditions. Moreover, on August 28, 2010, Ms. Sotoudeh's office and home were searched by members of the intelligence services and her assets frozen.

22/ The accusations against Ms. Sotoudeh were based mainly on interviews with foreign media about her clients who were jailed after Iran's disputed June 2009 presidential election. In another case brought against Ms. Sotoudeh for which she was tried by Branch 26 of the Islamic Revolutionary Court in late December 2010 and February 2011, Ms. Sotoudeh was sentenced on April 19, 2011 to a 500,000 rials fine (about 33 euros) for failing "to observe the hejab" (Islamic dress code). Her prosecution and sentence follows a video taken during a ceremony in Italy on the occasion of a human rights prize being awarded to her, where she had not worn the headscarf. However, under the Iranian law, the Islamic Revolutionary Court does not have jurisdiction over such offence.

23/ On May 18, 2011, Mr. Daneshju was arrested and taken to Sari prison to serve his sentence. In addition, Mr. Daneshju was disbarred along with another lawyer, Mr. **Omid Behrouzi**, for defending the rights of Dervishes. See International Campaign for Human Rights in Iran.

Repression of labour activists and trade union leaders

As in previous years, trade union activists faced harsh repression in 2010-2011. For instance, on June 12, 2010, Mr. **Reza Shahabi**, the Treasurer and board member of the Syndicate of Workers of Tehran and Suburbs Bus Company (*Sherkat-e Vahed*), was arrested upon order of the Ministry of Intelligence without charges. From December 5 to 19, 2010, he went on a two-week hunger strike, and spent a week in hospital after his health deteriorated. As of April 2011, he remained detained in Evin prison. Furthermore, Mr. **Mansour Osaloo** aka **Osanloo**, President of Sherkat-e Vahed, has remained in custody since July 2007 in the remote top-security in Raja'i Shahr prison, in Karaj, near Tehran, where he is serving a five-year imprisonment under extremely harsh conditions, for "propaganda" and "activities against the State". In addition, on August 1, 2010, Mr. Osanloo was sentenced by Branch One of the Revolutionary Courts to one more year in prison for "propaganda against the system". While in detention, Mr. Osanloo's health condition has deteriorated. He has reportedly suffered several heart attacks and was transferred to hospital on several occasions, but the Ministry of Intelligence interrogators systematically intervened to stop his treatment and to return him to prison. Moreover, from January 1 to 8, 2011, Mr. Osanloo spent one week in solitary confinement for addressing the participants at a funeral that other prisoners of conscience had held inside the prison in memory of a political prisoner, following his execution. His pregnant daughter-in-law suffered a miscarriage on June 23, 2010, after being attacked by agents of the Ministry of Intelligence on the street, with the apparent aim to punish the human rights activities of her father-in-law. As of April 2011, Mr. **Ebrahim Madadi**, Vice-President of Sherkat-e Vahed, also remained detained in Evin prison on the basis of a three-and-a-half-year imprisonment sentence, which was issued against him in December 2008, while Mr. **Hashem Khaksar**, leader of Mashad Teachers' Union, remained detained at Mashad's Vakilabad prison, serving a two-year prison term for "acting against the security of the country"²⁴. On November 3, 2010, Mr. **Gholamreza Gholamhosseini**, another member of Sherkat-e Vahed, was arrested. He was released on bail equivalent to US dollars 30,000 on April 27, 2011 awaiting trial. Finally, in January 2011, the Appeal Court upheld a six-year imprisonment sentence against Mr. **Rassoul Bodaghi**, a member of the board of directors of the Iranian Teachers' Association, as well as a five-year ban on civil activities for "gathering and colluding with the intent to disrupt national security" and "propaganda against the system". As of April 2011, Mr. Bodaghi, who

was arrested in September 2009 and sentenced in first instance in August 2010, remained detained in Raja'i Shahr prison²⁵

Ongoing judicial harassment of defenders of minorities rights

In 2010-2011, defenders of the rights of cultural, ethnic and religious minorities continued to be subjected to judicial harassment as reprisals for their human rights activities. On February 3, 2010, Mr. **Kaveh Ghasemi Kermanshahi**, a journalist member of the Central Council of the Human Rights Organisation of Kurdistan (RMMK), was arrested in Kermanshah, in western Iran, by seven security agents, who searched his home, confiscated his personal belongings, including his computer and written documents. In May 2010, he was released on a 100,000 US dollars bail. On January 30, 2011, he was sentenced by Branch 1 of the Islamic Revolutionary Court in Kermanshah to a five-year imprisonment on charges of “acting against the national security through membership of the Kurdistan Human Rights Organisation”, “propaganda against the system by publishing reports and news” and “contacts with families of prisoners and executed political prisoners”. On March 16, 2011, his lawyer was notified that his client had been sentenced by the Appeal Court to four years in prison for allegedly “acting against national security” and “propaganda against the regime” by giving interviews to the media and publishing news and reports about families of political prisoners and victims. Moreover, as of April 2011, several human rights defenders who had promoted Kurdish human rights remained arbitrarily detained since 2007, including Messrs. **Adnan Hassanpoor**, a member of the Iranian Kurdistan Journalists Association as well as a reporter for the *Aso* newspaper, **Abdolvahid** aka **Hiwa Boutimar**, an active member of the environmental NGO “Sabzchia”²⁶, and **Mohammad Sadigh Kaboudvand**, Editor-in-chief of the banned weekly *Payam-e mardom-e Kurdistan* (*The Message of the People of Kurdistan*) and President of the RMMK²⁷. Mr. **Sa'eed Matinpour**, an Azeri journalist and cultural activist from

25 / See LDDHI and International Campaign for Human Rights in Iran.

26 / Messrs. Boutimar and Hassanpoor were arrested respectively in December 2006 and January 2007 and were sentenced to death in July 2007 after spending several months incommunicado. Mr. Hassanpoor's death sentence was subsequently commuted to fifteen years' imprisonment and that of Mr. Boutimar to eight years' imprisonment.

27 / Mr. Kaboudvand was arrested on July 1, 2007 and has been detained at Evin prison since then. In May 2008, he was sentenced to ten years' imprisonment for “acting against State security by establishing the [RMMK]” and one year in prison for “propaganda against the system”. The sentence was later reduced to ten years and six months in appeal in October 2008. On July 15, 2010, Mr. Kaboudvand lost consciousness in Evin prison due to irregularities in his blood pressure. Since then, Mr. Kaboudvand was reported to be suffering from severe dizziness, sensory-motor dysfunctions and optical disorders, which could indicate that he had suffered another stroke. Mr. Kaboudvand already suffered two heart attacks while in detention, in May and December 2008, and he also suffers from a renal prostatic disorder.

the city of Zanjan, known for his writings calling for increased political, cultural and linguistic rights of the Azeri people in Iran, also remained detained²⁸. On March 2, 2010, Mr. **Navid Khanjani**, a student member of CHRR, was arrested in Isfahan, before being released on May 3 on a 100,000 US dollars bail²⁹. On January 30, 2011, his lawyer was informed that his client was sentenced by Branch 26 of the Islamic Revolutionary Court to a twelve-year imprisonment and a monetary fine for “spreading lies”, “disturbing the public opinion and propaganda against the system by giving interviews to foreign media” and “membership of CHRR”. Mr. Khanjani, who was previously banned from pursuing higher education for being a member of the Baha’i religious minority in Iran, was also charged with “founding an organisation for people banned from pursuing higher education”. He was also banned from travelling abroad in an earlier sentence. He appealed the sentence but, as of April 2011, it had not been examined yet.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Ahmad Zeydabadi, Ali Hekmat, Mohammad-Reza Zohdi, Rouzbeh Karimi, Forough Mirzaï and Mohammad Maleki, Ms. Bahareh Hedayat, Ms. Mahboubeh Abbasgholizadeh, Ms. Shiva Nazarahari, Ms. Kouhyar Goudarzi and Ms. Bahman Ahmadi Amoui	Arbitrary detention / Judicial harassment	Press Release	January 5, 2010
One Million Signatures Campaign / Ms. Atieh Youssefi, Ms. Parisa Kakaï, Ms. Sommayeh Rashidi, Ms. Maryam Zia, Ms. Mahsa Hekmat, Ms. Bahareh Hedayat, Ms. Shiva Nazarahari, Ms. Bahman Ahmadi Amoui, Ms. Mansoureh Shojaie and Ms. Haleh Sahabi	Arbitrary detention	Urgent Appeal IRN 001/0110/OBS 003	January 6, 2010

28 / Arrested in 2007, Mr. Matinpour was sentenced in June 2008 to eight years’ imprisonment for “propaganda against the Islamic system” and “relations with foreigners”.

29 / During his detention, Mr. Khanjani was put under pressure to give interviews before a video camera, and he spent the first 25 days of his detention in a solitary cell. See International Campaign for Human Rights in Iran.

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Atieh Youssefi, Ms. Shirin Ebadi, Mr. Hassan Rasouli, Ms. Bahareh Hedayat, Ms. Shiva Nazarahari, Ms. Mansoureh Shojaie, Ms. Sommayyeh Rashidi, Ms. Maryam Zia, Ms. Mahsa Hekmat, Ms. Parisa Kakai, Ms. Bahman Ahmadi Amoui, Ms. Zohreh Tonkaboni, Messrs. Heshmatollah Tabarzadi, Mashallah Shamsolvaezine, Alireza Beheshti, Mostafa Izadi, Morteza Kazemian, Nasrin Vaziri, Keyvan Mehregan, Mahin Fahimi, Mehdi Arabshahi and Morteza Haji	Arbitrary detention / Release	Open Letter to the authorities	January 20, 2010
Mr. Emadeddin Baghi	Arbitrary detention / Judicial harassment	Press Release	January 5, 2010
		Open Letter to the authorities	January 20, 2010
	Release on bail	Press Release	June 24, 2010
	Sentencing to prison	Urgent Appeal IRN 009/0910/OBS 115	September 22, 2010
	Imprisonment / Release	Urgent Appeal IRN 009/0910/OBS 115.1	December 16, 2010
Human Rights Organisation of Kurdistan / Messrs. Kaveh Ghasemi Kermanshahi, Maziar Samii, Ejlal Ghawami and Mohammad Sadiq Kaboudvand	Arbitrary detention / Harassment	Urgent Appeal IRN 002/0210/OBS 015	February 5, 2010
Mr. Mohamad Sadigh Kaboudvand	Critical health condition / Ongoing arbitrary detention	Press Release	July 26, 2010
Ms. Omolbanin Ebrahimi, Ms. Elham Ahsani, Ms. Jila Karamzadeh-Makvandi, Ms. Leyla Seyfollahi, Ms. Fatemeh Rastegari-Nasab and Ms. Farzaneh Zeynali	Arbitrary detention	Urgent Appeal IRN 003/0210/OBS 025	February 25, 2010
Mr. Mohammad Oliayfard and Ms. Mahboubeh Karami	Arbitrary detention / Release	Press Release	March 15, 2010
Ms. Shadi Sadr, Ms. Mahbubeh Abbas-Gholizadeh, Ms. Bahareh Hedayat, Mr. Milad Assadi and Ms. Shiva Nazarahari	Sentencing	Press Release	May 20, 2010
Ms. Nargess Mohammadi and Ms. Shirin Ebadi	Arbitrary arrest / Harassment	Press Release	June 11, 2010
Ms. Nargess Mohammadi	Ongoing detention	Press Release	June 24, 2010
	Release on bail	Press Release	July 2, 2010
	Ongoing arbitrary detention / Harassment	Urgent Appeal IRN 001/0211/OBS 024	February 23, 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Mansoor Osaloo	Ongoing arbitrary detention / Ill-treatment / Acts of intimidation / Threats	Urgent Appeal IRN 004/0710/OBS 084	July 9, 2010
	Deterioration of health condition	Urgent Appeal IRN 001 / 0211 / OBS 024	February 23, 2011
Mr. Mohammad Mostafaei	Harassment against relatives	Urgent Appeal IRN 005/0710/OBS 093	July 30, 2010
Ms. Nasrin Sotoudeh	Arbitrary detention / Harassment	Urgent Appeal IRN 006/0910/OBS 108	September 7, 2010
Ms. Nasrin Sotoudeh and Messrs. Mohammad Oliayfard, Mohammad Ali Dadkhah, Abdolfattah Soltani and Mohammad Seifzadeh	Arbitrary detention / Harassment / Arrest / Hunger strike	Urgent Appeal IRN 006/0910/OBS 108.1	November 5, 2010
Ms. Nasrin Sotoudeh and Messrs. Mohammad Oliayfard, Mohamad Hossein Nayyeri, Ms. Sara (Hajar) Sabaghian and Ms. Maryam Kianersi	Arbitrary detention / Judicial harassment	Urgent Appeal IRN 006/0910/OBS 108.2	November 29, 2010
Ms. Nasrin Sotoudeh, Ms. Sara (Hajar) Sabaghian and Ms. Maryam Kianersi	Ongoing arbitrary detention / Release	Urgent Appeal IRN 009/0910/OBS 115.1	December 16, 2010
Ms. Nasrin Sotoudeh	Arbitrary detention / Sentencing	Urgent Appeal IRN 006/0910/OBS 108.3	January 10, 2011
Ms. Nasrin Sotoudeh	Ongoing arbitrary detention	Press Release	April 28, 2011
Mr. Mohammad Oliayfard	Release	Press Release	April 28, 2011
Mr. Madjid Tavakoli	Sentencing / Arbitrary detention	Urgent Appeal IRN 008/0910/OBS 112	September 21, 2010
Ms. Shiva Nazarahari	Sentencing to prison	Urgent Appeal IRN 007/0910/OBS 111	September 21, 2010
	Confirmation in appeal of sentencing	Urgent Appeal IRN 007/0910/OBS 111.1	January 11, 2011
Ms. Sara (Hajar) Sabaghian, Ms. Maryam Karbasi, Ms. Maryam Kianersi, Ms. Rosa Gharatchorlou and Mr. Mohamad Hossein Nayyeri	Arrest / Arbitrary detention / Judicial harassment	Urgent Appeal IRN 009/1110/OBS 138	November 19, 2010
Ms. Fatemeh Masjedi, Ms. Maryam Bidgoli, Ms. Haleh Sahabi, Ms. Mahbubeh Karami, Messrs Khalil Bahramian, Kaveh Ghasemi Kermanshahi, Farshid Yadollahi, Amir Eslami, Omid Behrouzi and Navid Khanjani	Ongoing incommunicado detention / Sentencing / Judicial harassment / Disbarment	Press Release	February 8, 2011
Messrs. Taghi Rahmani, Gholamreza Gholamhosseini, Reza Shahabi and Ebrahim Madadi	Ongoing arbitrary detention / Harassment	Urgent Appeal IRN 001/0211/OBS 024	February 23, 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Kaveh Ghassemi Kermanshahi and Abdolreza Tajik	Sentencing	Urgent Appeal IRN 002/0311/OBS 052	March 29, 2011
	Obstacles to freedoms of association and peaceful assembly	Joint Press Release	April 10, 2011
Mr. Mohammad Seifzadeh	Arbitrary detention	Press Release	April 28, 2011

MALAYSIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010 and 2011, the right to freedom of peaceful assembly continued to face serious impediments due to a restrictive legal framework, which led to the arrest of several human rights defenders. A women's rights organisation as well as a human rights lawyer faced judicial harassment as reprisals to their advocacy against the caning of women and support for Burmese migrant workers. Several land and indigenous rights activists also faced obstacles in carrying out their activities.

Political context

The year 2010 saw further restrictions of civil and political rights in Malaysia. Indeed, the Government of Prime Minister Najib Razak was able to showcase only very limited progress in this field, despite campaign promises to uphold "civil liberties". The Government remained reluctant to enact long-awaited amendments to the Internal Security Act (ISA)¹ as well as other laws relating to detention without trial². The trial of Mr. Anwar Ibrahim, former Deputy Prime Minister³, and the politically motivated charges against other Government critics, further contributed to a lack of public confidence in the judiciary. A potential repeal of the ISA appeared to be highly unlikely, as underlined by Mr. Abdul Nazri Aziz, Minister in the Prime Minister's Office in charge of Parliamentary Affairs, who stated on November 29, 2010 that the ISA would never be revoked, in response to the International Bar Association's Human Rights Institute's criticism of the ISA and call for its abolition⁴. The UN Working Group on Arbitrary Detention, which visited Malaysia from June 7 to 18, 2010, urged the Government to repeal or amend four preventive laws in force in the country that allow detention without trial, in some cases indefinitely: the ISA of 1960, the Emergency (Public Order and Prevention of Crime)

1/ See Observatory Annual Report 2010.

