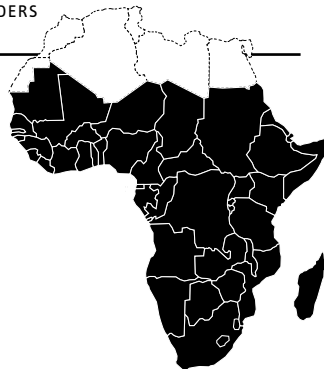


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# SUB-SAHARAN AFRICA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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# REGIONAL ANALYSIS SUB-SAHARAN AFRICA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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In view of the violence and serious violations of human rights perpetrated during the past electoral periods (*Ethiopia, Kenya, Togo, Zimbabwe*), the succession of elections that took place in 2010 which for some countries marked the culmination of transition periods following a coup (*Guinea Conakry, Niger*) or long peace processes (*Burundi, Côte d'Ivoire, Sudan*), gave rise to concern. Indeed, the call by the African Commission on Human and Peoples' Rights (ACHPR)<sup>1</sup> for "free, fair and credible elections" met with a decidedly mixed response. While the presidential election in *Niger* and the referendum on self-determination in *Southern Sudan* went off smoothly, the presidential ballots in *Guinea Conakry* and *Côte d'Ivoire* were marred by serious violence and massive violations of human rights. Furthermore, several serving leaders did not hesitate yet again to restrict freedoms of expression, assembly and association (*Burundi, Djibouti, Ethiopia, Rwanda, Uganda*), to misappropriate State resources (*Chad*), to grant themselves privileged access to public media for their personal campaigns (*Burundi, Central African Republic, Chad, Togo, Uganda*), to silence all dissenting voices (*Burundi, Djibouti, Ethiopia, Rwanda*), or to change the Constitution to enable them to run for another term in office in order to perpetuate their regime (*Djibouti*). Others continued to govern with an iron fist without even considering the organisation of elections (*Eritrea, Swaziland*). Moreover, attacks against journalists covering election processes in many countries, increased in the run-up to the ballots as well as during and after the voting (*Côte d'Ivoire, Nigeria, Rwanda, Sudan, Togo, Uganda*).

While in some States, a more conducive legal framework for freedom of the press, including the decriminalisation of press offences, was either established (*Guinea Conakry, Niger*) or in the process of being adopted (*Senegal*), media restrictions were tightened in a number of other countries in anticipation of elections (*Burundi, Ethiopia, Rwanda*). In addition, in many countries, journalists continued to work under the threat of prison sentences for "seditious publication" (*Gambia*), "defamation"

(*Angola, Cameroon, Central African Republic, Gabon, Gambia, Senegal, Uganda*), “genocidal ideology” (*Rwanda*) or “glorification of violence” (*Chad*). Several journalists were also killed while working in areas of armed conflicts (*Democratic Republic of Congo – DRC, Somalia*).

Concern about the spread of popular uprisings in Arab countries from late December 2010 onwards, prompted certain leaders to stifle potential protest movements by banning demonstrations (*Djibouti*), restricting people’s access to information about these events (*Eritrea, Equatorial Guinea*), impeding freedom of expression (*Ethiopia*) and peaceful assembly on these topics (*Zimbabwe*), and making “preventive” arrests (*Angola, Zimbabwe*). Nascent protest movements were violently repressed (*Djibouti, Sudan*).

The appointment in January 2011 of Mr. Teodoro Obiang Nguema as the new President of the African Union (AU) does not bode well for the initiation of any major action by this institution to consolidate democracy across the African continent. Mr. Nguema seized power in *Equatorial Guinea* in a coup in 1979 and was re-elected President in 2002 and 2009 with respectively 97 and 95.7% of the vote. Furthermore, the AU has stepped up its efforts to prevent the International Criminal Court (ICC) from prosecuting President Omar Al Beshir of *Sudan* and senior officials in *Kenya* and has called on its member States not to cooperate with the ICC<sup>2</sup>.

The year 2010 was also marked by the persistence of numerous armed conflicts. The civilian population in eastern *DRC* remained hostage to clashes between the army, rebel groups and self-defence militias. The fight for control of the Kivu region, which abounds in natural resources that attract widespread illegal exploitation, has meant that severe insecurity still prevails there despite the presence of the largest UN peacekeeping mission deployed anywhere in the world. In *Somalia*, the situation deteriorated with the proliferation of heavy fighting between Al-Shabab insurgents and forces of the Transitional Federal Government. In Darfur (*Sudan*), serious violations of human rights continued to be committed with impunity against the civilian population, with the parties to the conflict unable to agree on the terms of a peace agreement. At the end of 2010, *Côte d’Ivoire* again descended into bloody conflict opposing pro-Gbagbo forces and those of the elected President Alassane Ouattara.