2/ According to the NGO Suara Rakyat Malaysia (SUARAM), 25 individuals were arrested under ISA in 2010, and fifteen persons were released. See SUARAM Report, *Malaysia Civil and Political Rights Report 2010: Overview*, December 2010.

3/ Furthermore, on December 16, 2010, Mr. Ibrahim was suspended from addressing the Parliament for six months, in connection with remarks alleging that Prime Minister Najib Razak's policy of racial unity under the banner of "One Malaysia" was inspired by an Israeli election campaign in 1999, called "One Israel". The ban in effect means that Mr. Ibrahim will not be able to participate in parliamentary debates in the run-up to the 2011 general elections.

4/ See SUARAM.

Ordinance, the Dangerous Drugs (Special Preventive Measures) Act, and the Restricted Residence Act⁵.

Freedom of expression remained seriously restricted, with opposition newspapers temporarily shut down, their licenses not renewed and independent journalists harassed, resulting in self-censorship within the media. The Government increasingly used the 1984 Printing and Publications Act, the 1998 Communication and Multimedia Act, as well as the Sedition Act to stifle critical voices and dissent. Freedom of assembly is also conditional on approval by the police and grant of a permit to assemble. However, these conditions appeared not to apply equally to every group. Pro-Government groups were allowed to assemble in large numbers without much restriction while supporters of opposition parties or non-governmental organisations could not stage peaceful protests. These obvious double standards contributed to diminish public confidence in the police and other law enforcement authorities in the country, all the more as the police continued to use excessive force when dispersing peaceful assemblies and to enjoy widespread impunity for their actions⁶.

The Human Rights Commission of Malaysia (SUHAKAM) operated with no commissioner in office from April 23 to June 7, 2010, building up a considerable backlog of cases. Then, the selection process of new commissioners was not transparent. However, the initial responses of the newly composed institution gave rise to cautious optimism⁷. Furthermore, the Government continued to refuse any follow up on SUHAKAM's findings or even to debate their recommendations in Parliament.

Expectations that the election of Malaysia to the UN Human Rights Council will contribute positively to the promotion and protection of human rights both at the domestic and international levels proved to be overly optimistic. In its campaign promises in the run-up to the elec-

5/ See UN Working Group on Arbitrary Detention Statement, June 18, 2010 and Human Rights Council, *Report of the Working Group on Arbitrary Detention, Addendum, Mission to Malaysia*, UN Document A/HRC/16/47/Add.2, February 8, 2011.

6/ See ALIRAN.

7/ For instance, a loose coalition of eleven NGOs and 52 individuals filed a complaint with SUHAKAM concerning the way the LGBT community was portrayed in the media, also highlighting the fact that based on a 1994 decree the Government bans LGBT people from appearing in State-controlled media, thereby depriving them of the possibility of reacting to degrading comments. SUHAKAM filed the memo as a complaint against the media in June 2010, and also undertook to conduct a review of the relevant Malaysian laws. See International Gay and Lesbian Human Rights Commission (IGLHRC) and Protection Online Press Release, September 21, 2010. SUHAKAM also sent monitors to anti-ISA vigils in August and to a water hike rally in December 2010. See SUARAM Report, *Malaysia Civil and Political Rights Report 2010: Overview*, December 2010.

tions, Malaysia committed itself, among others, to the implementation of recommendations emanating from the Universal Periodic Review, held in February 2009, to actively promote and protect human rights at the national level through various efforts and to review and repeal archaic and outdated laws⁸. Malaysia further pledged itself to continue fostering a meaningful and productive engagement between the Government and civil society. Additionally, the campaign for a seat on the Human Rights Council also included a promise to strengthen capacities for the implementation and enforcement of human rights conventions which Malaysia is party to, alongside reconsidering the numerous instruments which it has yet to accede to. Despite its election to the Human Rights Council, Malaysia's cooperation with UN human rights mechanisms continued to be strained and insufficient⁹.

Ongoing repression of peaceful demonstrations

Although freedom of peaceful assembly is guaranteed under the provisions of the Constitution, the police continued to place serious restrictions upon its exercise in 2010-2011, by either refusing to issue permits for public assemblies, or by violently dispersing them, often using excessive force and arresting activists. For instance, on August 1, 2010, the police dispersed candlelight vigils held simultaneously in several States, commemorating the 50th anniversary of the entry into force of the ISA and demanding that it be repealed. In total, 38 participants were arrested, including Mr. **Syed Ibrahim**, Chairperson of Gerakan Mansuhkan ISA (GMI), Ms. **Nalini Elumalai** and Mr. **Ong Jing Cheng**, SUARAM Coordinators, Ms. **Kohila**, Secretariat Member of SUARAM, Mr. **Choo Chon Kai**, Penang Branch Secretariat Member, and Mr. **Arutchelvan**, SUARAM Director. In some

8/ See General Assembly, *Letter dated 23 April 2010 from the Permanent Representative of Malaysia to the United Nations addressed to the President of the General Assembly*, UN Document A/64/765, May 3, 2010.

9/ There are currently eight pending visit requests from various Special Procedures mandate holders, including the Special Rapporteurs on Human Rights Defenders (request made in 2002); on Indigenous Peoples (2005); on Human Rights and Counter-Terrorism (2005); on the Human Rights of Migrants (2006), on Freedom of Religion (2006) and on the Independence of Judges and Lawyers (2009). Malaysia also has a considerable backlog in reporting to the UN treaty bodies under the various human rights instruments it is party to. The country is also yet to ratify several core human rights conventions, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of Racial Discrimination; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. On July 19, 2010, Malaysia ratified the Convention on the Rights of Persons with Disabilities, which is a welcome step. At the same time, however, the formal reservations attached to the instrument of ratification, along with Malaysia's declaration that aims at limiting the Government's legal application of the principles of non-discrimination and equality, give rise to serious concerns.

cases, lawyers were denied access to their clients. Eventually, all of those arrested were released without charge¹⁰. On August 2, 2010, Ms. **Lau Shu Shi**, a member of the All Women's Action Society Malaysia (AWAM) and former Penang SUARAM Coordinator, was summoned to court after being identified as having participated in the anti-ISA vigil in Penang. She was subsequently charged for "disorderly conduct in a police station" under Section 90 of the 1967 Police Act in connection with another incident stemming from May 2008¹¹ and released on bail¹². She was charged in the Magistrate Court in north-east Penang on August 2, 2010, and pleaded not guilty. The trial was scheduled to be held on October 20, 2010, but was then postponed. As of April 2011, the case remained pending after being postponed on many occasions. On December 5, 2010, sixty persons were arrested in Kuala Lumpur for participating in a peaceful assembly to protest against the proposed water tariff hike in Selangor as well as to hand over a memorandum to the Sultan of Malaysia ("*Yang di-Pertuan Agong*") regarding the water issue. In addition, the police attacked the crowd with tear gas and water cannons, and stepped up their violent actions even as the crowd tried to disperse, resulting in some injuries among the participants of the rally. They were all released without charge¹³. Similarly, on August 2, 2010, SUARAM Coordinator Mr. **Tah Moon Hui** and opposition MP assistant Mr. **Rozam Azen** were arrested for taking part in an anti-fuel price hike campaign at Kampung Kerinchi, Selangor, before being released on bail without charge¹⁴. Similarly, on August 7, 2010, three persons were arrested in Kampung Sungai Teretang, Rawang, in a protest against the national power provider, before being released without charge¹⁵. On October 11, 2010, lawyers Mr. **Jason Kong** and Mr. **Chan Khoo Moh** and two students, Ms. **Norashikin** and Mr. **Mohd Azwan**, all working at the Bar Council's Legal Aid Centre (LAC), were arrested for handing out leaflets with information on police remand powers in Selangor. The police asked them for their identification cards and confiscated them as well as the "Red Books"¹⁶, alleging that they were anti-police publications. The four volunteers, who had been authorised by the mall management to distribute their leaflets, were taken to the district police headquarters,

10/ See SUARAM and GMI Joint Press Statement, August 2, 2010.

11/ In this incident, she was accused of being unruly and raising her voice against a police officer when she lodged a report against them for improperly dispersing an anti-ISA demonstration.

12/ See ALIRAN Statement, August 17, 2010.

13/ See SUARAM Urgent Appeal, December 5, 2010.

14/ See SUARAM Report, *Malaysia Civil and Political Rights Report 2010: Overview*, December 2010.

15/ *Idem*.

16/ The "*Red Book: Know your rights*" is a publication of the Malaysian Bar, providing legal information on one's rights when stopped by the police, during arrest and detention, and on remand proceedings.

State of Selangor. They were detained for three hours before being released without charge. Their identification cards and the copies of the “Red Book” were returned to them. In February 2011, Kuala Lumpur police denied a permit for the Solidarity March Against Racism organised by the Hindu Rights Action Force (HINDRAF) and its sister organisation, the Human Rights Party (HRP), two organisations aiming at defending the rights of Hindu and other marginalised minorities in Malaysia, scheduled for February 27. Moreover, at least 54 HINDRAF and HRP members were arrested in several locations across Malaysia between February 13 and 27 for participating in various promotional activities in the run up to the march. They were subsequently all released on bail but as of April 2011, they all continued to face charges of “acting as members of an unlawful society” or “participating in assemblies of an unlawful society”, under Section 43 of the Societies Act of 1966¹⁷.

Acts of harassment against land and indigenous rights activists

In 2010, land and indigenous rights activists were again subjected to acts of harassment. For instance, on March 17, 2010, 2,000 Orang Asli, indigenous natives of Peninsular Malaysia, organised a historic march in Putrajaya to voice their dissatisfaction on land issues. The protest was organised by grassroots Orang Asli groups, the Network of Orang Asli Villages in Perak (JKOAPerak) and the Network of Orang Asli Villages in Pahang (JKOAPahang). The police stopped the march fifteen minutes after it started. They had originally planned to march from the Putrajaya mosque to the Prime Minister’s office to hand over a memorandum signed by 12,000 Orang Asli. The police instructed the protesters not to display their banners and redirected half of the crowd to the nearby Ministry of Rural Development. Finally, five representatives were allowed to submit the memorandum¹⁸. On August 11, barely over a month after the Penan Support Group (PSG) had released a fact-finding report on the sexual exploitation of indigenous Penan women in Sarawak State, Mr. **John Liu**,

17/ HINDRAF submitted in January 2006 its first application for registration although this reportedly went unacknowledged by the Registrar of Societies. They submitted a second application in October 2007, which also went unacknowledged until October 2008, when the Home Minister announced that HINDRAF was banned. However, no court order followed or accompanied this announcement and, thus, HINDRAF continued its activities. In order to protect its volunteers, HINDRAF renamed itself “Hindraf Makkal Sakthi” in 2008. On October 2, 2009, its legal representatives sent a letter of intent to register the organisation under this name, however, the Registrar of Societies has reportedly not responded to this request. On November 25, 2010, HINDRAF Legal Adviser founded the Human Rights Party, and submitted the formal application for registration, which remains unanswered.

18/ See SUARAM Report, *Malaysia Civil and Political Rights Status Report 2010: Overview*, December

of the PSG, was summoned by the police. The police questioned Mr. Liu for approximately one hour about the contents of the report, which had already been distributed widely to the public, including to police officials. Subsequently, the police did not carry out any further action against Mr. Liu¹⁹. On November 17, 2010, SUHAKAM Commissioner **Jannie Lasimbang** was not able to enter Sarawak to gather information for a national inquiry into the rights of indigenous peoples because a ban on her entering Sarawak imposed in 1994 has never been lifted. Indeed, her conditional entry permit to Sarawak explicitly states that she should “not be involved directly or indirectly in activities that are detrimental to the interests of the State” or “associate with organisations that actively instigate or encourage Sarawak natives to carry out activities that are detrimental to the interests of the State”²⁰. Moreover, as of April 2011, Messrs. **Bunya Ak Sengoh** and **Marai Ak Sengoh**, two Iban land activists from Sarawak who have been actively involved in a struggle to keep a plantation company out of their native customary rights land, remained detained in the Simpang Renggam detention centre, in Johor. Both were arrested on January 15, 2009, along with Ms. **Melati Ak Beken**i, another Iban land activist from Sarawak, under the Emergency Ordinance of 1969, after Bintulu police accused them of being involved in a series of robberies. However, it is believed that their arrest merely aimed at sanctioning their activities on behalf of the rights of their community. On March 15, 2009, Messrs. Bunya Ak Sengoh and Marai Ak Sengoh were given a two-year detention order under the Emergency Ordinance. However, no formal charge was brought against them. On March 15, 2009, Ms. Melati Ak Beken was released after the initial sixty-day detention period²¹.

Harassment of a women’s rights organisation

Women human rights defenders were also targeted in 2010. On March 22, 2010, the Malaysian Assembly of Mosque Youths (MAMY) filed a lawsuit against Sisters in Islam (SIS), a group of women human rights defenders advocating for women’s rights in Malaysia, working in particular against the caning of women and urging the Government to review caning as a form of punishment under the Shariah Criminal Offences as it

19/ See SUARAM.

20/ The ban was imposed by the Chief Minister’s Office and enforced by the Sarawak Immigration Department following Ms. Lasimbang’s trip to the State in 1994 on a Penan fact-finding mission. See SUARAM Report, *Malaysia Civil and Political Rights Status Report 2010: Overview*, December 2010.

21/ Messrs. Bunya Ak Sengoh and Marai Ak Sengoh were released on May 18, 2011. Yet, they were placed under the Restricted Residence Act in Serian, Sarawak.

violates international human rights principles²². MAMY was questioning the use of the word “Islam” on the website and in the publications of SIS. The lawsuit seems to be an attempt to hinder the work of SIS, which had been targeted previously in a similar manner. For instance, in February 2010, the Selangor Islamic Council (MAIS) filed a police report against SIS for questioning the whipping of three Muslim women for allegedly engaging in illicit sex. Furthermore, on March 12, 2010, the Friday sermons in the mosques issued by the Selangor Islamic Department, called on the public to take action against SIS and its Executive Director, Dr. **Hamidah Marican**²³. On October 29, 2010, the Malaysian High Court allowed the women’s organisation to use the name “Sisters in Islam”.

Judicial proceedings against a human rights lawyer for helping Burmese migrant workers

In 2011, a human rights lawyer faced judicial proceedings for helping Burmese migrant workers. On February 14, 2011, the Asahi Kosei (M) Sdn. Bhd. Company, a Japanese company operating in Malaysia and employing migrant workers, lodged a complaint against Mr. **Charles Hector Fernandez**, a long-standing human rights defender and a lawyer, for “libel” on the company. The complaint came after Mr. Fernandez assisted 31 Burmese migrant workers in obtaining remedies from the company and posted articles calling upon the company to respect the rights of the Burmese migrant workers on his blog²⁴. The company denied all the allegations and alleged that these workers were supplied by an “outsourcing agent” and hence that they were not responsible for the said workers. The company demanded from Mr. Charles Hector Fernandez the sum of 10,000,000 ringgits (about 2,319,000 euros). In addition, the company sought a court order to get Mr. Fernandez to remove all blog postings concerning the company and Burmese workers, which was granted by

22 / Under international law, judicial corporal punishment such as caning constitutes torture or other ill-treatment, which are absolutely prohibited in all circumstances. Yet, more than sixty criminal offences are punishable by caning, including fraud and immigration offences. Each year, Malaysia subjects thousands of refugees migrants and Malaysian citizens to judicial caning. According to Amnesty International, as many as 10,000 people a year are caned in Malaysian prisons, including many foreigners from Indonesia and Burma. In February 2010, three women were caned under Shari’a law for the first time in Malaysia’s history. See Amnesty International Report, *A Blow to Humanity, Torture by judicial caning in Malaysia*, December 2010.

23 / See FORUM-ASIA Open Letter to the authorities, April 9, 2010.

24 / On February 7, 2011, the employer and/or their agents threatened these workers with deportation in retaliation for airing their grievances relating to illegal wage deductions, lack of medical leave and unilateral reduction of their wages. Upon being informed about the threatening deportation of the migrant workers, Mr. Fernandez contacted the company for clarification and verification of the reports received. When no response followed, he posted a media statement, now endorsed by over eighty civil society groups, on his blog on February 11, 2011.

the court on February 17, 2011. Yet, Mr. Fernandez never had any notice or knowledge about this application, and the order was obtained without Mr. Fernandez being given the chance to defend himself. On April 11, 2011, attempts by Mr. Charles Hector Fernandez to have the mentioned court order set aside failed as the court ordered the amended injunction to remain in place until the end of the defamation trial, which was scheduled to take place on June 28 and 29, 2011 before the Shah Alam High Court, Selangor²⁵.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Jason Kong, Mr. Chan Khoon Moh, Ms. Norashikin and Mr. Mohd Azwan	Arbitrary arrest / Release	Urgent Appeal MYS 001/1010/OBS 126	October 14, 2010
52 Hindu Rights Action Force (HINDRAF) and Human Rights Party (HRP) members	Judicial harassment / Obstacles to freedom of assembly	Open Letter to the authorities	March 30, 2011

²⁵ / See ALIRAN and SUARAM.

NEPAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010-2011, human rights defenders remained exposed to serious risks in Nepal. In a context where justice is not ensured for victims of human rights abuses, those documenting violations and fighting against impunity continued to be subjected to reprisals by both State and non-State actors, including by the Maoists. Defenders promoting the rights of marginalised communities and women human rights defenders also remained particularly vulnerable. With the peace process at the verge of breakdown, there are serious concerns over a possible escalation of attacks, threats and intimidation of human rights defenders.

Political context

In 2010, Nepal remained locked in a political stalemate, which has prevailed since May 2009 and further contributed to the fragility of the peace process. The Maoists staged a nationwide strike (*bandh*) at the beginning of May 2010, in an attempt to force the resignation of the Government and the reinstatement of the national unity Government. The nationwide strike, which brought the country to a virtual standstill, was eventually called off after six days. There were widespread concerns over the increasing levels of violence and intimidation surrounding the strike and the coercive enforcement of the *bandh*¹.

A particular low point was highlighted by the failure of the Constituent Assembly to meet the May 28, 2010 deadline to finalise a new Constitution by the end of its two-year mandate. In a last-minute compromise, the mandate of the Constituent Assembly was extended for another year. Following the resignation of Prime Minister Madhav Kumar Nepal in June, the Parliament failed to form a new Government in 2010. On February 3, 2011, Mr. Jhalanath Khanal, Chairman of the Communist Party Nepal - United Maoist Leninist (CPN-UML), was elected Prime Minister after he won a clear majority in the 17th round of voting at the Assembly.

1/ See Office of the High Commissioner in Nepal (OHCHR-Nepal) Press Statement, May 7, 2010. In particular, OHCHR-Nepal stressed that “while upholding the right to peaceful assembly, freedom of opinion and expression, OHCHR opposes the coercive enforcement of the *bandh*, including threats, psychological terror, intimidation and any other violent measure. The impact of this *bandh* has been felt particularly harshly by the poor and disadvantaged sections of society”.

Due mostly to the continued political instability, there was no move ahead on establishing accountability for human rights violations committed during the decade-long (1996–2006) internal conflict between Government forces and Maoists. Despite the provisions of the Comprehensive Peace Agreement of 2006, little progress has been made in connection to the establishment of transitional justice mechanisms² and not a single individual has been successfully prosecuted by civilian courts for a conflict-related case³. There has also been no progress in the implementation of the much applauded 2007 Supreme Court decision on disappearances⁴.

The lack of accountability for past human rights violations also contributes to the prevailing impunity with regard to violations committed since the end of the conflict, to the breakdown of law and order and to a lack of adequate public security. Torture is still systematically practised by the police and the army⁵. Furthermore, armed criminal groups continued to seriously undermine public security, in particular in the southern Terai districts⁶. Therefore, killings, attacks, abductions, forced donations and

2 / Although the Government made some critical amendments in the bill to set up a High-Level Commission of Inquiry into Disappearances taking heed of suggestions from human rights organisations and also organised consultations on the bill to establish a Truth and Reconciliation Commission (TRC), which first draft was made public in July 2007, the commissions were not set up as of April 2011. Besides, major concerns remained to be addressed on clauses regarding amnesty provisions, formation of the TRC, reparations and reconciliation. In particular, although the Bill states that amnesty cannot be recommended for five categories of gross human rights violations, the clause which says the Attorney General's office will have the final say on whether or not to prosecute cases recommended by the Commission is problematic. The Bill also still fails to explicitly spell out how the Commission will go about providing protection to witnesses. Moreover, while the Government intensified the distribution of interim relief to conflict victims, it appears that most of the victims receiving the money have been members of influential political parties. See Advocacy Forum (AF).

3 / See Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her office, including technical cooperation, in Nepal*, UN Document A/HRC/16/23, February 16, 2010.

4 / The decision included an order that the Government enact a law which would criminalise enforced disappearance in line with the International Convention for the Protection of all Persons from Enforced Disappearance; establish a high level commission of inquiry on disappearances in compliance with the international criteria on such commissions of inquiry; require investigations and prosecutions of persons responsible for disappearances; and provide for adequate compensation and relief to the victims and their families.

5 / See Human Rights Council, Working Group on the Universal Periodic Review (UPR), *Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1*, UN Document A/HRC/WG.6/10/NPL/2, October 13, 2010. See also Advocacy Forum Report, *Torture and Extrajudicial Executions amid widespread violence in the Terai*, 2010.

6 / From January 2008 to June 2010, OHCHR-Nepal documented 39 allegations of extrajudicial killings in the Terai, resulting in the deaths of 57 persons. In all cases, there were credible allegations of unlawful use of lethal force by security forces, and in most cases no thorough and impartial investigations or criminal prosecutions were undertaken. See OHCHR-Nepal Press Statement, September 23, 2010.

extortions have again been commonplace, with an apparent lack of corresponding political will to make those responsible for such violations accountable for their actions. The police frequently refuse to register complaints and political parties often resort to direct intervention into judicial proceedings⁷.

In January 2011, Nepal underwent its first Universal Periodic Review (UPR) before the UN Human Rights Council, during which the Government of Nepal acknowledged existing and ongoing human rights challenges in the country, while failing to provide any concrete commitments, in particular with regard to addressing torture and extrajudicial killings⁸. Although the Nepal Government accepted a recommendation to “take concrete steps to ensure the security of human rights defenders, including journalists”, it requested more time to consider whether it will accept three further recommendations on the issue⁹.

Moreover, relations with the United Nations became increasingly difficult. After lengthy negotiations, the mandate of the Office of the High Commissioner in Nepal (OHCHR-Nepal) was eventually extended for a further year on June 9, 2010¹⁰. As a compromise, OHCHR agreed to reduce its presence in Nepal and to close its field offices outside Kathmandu. In January 2011, the United Nations Mission in Nepal (UNMIN) withdrew from the country.

Ongoing repression against human rights defenders and lawyers fighting against impunity

Human rights defenders, including lawyers fighting against impunity, continued to operate in an environment dominated by constant threats from both State and non-State actors. Lawyers defending victims of conflict-related crimes continued to face threats, intimidations, refusals

7/ See Human Rights Council, Working Group on the UPR, *Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1*, UN Document A/HRC/WG.6/10/NPL/2, October 13, 2010.

8/ See Press Statement of the Nepal NGO Coalition for the UPR (NNC-UPR), January 25, 2011. The NNC-UPR is representing 235 human rights and civil society organisations in Nepal. Particularly, the NNC-UPR was troubled by the response of the Government delegation who claimed today that “there is no systematic torture in Nepal”, in spite of well documented and credible reports of systematic practices of torture at the hands of State security forces.

9/ See Human Rights Council, *Draft Report of the Working Group on the Universal Periodic Review - Nepal*, UN Document A/HRC/WG.6/10/L.3, January 28, 2011.

10/ See OHCHR Press Release, June 9, 2010. OHCHR has monitored and reported on human rights and provided training and technical assistance to State institutions and civil society since it was established in Nepal in 2005. The Comprehensive Peace Accord signed in 2006 also requests OHCHR to monitor the

to cooperate and in some instances, even direct intervention into judicial proceedings against them by the Maoists and political parties at the local level¹¹. State and non-State actors have spared no efforts to prevent human rights defenders from uncovering human rights violations committed during the conflict and to avoid prosecutions. For instance, on the occasion of the UN International Day in Support of Torture Victims on June 26, 2010, the NGO Advocacy Forum (AF) filed a total of 45 First Information Reports (FIRs)¹² demanding criminal investigations in torture cases committed both by the State security forces and the Maoists during the internal conflict in different police offices where AF works. However, the police flatly denied registering those cases citing either the statute of limitation in the existing Nepali law or prevailing on the repeated cliché that those cases fall under the jurisdiction of the proposed transitional justice mechanisms, including the Truth and Reconciliation Commission¹³. In Jhapa, Dolakha and Ramechhap districts, AF lawyers were obstructed from visiting detainees under various pretexts and threatened of reprisals if they were to lodge complaints about those obstacles. In particular, from December 16, 2009 to June 3, 2010, and again from July 29 to January 3, 2011, lawyers of AF Jhapa were denied access to the police detention centres of Birtamod and Kakabhitta. Likewise, on July 19, 23 and 26, 2010 respectively, AF lawyers from Rupandehi, Kaski and Dolakha districts faced similar obstacles to visit detention centres upon orders of the inspectors in charge of the offices. On July 28, 2010, AF was informed that the Senior Police Officer had ordered through a circular to all the police offices not to let the human rights lawyers to meet the detainees, except the representatives of the National Human Rights Commission. Similarly, on January 9, 2011, an AF legal officer from Banke district was threatened by an unknown caller through an Indian phone number not to proceed in human rights violations cases. He had already received similar phone calls in the past¹⁴.

Journalists also received death threats when reporting human rights violations. For example, on May 14, 2010, Mr. **Motiram Timilsina**, Editor of *Chesta Weekly*, a Kavre-based newspaper, was threatened to death by district member of the United Communist Party of Nepal - Maoist (UCPN-M) Gopal Ghimire for publishing on May 13 a news report

11/ See Human Rights Council, *Joint Written Statement submitted by the Asian Legal Resource Centre, with the support of WOREC, FEDO and JMC, to the Human Rights Council, to inform the debate about human rights defenders in Nepal*, February 18, 2011.

12/ A FIR is a written complaint filed at the police.

13/ See AF.

14/ See AF. Names of AF lawyers are not disclosed for security reasons.

against the Maoist and entitled “collecting money in the name of labourers”. Mr. Timilsina lodged a complaint and Mr. Ghimire subsequently apologised on May 17, pledging not to repeat such an incident in the future¹⁵.

Some lawyers and human rights defenders were also castigated for their work, both directly and indirectly, by the Maoists¹⁶. For instance, on May 3, 2010, Mr. **Janak Bdr Shahi**, Secretary of the Banke District Bar Association, was stopped by UCPN-M cadres as he was on his way to the Bar office. When Mr. Shahi clarified that he was a staff employed at the Bar and was returning from monitoring the nationwide strike, he was told by the cadres that “lawyers turn black information into white and vice versa” and was prohibited by the latter from entering the premises of the court¹⁷. On June 26, 2010, representatives of the Maoist Party publicly accused lawyers seeking justice in the murder of Mr. Arjun Lama, a social worker in Kavre, of “conspiring with international human rights organisations to defame the Maoist Party”¹⁸. Likewise, on June 30, 2010, on the eve of a jail bail hearing in a case in which a juvenile was severely tortured by family members of a police officer, a Maoist cadre, Mr. Deepak Karki, who is the elder brother of the main suspected perpetrator, met the AF leading lawyer in the case, and requested him not to represent the victim in the court¹⁹. When the AF lawyer rejected his request, Mr. Deepak Karki got angry and said, “If my sister is jailed, you and your organisation will face bad consequences. We will spare no one”. On July 1, 2010, the day of the final hearing of the case, Mr. Deepak Karki threatened again the AF leading lawyer, telling him “to remember his words”. Yet, nothing untoward happened after that day²⁰. The same day, the District Court of Kathmandu ordered to send the perpetrator to jail until trial. As of March 2011, the case was still sub judice and the lawyer remained under threat. Throughout the court proceedings held on August 8, 9 and 10, 2010 vis-a-vis the case of Mr. Ramhari Shrestha’s murder, a businessman from Kathmandu who was allegedly abducted in April 2008 by UCPN members, and later

15/ See Informal Sector Service Centre (INSEC).

16/ See OHCHR-Nepal Press Release, July 16, 2010. OHCHR-Nepal Chief further urged the Maoists to fully cooperate with the justice system and stressed that “while every individual or party is entitled to voice their disagreement, this should not be expressed in a way that is perceived as threatening against individuals who work to provide remedy and justice to the victims of human rights and international humanitarian law”.

17/ See INSEC.

18/ The names of the lawyers are not disclosed for security reasons. The accused in the murder are six Maoist cadres, including Mr. Agni Sapkota, a Maoist Politburo member. The reaction of the Maoist Party followed the earlier refusal of the US Government to issue a visa to Mr. Sapkota on the basis of the seriousness of charges against him. See INSEC and AF.

19/ The name of the lawyer is not disclosed for security reasons.

20/ See AF.

died reportedly in the aftermath of severe ill-treatment received inside the People's Liberation Army (PLA) third division in Chitwan, a truckload of PLA combatants from the Chitwan district-based cantonment was continuously on the prowl nearby the lodgings of AF lawyers who had been there to plead in the criminal proceedings in Chitwan District Court. The combatants were even seen in the premises of the court²¹.

Defenders of the rights of marginalised communities and women human rights defenders targeted

Human rights defenders working to promote the rights of marginalised communities, including the Dalits, and women human rights defenders, remained particularly vulnerable given the lack of social recognition and legitimacy of their work. Defenders working on the rights of Dalits are often not recognised as human rights defenders and police frequently refuse to investigate cases in which they are affected due to their work²². In addition, given that in Nepal women are traditionally confined to the private sphere and the home, women human rights defenders who organise themselves and speak publicly to raise human rights issues face hostility both from their own families and communities, as well as from the police. For example, on April 12, 2010, Ms. **Mahenigar Ansari**, a woman human rights defender of Dhangadi, was severely beaten by Mr. Sekh Munil Ahamad Ansari, a cadre of the Nepali Congress, the second largest political party in the country, who defined her as a “characterless woman”, for advocating the rights of Muslim women. On the same day, Mr. Sekh Munil Ahamad Ansari was taken in police custody before being later released after interrogation. The Women's Rehabilitation Centre (WOREC) helped her to lodge a complaint and a FIR was registered. Yet, Ms. Ansari subsequently withdrew the case following pressure exerted by the Nepali Congress and the police²³. Similarly, on July 1, 2010, Ms. **Malati Thakur**, Chairperson of the Women Rights Forum, an NGO advocating women's rights, Dhanusa district, was verbally abused, assaulted and rebuked by a local man for fighting against violence against women. The perpetrator was subsequently held liable by the community justice and fined 1,000 nepali rupees (about 10 euros)²⁴.

21/ *Idem*.

22/ Cases are not disclosed for security reasons.

23/ See INSEC Statement, April 12, 2010 as well as WOREC.

24/ See WOREC.

PAKISTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

Throughout 2010 and the beginning of 2011, the Government failed to provide a safe and enabling environment for human rights defenders, who continued to be victims of killings and abductions, in particular in areas that fall outside of its effective control, such as the provinces of Balochistan and Khyber Pakhtun Khwa. Perpetrators of violations against human rights defenders were rarely brought to justice, and impunity remained widespread throughout the country.

Political context

In 2010-2011, extrajudicial killings and enforced disappearances remained rampant, particularly in Balochistan¹, creating an extremely high-risk environment for human rights defenders. Judicial processes before the Supreme Court and high courts were still unnecessarily lengthy, contributing to a feeling of impunity. A high number of cases of enforced disappearances remained unresolved. In an attempt to address the situation, the Government set up in March 2010 a three-member Commission of Inquiry on Enforced Disappearances (CIED), headed by a former Supreme Court Judge, which submitted its first report at the end of the year. Yet, as of April 2011, its findings had not been made public and the CIED claimed that it had not been able to make any substantial progress in tracing the whereabouts of missing persons in Balochistan².