2/ At its conference in Addis Ababa on January 30 and 31, 2011, the AU reiterated its position stated in 2009 whereby it called on the UN Security Council to request the ICC to defer prosecution proceedings against Mr. Omar Al Beshir. It also backed a request by the Kenyan Government asking the Security Council to intercede to defer ICC prosecution proceedings against senior Kenyan officials. See AU decision on the implementation of ICC decisions, document EX.CL/639, January 30-31, 2011.

While human rights defenders were frequently targeted by non-State agents, violence against them was also often tolerated, encouraged or directly perpetrated by State agents, among whom the security forces – ostensibly there to protect them – were the main aggressors. The continued prevailing impunity enjoyed by perpetrators of human rights violations in many countries of sub-Saharan Africa most likely helped to fuel the cycle of violence against defenders.

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

In 2010–2011, many States continued to restrict freedom of association in order to muzzle civil society. These restrictions notably took the form of legislation regulating the registration of civil society organisations, implementation of which likely affects both their autonomy and independence (*Ethiopia, Uganda*). In addition, the rules on registration for NGOs were sometimes used for purposes of judicial harassment (*Gambia, Zimbabwe*) or to refuse or revoke the accreditation of organisations or unions considered as a nuisance (*Ethiopia, Sudan*). Finally, the assets of some organisations were frozen in order to paralyse their activities (*Ethiopia, Sudan*).

### **Muzzling defenders working for free and fair electoral processes**

In the run-up to and the staging of elections in various countries, defenders who worked to promote transparent and fair ballots and who denounced the poor conditions for their organisation, including violations of the right to freedoms of association, expression and peaceful assembly which accompanied them, were often regarded as siding with the opposition and were subject to threats (*DRC, Uganda*) or arbitrary arrest and judicial harassment (*Djibouti, Sudan, Uganda*). In *Ethiopia* and *Rwanda*, defenders started to be harassed well before their respective electoral processes were initiated, prompting many of them to flee these countries prior to the elections there in 2010. In *Djibouti*, in response to an unprecedented popular protest movement in the country against both the non-transparent conditions for organising the presidential elections and constitutional manipulations enabling the President to seek a third term, the Government banned demonstrations and made numerous arrests, including among defenders. In *Burundi*, an international organisation was also accused of siding with the opposition and was expelled. Defenders were also the primary targets during the violence linked to contested election results, particularly in *Côte d'Ivoire* where they were systematically threatened by one side or the other and accused of supporting the “other side”, based on the perceived content of their statements. Those who wanted to investigate election-related violence (*Côte d'Ivoire, Kenya*), to intervene to stop the violence (*Guinea Conakry*), or who continued to publicly denounce the violence (*Zimbabwe*), were threatened and intimidated.

## Defenders fighting for the truth and against impunity for grave violations of human rights remain preferred targets of repression

In 2010–2011, defenders actively contributing to the fight against impunity and the protection of victims, especially before the ICC, in *Kenya*, the *DRC* and *Sudan*, where high-level civilian and/or military officials are accused of “war crimes”, “crimes against humanity” and/or “genocide”, were subject to increasing repression. In the *DRC*, for example, defenders calling for the arrest of Mr. Bosco Ntaganda were the target of death threats, harassment and even kidnapping. In *Kenya*, since the opening of an investigation by the ICC in March 2010 into the post-election violence of 2007–2008 and the indictment in March 2011 of six senior Kenyan officials, defenders have had to flee the region because of threats. In *Sudan*, thirteen Darfuri defenders were arrested in late 2010, while others were intercepted and detained at the Darfur airport in June 2010, as they were travelling to Uganda to attend the Review Conference of the Rome Statute. Finally, three human rights defenders were assassinated in the *DRC* in 2010. Journalists who exposed serious human rights violations committed by members of security forces (*Côte d’Ivoire*, *Somalia*, *Sudan*, *Uganda*), in the framework of the fight against terrorism in East Africa (*Burundi*, *Uganda*), or the use of child soldiers by Government military forces (*Somalia*), were also victims of repression. In addition, defenders who sought to make known the circumstances of assassinations – notably of other defenders – and to ensure that these killings were properly investigated and led to fair trials by national jurisdictions received death threats (*Burundi*), or were subjected to judicial harassment (*Kenya*) to hinder their pursuit of justice. In *Rwanda*, a journalist was killed after denouncing the involvement of intelligence agents in a murder case. Moreover, in several countries, demonstrations denouncing the persistence of impunity or demanding to know the truth about serious human rights violations were violently repressed by the police (*Burkina Faso*, *Burundi*, *Togo*). For example, in *Burkina Faso*, in March 2011, police fired live bullets at peaceful demonstrators demanding an end to impunity and the truth about the killings of students in the west-central region. In this context, Mr. **Chrysogone Zougmore**, President of the Burkinabe Movement for Human and Peoples’ Rights (*Mouvement burkinabé des droits de l’Homme et des peuples* – MBDHP), received threats, notably from the gendarmerie in Ouagadougou, which accused him of encouraging the demonstrations and warned him that the MBDHP would be held responsible for any material damage or casualties resulting from them.