Torture remained widespread in 2010-2011, with security forces and other law enforcement agencies enjoying almost complete lack of

1/ Balochistan has been engulfed with a cycle of target killings for several years dating back to General Musharraf's military operation unleashed in early 2000's to quell secular Baloch nationalists' demands for maximum internal autonomy and control over the region's gas, gold and copper reservoirs. The mass killings, abductions and detentions have intensified since July 2010.

2/ The CIED, which investigated the intelligence agencies' role in enforced disappearances, was authorised to summon any senior official of the armed forces whose name surfaced in connection with the enquiries and also conducted extensive interviews with the families of the victims. Many relatives of missing persons who met a fact-finding mission to Balochistan of the Human Rights Commission of Pakistan (HRCP) in May 2011, appeared before the CIED. Most of them initially had high expectations of CIED, but informed the HRCP mission of their disillusionment over the CIED's inability to procure the recovery of their missing relatives. Some of those who had appeared before the CIED also complained of intimidation by the intelligence personnel at the hearings. They also said that the CIED expected that the families would produce witnesses of disappearance, when no arrangements had been made for protection of witnesses. See HRCP Reports, *State of Human Rights in 2010*, April 2011 and *Balochistan*

accountability. Acts of torture committed in military custody or in detention centres run by the intelligence services were also endemic. Conditions of detention remained poor in all parts of the country. In a welcomed step, the Government ratified the UN Convention Against Torture and the International Covenant on Civil and Political Rights (ICCPR) on June 23, 2010. However, Pakistani authorities made several reservations upon ratification, which raise serious concerns³.

In 2010-2011, members of religious minorities remained particularly vulnerable. In particular, members of the Ahmadiyyah religious minority⁴ faced threats, discrimination and violent attacks, as illustrated by the attack of two Ahmadi mosques on May 28, 2010, killing at least seventy members of the community⁵. The Shia community was also victim of targeted killings, particularly in Balochistan⁶. In addition, in January and March 2011 respectively, the Governor of the Punjab province and the Federal Minister for Minority Affairs were assassinated for opposing the blasphemy law⁷. The UN High Commissioner for Human Rights noted that these high-profile killings were “symptomatic of pervasive violence against religious minorities in Pakistan and a lack of protection for their places of worship”⁸.

3 / Notably, the Government entered a reservation to Article 4 of the Convention Against Torture, which in effect, means that torture will not be criminalised under Pakistani national laws. The Government declared that the application of Articles 3, 6, 7, 18, 19 and 25 of ICCPR is accepted only as long as they are not repugnant to the provisions of the Constitution of Pakistan and the Sharia laws. Upon ratification, Pakistan also declared that it does not recognise the competence of the Committee provided for in Article 40 of the Covenant. This was forcefully rebutted by the Human Rights Committee, which reminded Pakistan that its initial report was due on September 23, 2011 and that the Committee may examine Pakistan's record even in absence of a report. See UN Human Rights Committee Press Release, April 4, 2011.

4 / In Pakistan and other countries Ahmadis are regarded by many as non-Muslims and subjected to institutionalised discrimination.

5 / See UN Special Rapporteur on Freedom of Religion or Belief, Ms. Asma Jahangir, Independent Expert on Minority Issues, Ms. Gay McDougall, and Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Mr. Philip Alston, Joint Press Release, May 28, 2010.

6 / In 2010, 105 Shia Hazaras were killed in such attacks in Balochistan. See HRCP.

7 / In February 2010, the Minister for Minorities Affairs had stated that Pakistan planned to change its blasphemy law to check its misuse by extremists. Previous attempts to reform it had stalled amid opposition from hard-line groups. In the end, no change was made in the law in 2010. In addition, at least 64 people were charged under the blasphemy law in 2010, including a Christian woman from Punjab province, who was the first woman to be sentenced to death for blasphemy. See HRCP Report, *State of Human Rights in 2010*, April 2011.

8 / See UN High Commissioner for Human Rights Press Release, March 2, 2011. Four UN Special Procedures mandate holders further stressed that “any advocacy of religious hatred that constitutes incitement to violence or hostility must be prohibited by law and effectively prevented”. See UN Independent Expert on Minority Issues, Ms. Gay McDougall, Special Rapporteur on Freedom of Religion or Belief, Mr. Heiner Bielefeldt, Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Mr. Frank La Rue, and Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Mr. Christof Heyns, Joint Press Release, March 2, 2011.

Freedom of expression remained under attack by both Government and non-State actors. Although Pakistani media can openly criticise the Government, journalists were targeted for their critical views of the military, the intelligence services and the Taliban forces alike. Reportedly, twenty journalists and media workers were killed in 2010, making Pakistan one of the deadliest country for journalists in the world⁹. Widespread impunity surrounded the killing of journalists and other media workers, as reportedly not a single conviction was obtained during 2010 for killings of journalists¹⁰.

In July 2010, Pakistan's worst monsoon flooding in a century affected one-fifth of the country and resulted in the displacement of approximately seven million people. At least 1,600 people died and at least 2,000 persons were seriously injured as a result of the floods, which reportedly destroyed 1.9 million homes. The most vulnerable sectors of society, including members of minority communities, women, children, persons with disabilities and Afghan refugees appeared to be disproportionately affected in the aftermath of the floods¹¹.

Assassination and abduction of human rights defenders in Balochistan and the KPK province

In 2010-2011, defenders continued to face threats and attacks from non-State actors in Balochistan and the Khyber Pakhtun Khwa (KPK) province¹². NGOs working in the health and education sectors, or those seeking to promote human rights, were often branded as "promoting obscenity" or "undermining Islam". In addition, international organisations needed to seek "No Objection Certificates" (NOC) from the Government, which hampered their freedom of movement outside Quetta, in Balochistan, as well as in parts of the Federally Administered Tribal Areas (FATA)¹³.

Incidents of targeted killing and abduction for ransom forced international humanitarian NGOs to curtail their activities in Balochistan and the KPK province, as several of them closed down their offices or reduced field work to prevent harm to their staff. On February 18, 2010, unidentified armed men abducted four employees of the international humanitarian NGO Mercy Corps in the Shankai area of Qilla Saifullah

9/ See HRC Report, State of Human Rights in 2010, April 2011.

10/ *Idem*.

11/ See UN Committee on the Rights of the Child (CRC), Committee on the Elimination of Discrimination against Women (CEDAW) and Committee on the Rights of Persons with Disabilities (CRPD) Joint Press Release, October 27, 2010.

12/ The KPK province was known as the North West Frontier Province until April 15, 2010.

13/ See HRC.

district, Balochistan, on their way to the main regional office of Mercy Corps in Pakistan. The abducted team members were working with local district health officials in Balochistan to implement health programs. The abductors demanded 100 million Pakistani rupees (about 8,180 euros) ransom in exchange for the release of the four relief workers. In June 2010, Mercy Corps closed its operations in Balochistan after the kidnapers killed one of the abducted employees. In July 2010, the other three kidnapped relief workers were released unharmed¹⁴. On March 10, 2010, six Pakistani employees of the American NGO World Vision were shot dead in Oghi Tehsil of Mansehra district (KPK province). The Church-based NGO had been working for the rehabilitation of victims of the 2005 earthquake. It is believed that the Taliban were behind the attack on the office of World Vision, which subsequently suspended all its operations in the country. In addition, national and international NGOs reportedly suspended their field activities for earthquake victims in the Mansehra district and complained that the police had failed to provide them adequate security. In May, the International Committee of the Red Cross (ICRC) halted its operation in Balochistan in the wake of threats by the Baloch Liberation United Front, which demanded that the ICRC and UN organisations stop their activities in Balochistan. In late August, at the peak of Pakistan's flood crisis, Taliban threatened to attack foreign humanitarian workers in the country¹⁵.

Members of human rights NGOs in Balochistan region were also victims of reprisals. On December 21, 2010, Mr. **Siddique Eido**, a journalist and Coordinator of the Pasni Core Group of the Human Rights Commission of Pakistan (HRCP), was abducted in Gwadar by men wearing State security forces uniforms. On April 28, 2011, his body was found in Ormara, Balochistan, with apparent signs of torture. At the time of his disappearance, Mr. Eido was accompanied by four policemen. Despite repeated calls from the HRCP, the authorities made no real effort neither to secure his release nor, as of April 2011, to publicly identify and prosecute the perpetrators. On March 1, 2011, Mr. **Naeem Sabir Jamaldini**, HRCP Khuzdar Core Group Coordinator, was shot dead in Khuzdar by two unknown individuals riding a motorcycle. Mr. Naeem Sabir Jamaldini, a renowned human rights defender in the region, had mobilised community groups for the promotion and the defence of human rights and was continuously reporting human rights violations committed in the Balochistan region, documenting and denouncing enforced disappearances and acting for the recovery of missing persons. Newspapers reported that an organisation

14/ See HRCP Report, *State of Human Rights in 2010*, April 2011.

15/ *Idem*.

calling itself the Baloch Musallah Difa Army claimed responsibility. Mr. Sabir Jamaldini had been reportedly receiving death threats for months before his murder and feared for his safety. As of April 2011, the perpetrators had not been identified.

Killing of a trade union activist

Trade union activists still faced significant risks in connection with their activities. For instance, on July 5, 2010, Mr. **Mustansar Randhawa**, a leader of the Labour Qaumi Movement (LQM) and of textile and power loom workers across several districts in Punjab, was shot dead in front of his office in Faisalabad by unknown persons. On that day, LQM had called for a strike against low wages, poor working conditions and the intimidation of power loom workers. Mr. Randhawa, had been receiving death threats reportedly from power loom and textile mill owners prior to his death, apparently because of his role in organising workers in the area. As of April 2011, the perpetrators of his assassination remained at large¹⁶.

Reprisals against defenders of minorities and women's rights

Human rights defenders working on the rights of religious minorities and women also faced increased risks. For instance, on August 19, 2010, HRCF member Mr. **Veerji Kolhi** was abducted in Hyderabad, Sindh province. He had previously called for justice for a gang-rape victim. He was also active in advocating for the rights of minority communities, particularly in Sindh, and in the emergency relief efforts following the floods. He was subsequently released on August 23, 2010, after being threatened with dire consequences should he not be able to convince the victim and her parents to agree to a compromise in the rape case¹⁷.

16/ See HRCF Press Release, July 9, 2010 as well as Report, *State of Human Rights in 2010*, April 2011.

362 17/ See HRCF Report, *State of Human Rights in 2010*, April 2011.

THE PHILIPPINES

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010-2011, human rights defenders documenting or reporting human rights violations committed by officers of the Philippine army or the police, continued to be subjected to violent reprisals, including assassinations. Health workers and activists as well as land rights activists opposing mining and economic projects also faced threats and intimidation. The climate of impunity for human rights violations and the labelling as sympathisers or associates of armed leftist groups created an environment in which human rights defenders remained at serious risk of violent attacks.

Political context

On May 10, 2010, Benigno Aquino III was elected President on a campaign platform that included a number of human rights commitments, such as the abolition of private military groups¹ and justice for human rights violations, ending the impunity enjoyed by the police and the military². He further pledged to uphold freedom of expression and respect press freedom. While there was notable steps towards the promotion of human rights since President Aquino took office on June 30, the Government has so far failed to sign and implement the national human rights action plan or other policies that mainstream human rights in the Aquino administration.

Furthermore, credible allegations of gross human rights violations, including extrajudicial killings, continued³. Impunity for hundreds of cases of extrajudicial killings and enforced disappearances prevailed in 2010. Although, in his first executive order on July 30, the President established the Truth Commission for the Philippines, the Commission has jurisdiction over corruption allegations committed during the Arroyo regime but is not mandated to investigate human rights violations, including more than 200 cases of enforced disappearances documented over the past decade.

Private armed groups of local politicians and paramilitary groups continued to threaten human rights despite a presidential decision setting up

1/ In numerous provinces, ruling families continue to use paramilitary forces and local police as their private armies, often with national Government support.

2/ "There can be no reconciliation without justice. When we allow crimes to go unpunished, we give consent to their occurring over and over again". Pres. Benigno Aquino III, Inaugural Speech, June 30, 2010.

3/ See Alliance for the Advancement of People's Rights (KARAPATAN) Report, *2010 year-end report on the human rights situation in the Philippines*, December 1, 2010.

a task force to dismantle private armies in Masbate and Abra provinces. The trial of the persons accused of committing the Maguindanao massacre in November 2009 began on September 8, 2010. The trial could be a crucial step in establishing accountability for the killing of 57 people. However, as of June 2011, 107 suspects were still at large and ninety had been arrested, out of which 31 had not been arraigned yet⁴.

Politically motivated killings and torture also continued throughout 2010. On a positive note however, the first test case under the 2009 Anti-Torture Act was filed in September 2010 by the NGO Medical Action Group, in the case of five men detained in the Pampanga provincial jail⁵.

In December 2010, the Government of President Aquino unveiled its new counterinsurgency programme, the “Oplan Bayanihan”, which replaced the controversial “Oplan Bantay Laya” (OBL), said to be responsible for extrajudicial killings and enforced disappearances of activists and the displacement of thousands of people from communities. Yet, it remains to be seen whether the new strategy will in fact contribute to ending impunity.

Assassination of human rights defenders who denounce abuses committed by the army or the police

Human rights defenders documenting or denouncing abuses committed by officers of the Philippine army or the Philippine National Police (PNP) were in the front line of repression. For instance, Mr. **Benjamin E. Bayles**, a member of the September 21 Movement, which is a member of the Alliance for the Advancement of People’s Rights (KARAPATAN), in Himamaylan city, Negros Occidental province, was shot dead by two men on June 14, 2010. The Himamaylan city PNP subsequently apprehended and detained Messrs. Roger M. Bahon and Ronnie L. Caurino, and charged them with murder. The same day, Kabankalan police officers made a statement on the radio claiming that the two suspects had confessed to be regular members of the 61st Infantry Brigade of the Philippine Army but retracted from this initial statement the following day. Mr. Bayles had been reportedly subjected to surveillance, harassment and intimidation by the military since May 2010. The military had accused him of working for front organisations of the Communist Party of the Philippines – New People’s Army (CPP-NPA). Mr. Benjamin Bayles had been denouncing abuses committed by the officers of the Philippine army against upland farmers and farm workers, and had helped families of the victims to seek legal services. He was also active in anti-mining campaigns and in advocating

4 / According to the files of the Regional Trial Court 221.

364 5 / See Philippine Alliance of Human Rights Advocate (PAHRA) and Medical Action Group.

for peasants' rights. The trial of the two suspects began in October 2010 and was ongoing as of April 2011. Moreover, following Mr. Bayles' killing, Mr. **Fred Cañas**, KARAPATAN-Negros Secretary General, was threatened for denouncing his colleague's assassination.

Ongoing stigmatisation of human rights defenders

Human rights defenders, community activists and journalists are often labelled by members of the army and the police as being sympathetic with, or belonging to, armed leftist groups, including the New People's Army (NPA), designated by both the United States and the European Union as a terrorist organisation. There were also allegations of soldiers storming the premises of human rights NGOs and venues of human rights related gatherings, reportedly planting damning evidence, and subsequently claiming that the premises were a safe house for the NPA, or that persons present in the premises are NPA members or supporters⁶. On September 21, 2010, Brigadiers General Eduardo del Rosario and Datu Ruben Labawan held a press conference at Apongcola, Davao city, during which they accused Mr. **Kelly Delgado**, Secretary General of KARAPATAN-Southern Mindanao Region, of masterminding a plot to liquidate the Eastern Mindanao Command Spokesperson, Lieutenant Colonel Randolph Cabangbang, allegedly to avenge the abduction and death of the daughter of a known NPA commander. Brigadier General Eduardo del Rosario further alleged that KARAPATAN is a legal front of the NPA. The press conference took place three days after KARAPATAN received classified information from a reliable source that elements of the Philippines army had issued an order to "eliminate" Mr. Delgado. He had previously been the target of acts of harassment by the military as a result of his work denouncing human rights violations committed as part of the military's counterinsurgency strategy. On November 22, 2010, members of the 31st Infantry Brigade of the Philippine Army (IBPA) and the police raided the KARAPATAN office in Daet, Camarines Norte. The search warrant specified that there were NPA members in the office. Arrested were Messrs. **Smith Bardon**, Provincial Chairman of the Peasant Movement of the Philippines (KMP); **Denver Bacolod**, KARAPATAN staff; **Mherlo Bermas**, Kabataan party list member; and **Elpidio de Luna**, a member of SELDA, an organisation of former political prisoners in the Philippines, who were attending a consultation among KARAPATAN and other organisations on the human rights situation. They were falsely charged with "illegal possession explosives", "rebellion", and "inciting to sedition". These charges were subsequently dismissed by the Regional Trial

6/ See KARAPATAN Report, *2010 year-end report on the human rights situation in the Philippines*, December 1, 2010.

Court Branch 38 in Daet, Camarines Norte, and the four were released on February 24, 2011⁷. Moreover, Mr. **Temogen Sahipa Tulawie**, Provincial Chairperson of the Consortium of Bangsamoro Civil Society (CBCS) in Mindanao, province of Sulu, has been in hiding since October 2009 after a warrant of arrest was issued against him. His work involves the monitoring and documentation of human rights violations affecting Muslim communities in the Autonomous Region of Muslim Mindanao, especially in the province of Sulu. He is facing charges of “multiple frustrated murder” and “attempted murder” at the Regional Trial Court of Jolo, Sulu, filed on July 22, 2009. The charges relate to a bombing incident that happened in the municipality of Patikul, Sulu, on May 13, 2009, wounding twelve persons, including Governor Abdusakur Tan of the province of Sulu. On May 26, 2009, Messrs. Mohammad Sulayman Muin and Juhan Alihuddin were arrested without a warrant and later, in the absence of legal counsel, forced to admit responsibility for the bombing. They named Mr. Temogen Sahipa Tulawie and Congressman Munir M. Arbison of the second District of Sulu as the alleged masterminds behind the bombing. It is on the basis of their extra-judicial confessions that the arrest warrant for Mr. Tulawie was issued on October 5, 2009. Mr. Mohammad Sulayman Muin escaped from detention on December 24, 2010, and was reportedly killed subsequently. Mr. Alihuddin later recanted his confession and denied any knowledge of the bombing. As of April 2011, Mr. Tulawie remained in hiding due to fears that he will not be accorded a fair trial⁸.

Arrest and detention of health rights activists

Health workers and right to health activists were repeatedly harassed by security forces in relation to their activities providing health care and advocacy to rural and disenfranchised communities. On February 6, 2010, 43 health workers and members of the Council for Health and Development (CHD), including Ms. **Merry Mia**, Health Education and Training Services Coordinator for the CHD, were arbitrarily arrested and detained in Morong, Rizal province. About 300 armed members of the 202nd IBPA and the PNP raided the residence of Dr. **Melecia Velmonte**, a respected specialist on infectious diseases, and arrested the health professionals attending a health skills training seminar sponsored by the Community Medicine Foundation (COMMED) and the CHD. Initially no search warrant was presented, and the one produced later was lacking crucial elements. The health workers were brought to the headquarters of the 202nd IBPA, and detained for three days incommunicado, blindfolded and handcuffed, before their relatives were allowed to visit them on February

7/ *Idem*.

8. Several health workers reported that they were subjected to torture and other forms of ill-treatment during interrogation, including electrocution and sleep deprivation. They were accused of “illegal possession of firearms”, “manufacturing bombs” as well as of “belonging to the CPP-NPA”, on the basis of explosives and firearms that were allegedly found by the army at Dr. Velmonte’s residence⁹. In December 2010, President Aquino ordered the Department of Justice to withdraw the criminal charges filed against the “Morong 43” given that the evidence against them had been gathered illegally. They were finally released on December 17, 2010, after more than ten months in detention. Moreover, as of April 2011, Messrs. **Rafael Limcumpao** and **Domingo Alcantara**, respectively peasant and community organisers, as well as Mr. **Archie Bathan**, Secretary General of the Nuclear-Free Bataan Movement (NFBM), who were all arrested on May 27, 2009 by the PNP, remained detained in Bataan provincial jail (Balanga city) on charges of “attempted murder” and “illegal possession of explosives and firearms”. Prior to their arrest, they had planned to organise campaigns to protest the possible renewed operation of the Bataan Nuclear Power Plant in the area, which is likely to bring about serious environmental and health implications for local residents.

Threats and assassination of land rights activists opposing mining and economic projects

In 2010, land rights activists continued to be subjected to violent attacks, including murder. For example, on June 26, 2010, a group of unidentified armed individuals fired gun shots and threw grenades at the parish house of Father **José Francisco Talaban**. Countless bullet marks and shrapnel, and empty shells from M16 and M14 rifles were found on the parish premises. Additionally, pamphlets, purportedly issued by the “Anti-Communist Group” (*Aniban ng Ayaw sa Komunista*), containing death threats against Fr. Francisco were also found. The pamphlets also listed the names of the following community leaders: Messrs. **Edwin Garcia**, **Pedro Calivara**, **Alfonso Jan**, **Arnold Gamaro**, **Arnel Turzar**, **Marlon Angara**, **Jerry Fabro** and Ms. **Rachel Pastores**. Fr. Francisco and the community leaders listed in the pamphlets are advocating against the establishment of an economic zone in the province, seeking also the support of advocacy groups in Manila. The project threatens to displace indigenous people, farmers, fishermen and their families, particularly those within the municipality of Casiguran. On July 9, 2010, Mr. **Pascual Guevarra**, a leader of the Alliance of United Farmers in the 3100 Hectares in Fort Magsaysay (ALMANA 3100), a movement of displaced farmers who

9/ However, according to witnesses, the military searched the compound only after the health workers and the residents of the house were ordered out of the building.

oppose eviction from their land, was shot dead by an unknown individual who had broken into his house in Barangay San Isidro, municipality of Laur, Nueva Ecija province. His grandson was also injured in the incident. Similarly, on June 27, 2010, Mr. **Fernando Bejino**, an active member of Kasayan Farmers Association (KASAYFA) and a fervent opponent to the planned expansion of the “Jathropa plant”¹⁰, was killed by two unknown assailants while he was travelling from Poblacion to Barangay Casalaan, municipality of Siaton, Negros Oriental province. Prior to his death, he was harassed by vigilante groups reportedly created by the military and pressured to admit his alleged involvement in an underground movement linked to an armed rebel group, which he rejected. On January 24, 2011, Mr. **Gerardo Ortega**, a journalist and environmental rights defender in Palawan Island, was shot dead in Puerto Princesa city. On January 26, 2011, the police filed murder charges against the former administrator in the south-western Palawan province, who allegedly owned the gun used by another suspect, Mr. Marlon Ricamata, who was apprehended at the scene by the police on January 24, and who confessed that he had been hired to silence the broadcaster for a fee of 150,000 pesos (2,470 euros). Three other men were also charged for the shooting of Mr. Ortega. Mr. Ortega was a staunch critic of the current provincial administration and of mining companies in Palawan, speaking out against corruption in his programme on *DWAR* radio station¹¹. On March 9, 2011, Mr. **Bonifacio Labasan**, Vice-Chairperson of the Isabela chapter of the Union of Peasants in Cagayan Valley (*Danggayan Dagiti Mannalon iti Cagayan Valley* - DAGAMI), was shot by two men on a motorcycle. He had been engaged in a campaign against the conversion of vast crop lands for the production of bio-ethanol, which would displace farmers from their lands in Isabela province. As of April 2011, the police was studying whether to bring charges and no suspect had been detained. On April 27, 2011, Ms. **Florita “Nang Flor” Caya**, newly-elected General Manager of the Unified Tribal Council of Elders and Leaders (UTCEL)¹² and Vice-President of the national rural peasant women organisation LAKAMBINI,

10/ The privately owned Jathropa production stands at 18-20 hectares and it is bordered on all sides by forest lands tilled by members of the KASAYFA. The planned expansion would imply clearing additional hectares of residential lands to be planted with corn and other crops, some of which are for biofuel purposes, endangering the farmers’ lots and livelihoods.

11/ Ultimately, Mr. Ortega supported a law centre petition filed before the Supreme Court on behalf of residents of the province to declare as unconstitutional a litigious sharing agreement between the provincial Government and the national Government over the proceeds of the Malampanya natural gas project off the coast of the province, which stands at ten billion US dollars.

12/ UTCEL, a local indigenous peoples’ organisation, is officially recognised by the National Commission on Indigenous Peoples (NCIP) and the local government units as the legitimate claimant organisation to the awarded Certificate of Ancestral Domain Title (CADT) area.

affiliated to PAKISAMA, a national peasant confederation, was shot at the back of her head while tending her store at the poblacion of Monkayo, Compostela Valley. Witnesses saw a man hurriedly walking away from the store and quickly riding at the back of a motorcycle driven by another man. Ms. Nang Flor was the third General Manager of UTCEL to be killed by unidentified persons in a span of two years. She had been elected at the head of UTCEL in March 2011 to replace Mr. **Carlito Chavez**, who was gunned down on August 17, 2010. UTCEL leaders are said to have received threats warning that they should “stop their activities otherwise they would all be liquidated”. It is thus feared this is because of UTCEL opposition to the planned entry of mining companies/interests in the area¹³.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Merry Mia, Dr. Melecia Velmonte and other 41 health workers and members of the Community for Health Development	Arbitrary arrest and detention / Allegations of torture and other forms of ill-treatment	Urgent Appeal PHL 001/0210/OBS 017	February 6, 2010
Messrs. Benjamin E. Bayles and Fred Cañas	Assassination / Threats	Urgent Appeal PHL 002/0610/OBS 081	June 30, 2010
Father José Francisco Talaban, Messrs. Edwin García, Pedro Calivara, Alfonso Jan, Arnold Gamaro, Arnel Turzar, Marlon Angara, Jerry Fabro and Ms. Rachel Pastores	Assault / Threats	Urgent Appeal PHL 003/0710/OBS 086	July 16, 2010
Messrs. Fernando Bejino and Pascual Guevarra	Assassination	Open Letter to the authorities	July 22, 2010
Mr. Kelly Delgado	Stigmatisation	Urgent Appeal PHL 004/1010/OBS 123	October 8, 2010
Mr. Gerardo Ortega	Assassination	Urgent Appeal PHL 001/0111/OBS 012	January 28, 2011
Messrs. Christopher Solano, Althea Villagonzalo, Whelgestor Paglinawan and Manuel Bentillo	Arrest / Arbitrary detention	Urgent Appeal PHL 002/0311/OBS 042	March 23, 2011
Mr. Bonifacio Labasan	Assassination	Urgent Appeal PHL 003/0311/OBS 053	March 30, 2011

13/ See PAKISAMA Press Statement, April 29, 2011 as well as PAHRA.

SRI LANKA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010 and until April 2011, freedoms of association, peaceful assembly and expression remained significantly hindered in Sri Lanka, especially in the northern province. Human rights defenders seeking accountability for human rights violations, in particular for alleged violations of international human rights and humanitarian law committed by the Government and the LTTE during the civil conflict that ended in 2009, fighting against corruption or defending environmental rights, were subjected to various acts of intimidation including threats, slandering campaigns, judicial harassment and even forced disappearance and killing. Human rights defenders were also subjected to reprisals when promoting and using the UN human rights system, while failure to investigate prominent cases of assassination and disappearance of human rights defenders further contributed to an environment of fear and silence.

Political context

In January 2010, incumbent President Mr. Mahinda Rajapaksa won a landslide victory with 57% of the votes cast in the early presidential elections that he called two years before the end of his term, after having declared victory over the Liberation Tigers of Tamil Eelam (LTTE) separatists in May 2009, following a 26-year civil war. The common opposition candidate, General Sarath Fonseka, who led the final military campaign against the Tamil Tigers as the Commander of the army, lost against Mr. Rajapaksa and announced his intention to contest the election results. On February 8, 2010, General Fonseka was arrested in Colombo and was court-martialled for “committing military offences”, relating to alleged acts of corruption he may have committed while serving in the army. In September 2010, General Fonseka was condemned to thirty months of imprisonment and stripped of his military rank by President Rajapaksa. The President further consolidated his power when his ruling coalition won an overwhelming majority in the April 2010 parliamentary elections. Moreover, on September 8, 2010, Parliament adopted the 18th amendment to the Constitution, significantly increasing Government power over the judiciary, the police and the National Human Rights Commission. It also lifted the previous two-term limit for the Presidency, thereby making it possible for President Rajapaksa to remain in power indefinitely. The incumbent Government also won local government elections in March 2011. However, in all three elections, the Government suffered heavy defeats in the Tamil majority northern province, which bore the brunt of the last phase of the war in 2008-2009.

Although no terrorist acts were reported since the end of the conflict with the LTTE, the Emergency Regulations (ER) still remained in place – despite the fact that some of its provisions were repealed in May 2010 – and were renewed every month. The ER and the Prevention of Terrorism Act (PTA) continued to be invoked in order to justify the arrest of political opponents, human rights defenders and journalists who were accused of having links with the LTTE or whose actions were allegedly constituting a threat to national security. Additionally, despite the end of the conflict, the territories inhabited by Tamils remained heavily militarised¹.

Impunity continued to prevail regarding past human rights violations. Although the Lessons Learnt and Reconciliation Commission (LLRC) was set up in May 2010 by the President in response to widespread calls for an independent international investigation into the allegations of war crimes committed by both parties during the last weeks of the conflict, its mandate remained limited as it did not extend to investigating serious allegations of violations of international human rights and humanitarian law committed by both sides in the final phases of the conflict², and the LLRC therefore will fail to address reconciliation in a forceful manner. Moreover, it was of particular concern that witnesses giving testimony to the LLRC faced threats and intimidation³.

Freedom of opinion and expression continued to face significant constraints in 2010–2011, particularly following the January 2010 presidential election, when several journalists were detained and questioned and news websites were blocked. In particular, print and online media outlets that criticised the Government, its policies, the President or the Defence Minister Mr. Gotabhaya Rajapakse, the President's brother, were subject to harassment and reprisals⁴. In addition to the intimidation, threats and

1/ See Sri Lanka Advocacy Group, *Briefing Note on the Human Rights Situation in Sri Lanka*, March 2011.

2/ The main task of the LLRC is to report “on the facts and circumstances which led to the failure of the ceasefire agreement [...] and the sequence of events that followed thereafter up to May 19, 2009”. Its mandate and work was explicitly put in question by the report of the UN Secretary General's Panel of Experts, which was appointed on June 22, 2010 and called for an independent international investigation into credible reports of atrocities committed by both sides to the conflict. See Secretary General's Panel of Experts on Accountability in Sri Lanka Report, March 31, 2011. On November 5, 2010, the warrant of the LLRC was extended by the President to May 15, 2011.

3/ See Sri Lanka Advocacy Group, *Briefing Note on the Human Rights Situation in Sri Lanka*, March 2011.

4/ For instance, the Colombo-based opposition online website *LankaeNews* was the target of constant threats, intimidation and smear campaigns, which increased following their support of General Fonseka in the January 2010 presidential elections. Moreover, the cartoonist of the website, Mr. Prageeth Ekneligoda, remains disappeared since January 2010 shortly after he wrote articles supporting the presidential opposition candidate. See OMCT, Free Media Movement (FMM), Inform Human Rights Documentation Centre (INFORM) and Law and Society Trust (LST).

smear campaigns targeting opposition news media, employees of State-owned media outlets also suffered severe consequences for protesting against Government control of their editorial policies as well as from the misuse of State media resources during the presidential election campaign in January 2010. Dozens of employees were fired, suspended or threatened⁵.

The human rights record of Sri Lanka was examined in 2010 by the United Nations (UN) Committee on the Rights of the Child (CRC) and Committee on Economic, Social and Cultural Rights (CESCR), in September and November respectively, which both expressed concerns about the situation of human rights defenders and organisations⁶.

Restrictions on freedoms of association and peaceful assembly in the north of the country

In 2010-2011, freedom of association continued to face serious restrictions, especially in the northern areas of Sri Lanka. On the one hand, while for years, the Tamil Tigers and the Government restricted access to those areas under Tiger control, the Government relaxed some security checkpoints after the end of the civil war. But restrictions remained in place for independent journalists and NGOs, although some were given limited access to the war-affected population in the north by prior permission from the Ministry of Defence. In particular, on July 15, 2010, the Government's Non-Governmental Organisations (NGO) Secretariat issued a circular numbered NGO/03/16 setting up a new procedure for granting approval for all NGO movements – including their staff and international organisations – implementing projects in the northern province, which required heads of all the NGOs operating projects in the province to register all their officials with the Presidential Task Force (PTF), which is headed by

5/ In particular, State media workers and union leaders who called for State media institutions to abide by the election commissioners media guidelines and the Supreme Court decision in this regard, had their employment terminated and received serious threats and harassment and were attacked as Sinhala terrorists in the State media. See unpublished list produced by LST.

6/ The CRC expressed "serious concern at the reported growing pattern of intimidation of non-governmental organisations, including threats, harassment, physical attacks and arrests and about restrictions placed on their work", while the CESCR expressed "serious concern about widespread threats, attacks, defamation campaigns and various forms of stigmatisation against human rights defenders (...) as well as about serious restrictions of their activities", and urged the Government of Sri Lanka to "take the necessary action to end the ongoing harassment and persecution of human rights defenders and ensure that those responsible for the threats and attacks are duly prosecuted and punished". See CRC, *Concluding Observations: Sri Lanka*, UN Document CRC/C/LKA/CO/3-4, October 19, 2010 and CESCR, *Concluding Observations: Sri Lanka*, UN Document E/C.12/LKA/CO/2-4, December 9, 2010. In addition, the Committee on the Elimination of Discrimination Against Women (CEDAW) reviewed the periodic reports of Sri Lanka on January 26, 2011. See CEDAW, *Concluding Observations: Sri Lanka*, UN Document CEDAW/C/LKA/CO/7, February 4, 2011.

the President's brother Mr. Basil Rajapakse, with immediate effect. The new procedure also requested NGO heads to provide information on all human and material movements carried out by NGOs in the northern province for further approval. In addition, in June 2010, the NGO Secretariat was transferred from the civilian Ministry of Social Services to the Ministry of Defence. As a consequence, several NGOs were denied access to the region, pending approval from the Ministry. In the last week of June 2010, all agencies working in the north were almost overnight denied access to the north, pending approval from the Ministry of Defence⁷. Furthermore, although the PTF granted permission to some NGOs to launch some projects to assist people in need of assistance in resettled villages of Vanni area, permission was granted only to build houses and infrastructure and start income generating activities, while permission was rejected for counselling, capacity building and empowerment activities of communities⁸. In October 2010, various church organisations and NGOs were instructed in writing and verbally by the Government of Vavuniya and by the army in Mannar that no events should be organised without inviting the military. On December 18, 2010, the Mayor of Jaffna, Ms. Yogeswary Patkunam, cancelled permission to use the Jaffna Public Library auditorium by Home for Human Rights (HHR) to conduct a workshop on human rights violations after the war⁹.

The right to freedom of peaceful assembly was also curtailed on several occasions by security forces in 2010-2011. For instance, in May 2010, the military cancelled several events planned in the north to remember those killed during the war and organisers were threatened. For instance, a Catholic priest in Jaffna, whose name is not disclosed for security reasons, received several threatening calls asking him to cancel a religious event he had organised in Jaffna to commemorate civilians killed in the war. Senior army officers also visited his office and asked him to cancel the event. On May 17, 2010, Nallur Temple area in Jaffna, where an inter-religious event was being held to remember those killed in the war, was surrounded by the police and the army. The people who came to participate were threatened and told to go away. Those who insisted on participating in the event were asked to register their names and other details with the police. Later on, the army questioned and threatened a priest who was involved

7/ See Integrated Regional Information Networks (IRIN) Report, *Analysis: NGOs question tighter access to Sri Lanka's north*, August 11, 2010.

8/ See Groundviews Article, May 26, 2010.

9/ See Exile Network for Media and Human Rights in Sri Lanka (NFr Sri Lanka) Press Release, December 23, 2010.

in the organisation of the event¹⁰. On May 27, 2010, internally displaced persons who were protesting during a visit by two Government Ministers, Messrs. Basil Rajapakse and Rishard Bathurdeen, about the takeover of their land by the navy in Silavathuri town, Mannar district, were subjected to harassment as five of them were arrested and detained until their release without charges on May 29¹¹.

Serious reprisals against human rights defenders seeking accountability for human rights violations

Despite the formal end of the civil war in May 2009, the Government continued to maintain a strict blockade on the release of information regarding the human rights situation in Sri Lanka to the international community, especially the human cost during the final phase of the war between December 2008 and May 2009. As a consequence, any attempt by local or foreign human rights defenders, including journalists, to uncover and report on the gross human rights abuses committed against Tamil civilians by governmental forces during this period as well as on continuing rights abuses, particularly on enforced disappearances and killing in the north, was met with intimidations and threats. As a result of these threats, many were forced into hiding or to leave Sri Lanka. Human rights defenders who documented and reported on human rights violations, particularly in the north, were indeed systematically targeted and threatened by government intelligence agents and paramilitary groups, all the more when they submitted information under the UN Human Rights Complaints Mechanisms and used the UN Special Procedures¹². For instance, in December 2010, a prominent human rights defender who worked closely with families of disappeared people in the north and helped document and submit complaints to the UN Working Group on Enforced and Involuntary Disappearances received threatening calls, was subjected to surveillance and questioning by intelligence agents. His office was also subjected to surveillance and he was questioned and asked to explain his work and funding sources to the local military or persons claiming to belong to Government intelligence. As a consequence he was compelled to flee the area. Another human rights defender in the north documenting human rights violations and who was involved in submitting complaints to the UN Working Group on Enforced and Involuntary Disappearances and other UN bodies, including to the UN Country Team, also received threatening phone calls and was questioned at Colombo airport in late 2010.

10/ See Groundviews Article, June 18, 2010.

11/ Confidential source whose name is withheld for fear or reprisals.

12/ Names are withheld for safety reasons.

Human rights defenders observing the proceeding of LLRC also faced threats and intimidation. For instance, one religious leader who presented statistics about those killed, disappeared, and injured at a hearing on the north in January 2010, got a threatening phone call next day. Staff members of an NGO who went to monitor hearings in another district in north in September 2010, were questioned, subjected to surveillance when they were taking notes, were photographed, and were told not to share information with foreign media¹³.

Still worse, Mr. **Pattani Razeek**, Managing Trustee of the Community Trust Fund (CTF)¹⁴ in Puttalam city and a member of the Executive Committee of the Asian Forum for Human Rights and Development (FORUM-ASIA), disappeared on February 11, 2010, when he was last seen in Polonnaruwa, in the north central province. Mr. Razeek was then travelling together with other staff members from CTF on their way home from a mission, when their van was intercepted by a white van¹⁵. His family lodged a complaint with the local police authorities in Puttalam as well as with the Human Rights Commission of Sri Lanka. Yet, for over a year, the police made no attempt to apprehend and question the main suspect in Mr. Razeek's disappearance, Mr. Shahabdeen Nowshaadh, a former CTF employee, despite evidence linking Mr. Nowshaadh to several ransom calls made to Mr. Razeek's family on Mr. Razeek's mobile number, following his disappearance. Mr. Razeek's family believes that the failure to take action against Mr. Nowshaadh is connected to his close acquaintance of the Minister of Industry and Commerce, Mr. Rishad Bathiudeen. As of April 2011, Mr. Pattani Razeek remained disappeared and the criminal investigation into the case was ongoing¹⁶. Furthermore, an inquiry into allegations of corruption against CTF started shortly after Mr. Razeek's disappearance, based on a petition by Minister Bathiudeen. As of April 2011, the inquiry remained pending¹⁷. Moreover, the murder of Mr. **Lasantha**

13/ Name of NGO and staff members withheld for fear of reprisals.

14/ The CTF is a NGO based in Puttalam that provides emergency relief and rehabilitation, in particular in conflict and disaster affected areas. It has also been involved in human rights documentation and protection.

15/ In Sri Lanka, "white vans" have been known to be the preferred vehicles of groups responsible for abductions and disappearances.

16/ In July 2011, two suspects were arrested by the Colombo Crimes Division, for alleged involvement in Mr. Razeek's disappearance. On the morning of July 28, 2011, police exhumed a body in Kavathamunai, Uddamaveli, Valaichchenai province, based on the information provided by one of the arrested suspects in the case of the disappearance of Mr. Razeek. The son of Mr. Razeek tentatively identified the body of his father.

17/ On June 9, 2011, CTF received a copy of a fax by the Defence Ministry appointing an interim board of management from June 16, comprised of one senior military officer and two government officials, until the inquiry into allegations of corruption was completed.

Wikrematunge, Editor of the *Sunday Leader*, in January 2009, also remained unsolved¹⁸. As a consequence, failure to investigate those cases of assassination and disappearance led to a loss of faith in institutional mechanisms and further generated an environment of fear and silence.

International NGOs were similarly subjected to reprisals. For instance, senior staff members of Nonviolent Peaceforce Sri Lanka (NPSL)¹⁹, including its country Director, Ms. **Tiffany Eastham**, and Human Rights Defenders Project Coordinator Mr. **Ali Palh**, had their visas cancelled by the authorities and were compelled to leave Sri Lanka at short notice on July 8. No reasons were given for the sudden decision to terminate their visas, which were valid until September 2010. In August 2010, the Sri Lanka's Chief of Immigration also terminated the visa of Ms. **Elizabeth Ogaya**, who is the Project Coordinator of the Human Rights Defenders Protection Programme (HRDPP) and affiliated with NPSL. Ms. Ogaya was given until August 30, 2010 to leave the country. In September 2010, the application for a visa extension filed by Mr. **Daniel Hogan**, an American national who is the Security Coordinating Officer in Vavuniya and Batticaloa of NPSL, was in turn rejected by the Sri Lankan Secretariat dealing with NGOs. Mr. Daniel Hogan was ordered to leave the country before the end of September²⁰. On May 8, 2010, Ms. **Fiona Partol**, Resident Advisor of "Internews", an international NGO that fosters independent media and access to information worldwide, was blocked by Sri Lanka Defence Ministry from entering Jaffna to participate in a five-day training course for local media persons.

Slandering campaigns against human rights defenders and NGOs

In 2010–2011, members of the Government and government-controlled media continued to defame civil society organisations and accuse human rights defenders of acting against the country. The latter were also often labelled as "terrorists". For instance, in late 2010 and early 2011, local newspapers ran a series of articles on human rights defenders in the north who had participated in a training on submitting complaints to UN human rights mechanisms. On October 3, 2010 and January 15, 2011,

18/ Mr. Wickrematunge had been several times the target of intimidation attempts and lawsuits due to his investigative reporting on corruption and nepotism in the Government and in society in general, and the impunity that accompanies them. Mr. Wickrematunge was also a critic of the war and advocated a negotiated political solution to the conflict.

19/ NPSL is an international NGO that provided protection and assistance to victims of abuses and those facing threats, including human rights defenders. NPSL also helped civilians liaison with local authorities and also organised trainings on the UN system in the north and east.

20/ See Media Freedom in Sri Lanka (MFSL) Note, July 8, 2010 and Sri Lanka Advocacy Group, *Briefing*

the *Divayina* newspaper published articles about this training and accused the organising NGOs, Law and Society Trust (LST) and the NPSL, of acting against the Government. On October 22, 2010, the newspaper *Sunday Island* reported that the military intelligence services were looking into the cases of thirteen human rights defenders who were accused of being foreign spies and submitting false allegations to international human rights organisations. In an article published on January 2, 2011, the *Irida Divayina* disclosed the names of the participating human rights defenders²¹. Following the above-mentioned articles in the newspapers, several participants suffered threats and intimidation by security forces and intelligence agents. Moreover, on January 15, 2011, the government-controlled *Dinamina* newspaper accused the NPSL of secretly acting against the Government and disclosed details about the relocation of NPSL offices.

While those cooperating and sharing information with the UN and international community were regularly labelled as “terrorist sympathisers” and “anti-patriotic”, inflammatory statements by Government Ministers and politicians also made human rights defenders fearful of cooperating with UN mechanisms. For example, on June 20, 2010, the State-controlled Sinhalese paper *Silumina* accused a group of exiled journalists of collaborating with international NGOs to provoke the UN regarding allegations of war crimes in Sri Lanka. On July 15, 2010, the President was reported as saying “some of these NGO representatives go to foreign countries and carry out publicity campaigns against the country”. On December 11, 2010, Deputy Minister Sarath Kumara Gunaratne was quoted as saying to *LakbimaNews*: “I am happy that even ordinary people of this country are taking their patriotic duty seriously and acting against traitors. I can tell you that in the future, [...] people will take to task anyone who betrays this country and its leader”.

Judicial harassment and assassination of defenders of environmental rights

Defenders of environmental rights were also subjected to pressure through threats and harassment, including extrajudicial killing. On November 27, 2010, Messrs. **Aruna Roshantha**, a leader of the Sri Lanka All Island Fishermen’s Trade Union, and **Marcus Anthony Fernando**, Chairperson of the Negombo Lagoon Fisher People’s Union, and both leaders of the Alliance to Protect the Negombo Lagoon, an organisation that has actively been involved in protecting and conserving the rich marine resources of

21/ Names are not mentioned for safety reasons.

the Negombo lagoon in Gampaha district²², distributed pamphlets in Negombo town, along with a group of around sixty persons, explaining the adverse environmental consequences of a sea plane project. Police officers were present and observed the distribution of the leaflets. The police themselves handed out several leaflets, although the leaders realised this was a ploy by the police to take away some of the leaflets in the guise of distributing them. The following day, Mr. Roshanta and Mr. Fernando were summoned to the Negombo police headquarters and arrested after being told that they had committed an offense under Section 150 of the Criminal Code, that they had conspired against the Government of Sri Lanka and were trying for inciting people to overthrow the Government. They were subsequently released in the evening without charges. Mr. Aruna Roshantha had already been arrested on November 21, 2009 by officers of the Negombo police for his activities against illegal fishing in the Negombo lagoon. He was released on bail on November 26, 2009 and as of April 2011, his case was still pending before the Negombo Magistrate Court. On December 31, 2010, Mr. **Ketheeswaran Thevarajah**, an activist who had campaigned against environmental damage due to sand excavation in Jaffna, was killed by armed men who entered the house where he was staying that night. The men reportedly asked him to open his profile page on *Facebook* before shooting him at point blank range. Mr. Thevarajah had posted photographs on his *Facebook* account on the environmental damage caused by illegal sand excavation in his village by politically powerful persons. He had also provided reports to Jaffna media on the same issue. As of April 2011, no investigation had been carried out²³.

Harassment of human rights defenders fighting corruption

Human rights defenders denouncing acts of corruption continued to suffer serious consequences for their work. For example, Mr. **J. C. Weliamuna**, Executive Director of Transparency International – Sri Lanka (TISL), an organisation involved in revealing the misuse of public resources in the context of the Sri Lankan presidential elections of January 26, 2010²⁴, was the target of a string of defamation articles published in local Sinhalese and English printed media containing false information about the misuse of TISL's funds. The articles also portrayed TISL in the framework of a wider campaign carried out by the Government against

22/ The two individuals were involved in a campaign against the sea plane project initiated by the Government, as this project is seen as harmful to the biodiversity of the Negombo lagoon and would adversely affect the livelihoods of fishermen dependent on the lagoon.

23/ See NfR Sri Lanka Press Release, January 3, 2011.

24/ As part of his work with TISL, Mr. Weliamuna is involved in a public campaign against corruption as well as in advocacy efforts related to the implementation of the 17th amendment to the Constitution, which is aimed at establishing independent institutions on human rights, police, bribery and corruption.

national and international NGOs, accusing them of trying to destabilise the country and announcing that the Act dealing with these organisations will be amended to take proper action against them whenever it is necessary. On March 3, 2010, an article published in *Lanka News Web* stated that Mr. Weliamuna was heading a list of 35 human rights defenders and journalists supportive of the opposition. The list was allegedly produced by the Sri Lankan intelligence services. Dr. **Paikiasothy Saravanamuttu**, Executive Director of the NGO the Centre for Policy Alternatives (CPA), was also on the list. Reportedly, there was also a move to arrest and detain Mr. Weliamuna on fabricated charges, in connection with reports TISL issued during the presidential election campaign in December and January, alleging violations of election laws and misuse of public resources by the ruling party. Moreover, while Mr. Weliamuna sustained an attack in September 2008, when two grenades were thrown at his residence, the Government argued in 2010 that Mr. Weliamuna was responsible for this attack in order to get publicity for himself. Despite Mr. Weliamuna's letter to the President of Sri Lanka expressing concerns of the *Lanka News Web* list, no action was taken to provide protection to him or to investigate the allegations made by the article published in *Lanka News Web*. On the evening of August 18, 2010, Mr. **Mahasen Rupasinghe**, a journalist working for *Neth FM*, was attacked in his hometown, Embaraluwa south, Weliwariya area, after exposing – on his radio programme “Belungala” – an illegal coconut husk charcoal manufacturing operation that was being carried out in the Weliriya and posing potential health risks to residents in the area. The police failed to arrest the assailants. On February 8, 2011, Mr. **M.I Rahumathulla**, Editor of the newspaper *Vaara Ureikal*, the only provincial newspaper in the eastern region, had chilly powder thrown at his face and was assaulted with iron rods. As of April 2011, no investigation had been carried out. The newspaper, which has been reporting on corruption in the Muslim dominated Kathankudi and Batticaloa areas, was subjected to many threats over the years. On April 1, 2009, unidentified men, armed with swords and clubs, broke into the newspaper's office, which is located at Mr. Rahumathulla's residence, and assaulted him severely. Though a complaint was lodged with the Kathankudi police, no arrests ensued²⁵.

25 / See NfR Sri Lanka Press Release, February 10, 2011.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Pattani Razeek	Enforced disappearance	Urgent Appeal LKA 001/0210/OBS 021	February 18, 2010
		Urgent Appeal LKA 001/0210/OBS 021.1	February 10, 2011
Messrs. J. C. Weliamuna and Paikiasothy Saravanamuttu / Transparency International Sri Lanka	Defamation campaign / Fear of arrest	Urgent Appeal LKA 002/0310/OBS 035	March 11, 2010
Messrs. Aruna Roshantha and Marcus Anthony Fernando	Arrest / Release	Urgent Appeal LKA 003/1210/OBS 145	December 9, 2010

THAILAND

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010-2011, impunity remained the rule for violations committed against human rights defenders, including enforced disappearances and assassinations. Besides, human rights defenders continued to be subjected to judicial harassment when taking part in peaceful assemblies and, in the case of a blogger and journalist, for documenting human rights violations.

Political context

The year 2010 proved to be politically turbulent for Thailand. Anti-Government protests led by the United Front for Democracy against Dictatorship (UDD), the so-called “Red Shirt” movement, started in March and continued until May 2010. The protests, which were initially peaceful, demanded the resignation of the sitting Government and early elections. On April 7, 2010, the protesters stormed the Parliament and forced MPs to flee. In response, the Government of Prime Minister Abhisit Vejjajiva declared a state of emergency on April 7 and set up the Centre for the Resolution of Emergency Situations (CRES), which was mandated to peacefully resolve political unrest¹. In addition, the Emergency Decree on Public Administration in Emergency Situation (2005) gave the authorities wide-ranging powers to arbitrarily interrogate, detain without charge, deny information about those detained, use unofficial detention sites, impose censorship and otherwise restrict the rights and liberties of Thai citizens. These measures also made securing justice difficult in the aftermath of the violence. The protracted demonstrations were brought to an end on May 19, 2010, when the army was deployed in order to crack down on the demonstrations. The state of emergency was gradually lifted in different parts of the country throughout the second half of 2010, and abolished completely on December 21, 2010. Yet, it was replaced by the Internal Security Act (ISA) on February 8, 2011, which effectively legitimises military influence in the guise of a military dominated directive body, the Internal Security Operations Command (ISOC). A first stage of the ISA, which operates continually, is one of information gathering and

1/ CRES was an ad hoc, unelected body, vested with broad powers under the emergency regulations. Among its members were the Deputy Prime Minister and several cabinet ministers, as well as the chief of the army and the police. CRES enjoyed broad immunity from prosecutions and was able to order arrest, detention, property seizure and asset freeze, as well as the closing of websites. It was dissolved after the state of emergency was lifted, in February 2011.

surveillance of the population, while a second stage, triggered by a Cabinet declaration, authorises control over declared areas and grants ISOC broad emergency powers that pose serious risks to fundamental human rights, while few legal safeguards exist to limit the use of such powers².

The UN High Commissioner for Human Rights urged the Government to conduct an independent investigation of the events of April and May 2010 and to hold to account all those found responsible for human rights violations³. In July 2010, the Government appointed a fact-finding missions commission, now known as the Truth for Reconciliation Commission of Thailand (TRCT), which established that during the clashes between the protesters and Government forces and the subsequent crackdown, 92 persons were killed and over 1,885 injured⁴. Its mandate is generally limited to fact-finding and it is not entitled to initiate investigations or prosecutions. Although the Commission has among its members prominent human rights activists, the UDD is not represented at all. Lastly, there was little or no substantive cooperation from the authorities, in particular the military, to facilitate the work of the Commission, as the enforcement of the emergency measures remains shrouded in an almost complete lack of transparency⁵. Moreover, as of April 1, 2011, 35 red-shirts protesters had been convicted under various criminal charges, including “terrorism”, “violence against the Government” and “coercing the Government”, and 133 were still in detention⁶. The only evidence against many of those arrested is their appearance in photographs of protesters.

The situation in the three southern border provinces of Thailand also continued to deteriorate. In January 2011, the total number of deaths arising from the conflict reached 4,122. Military operations involved many human rights violations and in the seven years of insurrection only military courts have handed down reprimands to military personnel, ordered short term confinement to barracks, or inflicted fines of a few hundred baht (about two to six euros). It appears that the civilian Government has abdicated all responsibility in the area, allowing the military broad

2/ The ISA was extended three times and was not lifted until May 24, 2011. See Union for Civil Liberty (UCL).

3/ See Human Rights Council, *Statement of the UN High Commissioner for Human Rights at the opening of the 14th regular session of the Human Rights Council*, May 31, 2010.

4/ See TRCT, *Interim Report (July 17, 2010 - January 16, 2011)*, April 2011.

5/ In its April Report, the Commission lists the major obstacles which have caused its investigation to falter: 1. TRCT has no power to subpoena witnesses or evidence; 2. Lack of witness-protection; 3. Credibility obstructed by the fact that TRCT was established by the Government. See TRCT Interim Report, April 2011.

6/ See People's Information Center.

discretionary power to continue a policy of repression that further exacerbates the situation. Meanwhile, violent attacks on Government officials, school teachers and Buddhist villagers by the insurgents continued. The Government has taken few substantive steps to initiate peaceful negotiations in light of ongoing incidents of violence, and proposals to establish a special administrative zone or other possible options of autonomy for the South, have met with resistance from the Thai authorities⁷.

Freedom of opinion and expression suffered a serious backlash in Thailand during the eight months the emergency regulations were in force. While the mainstream print media enjoyed a certain latitude of freedom, the broadcast and new media, including Internet and satellite communications, were greatly targeted under the emergency measures, since the Red Shirt movement relied heavily on community radio stations. During the course of 2010, the CRES and other Government agencies shut down up to 43,000 websites or webpages, blogs, TV stations, community radio stations and online publications. Apart from resorting to emergency powers and the CRES, the Government also continued to apply the Computer Crimes Act of 2007 and the charge of *lèse majesté* to crack down on critical voices and silence the opposition⁸. This also had a chilling effect on the media and self-censorship became increasingly widespread.

Impunity for serious violations committed against human rights defenders

Even after seven years, no one has yet been held accountable for the disappearance on March 12, 2004 of human rights lawyer Mr. **Somchai Neelaphajit**⁹. Since September 2010, the reading of the Appeal Court verdict at the Criminal Court in Ratchadaphisek Road in Bangkok was postponed on three occasions due to the absence of one of the five defendants, Police Major Ngern Thongsuk, who had been sentenced to three

7/ See UCL.

8/ Thailand is one of the few remaining countries in the world to prosecute crimes of *lèse majesté*. Individuals who insult, defame or threaten the Thai royal family can be sentenced to up to fifteen years of imprisonment. The Ministry of Information and Communication Technology also uses the charge of *lèse majesté* to block or remove websites discussing critical issues relating to the monarchy. Cases of *lèse majesté* are brought under Article 112 of the Criminal Code throughout Thailand, and are rarely reported in the press. Trials may also be carried out in closed court so that it is difficult to have precise numbers of such cases. As of April 2011, five major legal cases involving *lèse majesté* were in progress. See UCL.

9/ Five police officers were prosecuted only for relatively minor crimes since the body of Mr. Somchai was never recovered, and only one out of the five, Police Major Ngern Thongsuk, was convicted and sentenced to three years in prison in January 2006. He appealed the decision and remained out on bail. Yet, one day before the appeal verdict was to be read in September 2010, Police Major Ngern's family reported that he had been missing since a mudslide in 2008 and began judicial proceedings to have this formally declared.

years in prison in a first trial in January 2006. On February 7, 2011, when the reading of the verdict was once again postponed, the Court issued an arrest warrant for Police Major Ngern Thongsuk to compel him to appear in court¹⁰. The verdict of the Appeal Court was read on March 11, 2011, on the eve of the seventh anniversary of Mr. Somchai's disappearance. The Criminal Court of Bangkok first ruled that Mr. Somchai's wife and children could not be considered as joint plaintiffs and could not act legally on behalf of the "injured person or dead person" under the provisions of the Criminal Procedure Code (CPC). Furthermore, the Appeal Court also ruled that for Police Major Sinchai Nimpunyakampong, Police Sergeant Major Chaiweng Paduang and Police Sergeant Rundorn Sithiket, there was not enough evidence that could link them or involve them in the incident because the eyewitnesses could not identify the defendants. The Court also ruled that Police Lieutenant Colonel Chadchai Liamsanguan was not present at the place where the incident happened. The earlier conviction of Police Major Ngern Thongsuk was overturned: he had been identified by a witness as the one who dragged Mr. Somchai from his car, but the Court decided that the identification was doubtful. Additionally, the wife of Mr. Somchai, Ms. **Angkhana Neelaphajit**, and the rest of his family have continued to experience acts of intimidation and harassment since the start of their quest to secure accountability in the case, including threatening phone messages.

Likewise, as of April 2011, there had been no progress in the investigation into the assassinations of Ms. **Laila Paaitae Daoh**, a prominent rights activist and peace advocate who was killed on March 12, 2009 in Krongpenang district, Yala province, and Mr. **Praseth Rakpao**, former member of the Provincial Council of Rayong and a lawyer, who was shot in his car on October 6, 2009. Mr. Praseth Rakpao was the leader of villagers protesting against a large investment treatment plant which runs counter to environmental protection laws. Moreover, an investigation was still in process into the assault, on November 27, 2009, against Mr. **Sittichai Phetpong**, Vice-President of the Association for the Protection of Maritime Resources who worked for the socially disadvantaged, as well as for the preservation of natural resources. In particular, the police have accused a hired gunman of the attack on Mr. Sittichai. In the past, Mr. Sittichai had received threats from those whose continued exploitations of natural resources who have been curtailed by his initiatives against destructive environmental practices.

10/ Under Article 182 of the Criminal Procedural Code, the Court could only proceed in reading the verdict without the presence of the defendant, one month from the issuance of the warrant.

Ongoing criminalisation of human rights defenders taking part in peaceful assemblies

In 2010-2011, human rights defenders continued to be subjected to judicial harassment when taking part in peaceful assemblies. In particular, judicial proceedings resumed in 2010 against ten human rights defenders for their participation in a peaceful demonstration organised by a coalition of NGOs at the Parliament House in Bangkok on December 12, 2007, in order to protest against the attempts by the National Legislative Assembly (NLA), which was installed by the military after the 2006 coup, to pass a total of eight bills affecting civil liberties in Thailand in the final days before the general election of December 23, 2007. They were arrested on December 30, 2010, and subsequently released on bail. The ten defenders are Mr. **Jon Ungphakorn**, Chairperson of the NGO Coordinating Committee on Development (NGO-COD), Mr. **Pairoj Polpetch**, Secretary General of the Union for Civil Liberty (UCL), Mr. **Sirichai Mai-ngarm**, member of the Labour Union of Electricity Generating Authority of Thailand, Mr. **Sawit Kaewwan**, leader of the Confederation of State Enterprise Labour Union, Ms. **Supinya Klangnarong**, Secretary General of the Media Reform Campaign, Ms. **Saree Ongsomwang**, Chairperson of the Consumers' Association, Mr. **Amnat Palamee**, leader of the Confederation of State Enterprise Labour Union, Mr. **Nutzer Yehama**, a member of the NGO Friend of People, Mr. **Anirut Chaosanit**, member of the Council of People's Organisations Network in Thailand, and Mr. **Pichit Chaimongkol**, member of the Campaign for Popular Democracy. They have all denied the charges brought against them. In addition to the initial charges¹¹, the Public Prosecutor added two additional ones under Section 116 and Section 215(3) of the Criminal Code, which carry heavier penalties¹². The Criminal Court originally set February 28, 2011 for the presentation of witnesses. Yet, as the assembly of evidence was incomplete, the trial is now scheduled to take place at 48 hearings over 24 days between February 21 and April 10, 2012. Similarly, Mr. **Sunthorn Boonyod**, Ms. **Boonrod Saiwong** and Ms. **Jitra Kotchadej**,

11/ They were charged with "trespass by using force or joining with more than two persons associating together to intrude forcefully or to cause harm" (Sections 362 and 365 (1) (2) of the Criminal Code), "illegal gathering and using force with ten or more persons to cause damage or to give rise to public disorder" (Section 215), "failing to disperse when ordered to by the police" (Section 216), "collaborating with five or more persons to incite others to violence in one form or another to threaten the lives and safety of others" (Section 309 § 2), "collaborating to detain or restrict other persons" (Section 310) and "using loud speakers without permission" (Law on Restricting Loudspeaker Advertising, 1950).

12/ Sections 116 and 215,3 of the Criminal Code apply to acts of or incitement of violence or unrest with an intention to cause harm or public disorder, to detain or restrict other persons, and to enter into a property to disturb the peaceful possession of those who own the property. Convictions under those sections could lead to imprisonment of up to seven years and five years, respectively.

three leaders of Triumph International Labour (Thailand) Union, remained prosecuted following their participation in a protest rally held on August 27, 2009¹³. In January 2010, they had been charged with “assembling more than ten persons to cause political disturbance”, under Articles 215 and 216 of the Criminal Code, as well as under Article 108 of the Highway Act. They were released soon after their arrest on bail of 100,000 baht each (about 2,257 euros). The first hearing in the case took place on March 28, 2011 with the review of the evidence. The next hearings are scheduled to take place from November 15 to 22, 2011 and will examine prosecution and defendant witnesses.

Judicial harassment of a blogger and journalist who documents human rights violations

In 2010, a blogger and journalist who documents human rights violations faced judicial harassment. On September 24, 2010, Ms. **Chiranuch Premchaiporn**, Executive Director and webmaster of the online newspaper and web discussion forum *Prachatai*, was arrested at Bangkok airport while returning from an international conference on Internet freedom in Budapest, Hungary, and charged with violating the Computer Crimes Act and Article 112 of the Criminal Code, which defines Thailand’s *lèse majesté* offences. Ms. Premchaiporn is an advocate for freedoms of expression and the media, and is actively involved in the “Citizen Net” network, which monitors the state of censorship in Thailand. She stands accused of ten counts of violating the Computer Crimes Act of 2007 for not removing quickly enough from the *Prachatai* web-forum comments posted by third-party users, which were later deemed defamatory to the Thai royal family. Although she was released on bail the following day after paying a 200,000 baht bail (about 4,514 euros), she had to report to the police on a monthly basis until March 25, 2011, when the request by the Prosecutor to have her bail conditions extended was rejected. Her trial on *lèse majesté* charges started in February 2011 with the presentation of the prosecution’s witnesses¹⁴. Strangely, the Presiding Judge found that she had another urgent trial to attend to in the days already allotted to the Ms. Chiranuch’s trial, and resumption of the trial was postponed to September 2011¹⁵.

13/ On August 27, 2009, the peaceful assembly was violently dispersed by the police after a large number of the 1,959 workers dismissed by the Body Fashion Thailand Limited (a subsidiary of Triumph International) and their supporters protested at the Parliament in Bangkok.

14/ The lawyer for the defendant exposed that there were no clear criteria for the charge of *lèse majesté*; typically the prosecution witness asserted that he “believed” or was “of the opinion” that the matter of the comments was illegal, but could not point to any directive or example of what constituted illegality.

15/ See UCL.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Sittichai Phetpong	Assault / Lack of effective investigation	Open Letter to the authorities	January 19, 2010
Messrs. Jon Ungphakorn, Pairoj Polpetch, Sirichai Mai-ngarm, Sawit Kaewwan, Amnat Palamee, Nutzer Yeehama, Anirut Chaosanit and Pichit Chaimongkol, Ms. Supinya Klang-narong and Ms. Saree Ongsomwang	Ongoing judicial harassment	Joint Press Release	October 25, 2010

VIET NAM

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010-2011, human rights violations are said to have increased over the year under Viet Nam's chairmanship of the Association of Southeast Asian Nations (ASEAN). It remained very difficult to carry out human rights activities in Viet Nam, with freedoms of expression, association and assembly being severely restricted. Independent human rights organisations continued to be prevented from operating openly and legally in Viet Nam and new legislation further limited freedom of the media. In this context, pro-democracy activists, journalists and bloggers denouncing human rights violations as well as lawyers taking on human rights related cases continued to face multiple forms of repression, including judicial harassment and criminalisation, as the authorities sought to silence any form of dissent.

Political context

2010 was largely marked in the run-up to the 11th Congress of the Communist Party of Viet Nam (CPV), which took place in January 2011. The CPV reappointed Prime Minister Nguyen Tan Dung for another term in the Politburo, consolidating the Prime Minister's power for a second term. The Government further tightened its control on opposition voices and dissent, restricting freedoms of expression, association and assembly. In 2010, Viet Nam's chairmanship of the Association of Southeast Asian Nations (ASEAN) and its new human rights mechanism, the ASEAN Intergovernmental Commission on Human Rights (AICHR), did not have any tangible positive effect on the domestic human rights situation. On the contrary, human rights violations are said to have increased during this period.

The CPV continued to tightly control the media, relentlessly clamping down on any form of dissent, using a diverse set of tools, including the judiciary system and technical means such as blocking websites and interfering with the transmission of radio stations. Independent, privately-owned media is non-existent, and websites or blogs carrying opposition or critical media content, were again exposed to harsh reprisals by Government agencies. The CPV also controls the courts at all levels, and the latter are therefore not able to operate independently and impartially. In this context, political trials against persons calling for democracy or discussing subjects deemed controversial by the Government, including licenses for bauxite mines and territorial disputes with China, were increasingly frequent, and often based on trumped-up charges. Defence lawyers are considerably

limited in defending the interests of their clients. In that they are not allowed to propose witnesses and may only challenge the judges' rulings under very limited circumstances.

The authorities attempted to silence any dissenting voices in the run-up to the 11th Congress of the CPV. Indeed, in 2010 independent bloggers, journalists, peaceful democracy activists and religious leaders promoting tolerance and democracy, were targeted through a variety of means. The Government increasingly resorted to vaguely worded provisions of the Criminal Code, such as Article 79 (“subversion”), Article 88 (“conducting propaganda against the State”) and Article 258 (“abusing democratic freedoms to infringe upon the interests of the State”). On-line critics were harassed, ill-treated, tortured and arbitrarily detained. Critical websites and blogs deemed “politically sensitive” by the authorities were blocked or closed down. Firewalls were widely used to prevent access to foreign news sources and critical opposition websites based outside the country experienced cyber attacks originating from Viet Nam¹. On April 26, 2010, the Hanoi People’s Committee issued Decision No. 15/2010/QĐ-UBND, which obliges the owners of any place that offers public access to Internet in Hanoi to install a monitoring software, which enables authorities to track all on-line activities. It is feared that this measure will be extended to the rest of the country. In addition, a new media decree (Decree No. 2/ND-CP on Sanctions for Administrative Violations in Journalism and Publishing) was signed by the Prime Minister on January 6, 2011, and entered into force on February 25, 2011, to regulate the activities of journalists and bloggers².

Moreover, the country remained largely closed to international human rights scrutiny. While the Government allowed visits by two UN Special Procedures mandate holders in 2010³, it continued to remain closed to those with portfolios considered more controversial, such as the Special Rapporteurs on Freedom of Expression, on Summary Executions and on Freedom of Religion.

1/ For instance, at a press conference in Hanoi in May 2010, Lt. General Vu Hai Trieu, Deputy Director of the Ministry of Public Security’s General Department of Security, announced that his department had “destroyed 300 bad Internet web pages and individual blogs”. See Vietnam Committee on Human Rights (VCHR).

2/ Under this Decree, the publication of information “non-authorized”, “not in the interests of people” or which reveals “State secrets” is considered as an offence. Moreover, the Decree provides new fines for journalists who refuse to disclose their sources or publish articles under pseudonyms.

3/ The UN Independent Expert on Minority Issues, Ms. Gay McDougall, carried out an official visit to the country from July 5 to 15, 2010, and the UN Special Rapporteur on Extreme Poverty, Ms. Magdalena Sepúlveda, visited Viet Nam from August 23 to 31, 2010.

Serious restrictions on freedoms of association and of peaceful assembly

In 2010–2011, it remained very difficult to carry out human rights activities in Viet Nam, as fundamental freedoms, in particular of association and peaceful assembly, were still severely restricted.

Although freedom of association is formally recognised by Article 69 of the 1992 Constitution of Viet Nam, in practice, independent human rights organisations and trade unions are banned. Only State-sanctioned associations are allowed to operate, such as the Viet Nam General Confederation of Labour, and NGOs are therefore forced into operating in exile, as for instance the Vietnam Committee on Human Rights (VCHR), which is based in France. All associative activity is strictly controlled by the CPV and guided by the Viet Nam Fatherland Front (VFF), an umbrella of “mass organisations” that has a constitutional mandate to “strengthen the people’s unity of mind in political and spiritual matters”. Moreover, Decree 88 on the “Regulations on the Organisation, Operations and Management of Associations” (2003) restricts the activities of associations exclusively to “contributing to the country’s socio-economic development” and makes no provisions for human rights activities or advocacy, neither by local nor international NGOs⁴.

Similarly, although freedom of peaceful assembly is guaranteed by Article 69 of the Constitution, it is almost impossible to exercise this right and hold demonstrations for the promotion and respect of human rights⁵. The police continued to use force in order to disband peaceful rallies, including peaceful demonstrations by farmers and peasants – known as

4/ Decree 88 defines six “socio-political” or “mass organisations”: the VFF, the Viet Nam Confederation of Labour, the Ho Chi Minh Communist Youth, the Viet Nam Peasants’ Association, the Viet Nam War Veterans Association and the Viet Nam Women’s Union, which are funded largely by the State and effectively serve as agencies of Government ministries. Defined as organisations with “political goals”, the role of mass organisations is to oversee the implementation of party policies at the grass-roots level. The Viet Nam Confederation of Labour, for example, has a constitutional mandate to “educate workers, employees and other labouring people to work well for national construction and defence”. See VCHR and FIDH report, *From “Vision” to Facts: Human Rights in Vietnam under its Chairmanship of ASEAN*, September 13, 2010.

5/ In order to stem public protests, the Government adopted Decree 38/2005/ND-CP, which prohibits demonstrations in front of State agencies and public buildings, and bans all protests deemed to “interfere with the activities” of CPV leaders and State organs. The “Directives for the Implementation of Decree 38” issued by the Ministry of Public Security in 2006 further prohibits gatherings of more than five people without permission from the State.

the “Victims of Injustice”⁶. For instance, in April 2010, sixty members of “Victims of Injustice” were pushed back violently by security officials when seeking to address their grievances with the provincial Complaints Office in Nghe An, near the border with Laos. Similarly, on February 21, 2011, the police disrupted a demonstration gathering about one hundred members of “Victims of Injustice” in Ho Chi Minh City⁷. On May 26, 2010, the police fired on villagers peacefully protesting against inadequate compensation for their land seized to build the Nghi Son Oil refinery, a six-billion dollars project in the province of Thanh Hoa, 200 km south of Hanoi. The villagers had tried to prevent trucks from unloading at the construction site, but had not engaged in any act of violence⁸.

International human rights NGOs also faced interferences in their work. For instance, two FIDH representatives were informed that they were “not welcomed” by the Vietnamese Government-controlled organisers to participate in the ASEAN People’s Forum (APF)⁹ in Hanoi, from September 24-26, 2010. Shortly before this, under pressure from the Vietnamese Government, Thailand barred Mr. **Vo Van Ai** and Ms. **Penelope Faulkner**, President and Vice-President of the VCHR respectively, from travelling to Bangkok, Thailand, to launch a human rights report on Viet Nam at the Foreign Correspondents’ Club on September 11, 2011, thus illustrating the intolerance of the authorities towards any debate on the human rights situation in Viet Nam, either inside or outside the country.

Severe harassment against human rights defenders denouncing violations and calling for the respect for fundamental freedoms

Human rights defenders denouncing violations continued to be subjected to reprisals. For instance, Mr. **Vi Duc Hoi**, a pro-democracy activist who has extensively written on corruption and injustice in Viet Nam, was arrested on October 27, 2010. On January 26, 2011, he was convicted of “spreading anti-Government propaganda” and sentenced to eight years of imprisonment, followed by five years of house arrest. On April 26, 2011, his jail sentence was reduced to five years by an appeals court in

6 / In the framework of this rural protest movement, dispossessed farmers march to Hanoi or Saigon to file petitions and camp outside Government buildings protesting State confiscation of lands for development projects and lack of compensation. Peasants and farmers also routinely petition local “Citizens’ Complaints Offices” in the provinces, but they complain that local officials often refuse to settle complaints and even to receive them.

7 / See VCHR.

8 / *Idem*.

9 / The APF is a major civil society event bringing together several hundreds of civil society organisations and social movements active in the field of human rights, development and the environment in South East Asia.

northern Lang Son province, to be followed by three years' house arrest¹⁰. Moreover, following his temporary release for one year on medical grounds in March 2010, Father **Nguyen Van Ly**, a Catholic priest and supporter of the Bloc 8406¹¹ manifesto, issued a series of reports detailing and denouncing torture in prisons, and it was feared that he may be returned to prison to complete his sentence in March 2011. Yet, as of April 2011, he was still living in central Viet Nam, while remaining under constant surveillance¹². Other prominent human rights defenders detained under house arrest for denouncing human rights violations and calling for the respect for fundamental freedoms include Buddhist monk **Thich Quang Do**, leader of the Unified Buddhist Church of Viet Nam (UBCV)¹³, who is currently held at the Thanh Minh Zen Monastery in Ho Chi Minh City after spending more than 28 years in prison, house arrest and internal exile for his peaceful human rights advocacy. Among others, Thich Quang Do has issued numerous appeals for the rights of "Victims of Injustice", denounced the dangers of bauxite mining in the Central Highlands and campaigned against the death penalty. He is deprived of his citizenship and his freedom of movement, and all his visits are monitored.

Independent journalists and bloggers documenting human rights violations continued to face repression because of their activities. Although prominent blogger and human rights defender Mr. **Nguyen Van Hai (Dieu Cay)** should have been released from prison in October 2010, after having completed his prison term, as of April 2011, he remained detained under new charges of "propaganda against the State". He had been sentenced to two and a half years in prison on trumped-up charges of "tax evasion" in September 2008¹⁴. Furthermore, on January 20, 2011, at around 1 a.m., while Mr. **Le Hoang Hung**, a journalist who worked for *Nguoi*

10/ See VCHR.

11/ Bloc 8406 is a coalition of political parties and groups in Viet Nam that advocate for democratic reform. The Bloc is named after the "Manifesto on Freedom and Democracy for Viet Nam", dated April 8, 2006, originally signed by 118 dissidents calling for a multi-party democratic State in Viet Nam.

12/ Father Ly had been originally arrested on February 19, 2007. He was sentenced on March 30, 2007 to eight years in prison. He suffered a stroke on November 14, 2009 and was subsequently transferred to Prison Hospital No. 198. His prison sentence was temporarily suspended for a year on March 15, 2010 on medical grounds and he was released from prison. See VCHR.

13/ The UBCV is a prohibited movement that peacefully promotes religious freedom, democracy and human rights. Banned effectively in 1981 following the creation of the State-sponsored Viet Nam Buddhist Church, UBCV leaders and members continued to be subjected to detention, intimidation and constant harassment. Despite repeated appeals from the international community, Viet Nam has not re-established its legal status.

14/ Dieu Cay, who is known for his articles calling for human rights and democratic reforms posted on Internet, has been unjustly accused of having failed for ten years to pay taxes on premises. Said taxes should have been paid by the owner of the premises not Dieu Cay, who was only renting them.

Lao Dong (Worker) newspaper, and his family were sleeping at his house in Tan An town, an unknown assailant doused the reporter with chemicals and set him on fire. Mr. Hung suffered third-degree burns on around 20% of his body and he succumbed to the severe injuries caused by the assault in a Ho Chi Minh City hospital on January 30. Prior to the attack, Mr. Hung had received several threatening text messages on his mobile phone from unknown numbers. He had written on issues affecting the Southern Mekong Delta for nearly ten years. In one of his most recent reports, he investigated alleged official misconduct regarding land disputes. The attack took place the evening before he was due to cover a court case in which a local official in the southern province of Long An is sued for illegal appropriation of land. The State press subsequently reported that he was killed by his wife over money issues. As of April 2011, the investigation was said to be still under way.

Judicial harassment of lawyers working on human rights cases

Lawyers taking on cases deemed sensitive by the authorities, including the defence of pro-democracy activists, journalists, bloggers and religious activists, and taking on corruption related cases, continued to face very harsh professional and personal consequences for their activities. Many of them were harassed, detained, disbarred, and even evicted from their homes. Their clients were frequently pressured into withdrawing their mandate. In some cases, the courts refused to grant them permissions to represent certain clients. Some of these lawyers were also charged with serious offences under the Criminal Code, including “subversion”, or “carrying out activities aimed at overthrowing the people’s administration”. As of the end of April 2011, Mr. **Le Cong Dinh**, a prominent human rights lawyer and the former Vice-President of the Ho Chi Minh City Bar Association, remained detained in Chi Hoa prison, Ho Chi Minh City, following his sentence on January 20, 2010 to five years in prison. Arrested on June 13, 2009, he was accused of “carrying out activities aimed at overthrowing the people’s administration”, after he acknowledged engaging in activities for the democratisation and a multi-party political system in Viet Nam. In recent years, he has also defended several Viet Nam human rights and democracy activists. On November 5, 2010, Mr. **Cu Huy Ha Vu**, a prominent human rights lawyer, was arrested and charged with “propaganda against the Socialist Republic of Viet Nam”¹⁵. Two weeks earlier,

15 / Mr. Ha Vu is a peaceful defender of cultural, environmental and civil and political rights and has consistently used the courts to seek justice for those whose rights have been violated by the Government and private actors. In July 2009, he initiated a lawsuit against the Prime Minister for signing Decision 167 in November 2007, which allowed controversial bauxite mining operations in Viet Nam’s Central Highlands.

on October 21, 2010, Mr. Ha Vu had filed a lawsuit against the Prime Minister for signing Decree 136 in 2006, which prohibits class-action petitions. On April 4, 2011, following a trial during which he was denied his right to a fair and public hearing by a competent, independent and impartial tribunal, Mr. Cu Huy Ha Vu was sentenced by the Hanoi People's Court to seven years of imprisonment and three years of house arrest.

Moreover, the practice in Viet Nam, the practice that persons serving their term – even when they are released – continue to be placed under house arrest, remains. For example, human rights lawyers and pro-democracy activists **Le Thi Cong Nhan**, a member of the Committee for Human Rights in Viet Nam and Spokeswoman for the Viet Nam Progression Party (VNPP), and **Nguyen Van Dai**, founder of the Committee for Human Rights in Viet Nam, who were arrested in March 2007 and sentenced on May 11, 2007 to four and five years in prison respectively for “conducting propaganda against the Socialist Republic of Viet Nam”¹⁶, were released on March 6, 2010 and March 6, 2011 respectively, after completing their sentence. However, as they were also condemned to three and four years' house arrest, they both remained under house arrest as of April 2011, deprived of the rights to travel and communicate freely.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Le Cong Dinh	Sentencing / Judicial harassment	Joint Press Release	January 20, 2010
FIDH	Obstacles to freedom of assembly	Press Release	September 21, 2010
Mr. Le Hoang Hung	Assassination	Joint Press Release	February 3, 2011
Messrs. Cu Huy Ha Vu, Pham Hong Son and Le Quoc Quan	Sentencing / Arbitrary detention / Harassment	Joint Open Letter to the authorities	April 7, 2011

16/ In November 2007, the Hanoi Appeals Court decided to reduce their sentences to four and three years' imprisonment respectively, followed by four and three years' house arrest.