## Reprisals against defenders cooperating or suspected of cooperating with international institutions for the defence and protection of human rights

In 2010–2011, acts of reprisal again targeted not only defenders working with international tribunals such as the ICC, as already mentioned, but also those collaborating with the International Criminal Tribunal for Rwanda (ICTR), as well as others providing information to the UN (*Kenya, Malawi*). Thus in *Malawi*, after several statements by the President of the Republic – especially those made on March 18 and 20, 2011 – denigrating defenders and alleging *inter alia* that they were working against the national interest, Mr. **Undule Mwakasungula**, Executive Director of the Centre for Human Rights and Rehabilitation (CHRR), received death threats on March 20, 2011. The statements by the Malawi President notably followed a petition submitted to the UN Special Rapporteur on March 9, 2011 by several NGOs, including the CHRR and the Centre for the Development of People (CEDEP), on the human rights situation in Malawi, and the interventions of representatives of these NGOs at the 16<sup>th</sup> session of the UN Human Rights Council in Geneva in March 2011.

## Increase in acts of reprisal against defenders denouncing corruption

As the level of corruption in sub-Saharan Africa continued to increase, defenders denouncing the misappropriation of funds, “bribes” or favouritism involving the authorities or their families, were subjected to death threats (*Gambia, Rwanda*) and arrests and/or prosecution (*Burundi, Cameroon, Central African Republic, Côte d’Ivoire, Gabon, Guinea Bissau, Rwanda, Senegal, Sudan, Togo, Uganda, Zimbabwe*). In *Cameroon*, where legal action against journalists exposing corruption has increased, a newspaper editor died in custody while he and other journalists were being investigated following their inquiry into allegations of misconduct involving a State minister. In *Angola*, Mr. **Armando Chicoca**, an independent journalist, was sentenced to one year in prison on March 3, 2011, for “defamation” after disclosing the testimony of the former housekeeper of Mr. Antonio Vissandula, Judge and President of the Court of Namibe, accusing him of having fired her for refusing his sexual advances. Mr. Chicoca was released on bail on April 7, 2011 pending his appeal<sup>3</sup>. The media were highly active in this domain and were consequently also primary targets of repression. In retaliation for their probes and articles, publications were suspended for varying fixed periods (*Gabon, Rwanda, Togo*), an indefinite period (*Cameroon*), or permanently (*Togo*), and their website blocked (*Rwanda*). Activists combating corruption were also targeted by media smear campaigns (*Burundi, Gabon*). In addition, the

murders of two defenders who denounced corruption in 2009 remained unpunished in *Burundi* and *Kenya*.

### **Obstacles to and repression of peaceful assembly and demonstrations against poor living and work conditions and the plundering of natural resources**

In response to the proliferation of popular protests against price hikes and growing economic difficulties, the authorities in many countries introduced increasingly tight restrictions to impede freedom of expression and peaceful assembly. In several cases, demonstrations were banned and violently repressed by the police. This was the fate of peaceful protest rallies against the poor working conditions of doctors and poor access to health care (*Sudan*), and the austerity measures and rising prices (*Sudan, Togo, Uganda*). The rallies were also calling for improvements in the education sector (*Zimbabwe*) and in the distribution of electricity (*Senegal, Zimbabwe*). In the *DRC*, defenders who denounced the poor working conditions of women faced threats and arbitrary arrest. In *Djibouti* and *Mauritania*, trade union movements demanding improved pay conditions in various sectors, were violently repressed and many trade unionists were arrested, while in Cameroon they faced judicial harassment. The authorities also banned peaceful rallies held in protest against the environmental consequences and human rights violations associated with mining, oil exploitation and real estate activities. Organised demonstrations were violently repressed (*Senegal*), and the participants were arrested and subjected to judicial harassment (*DRC, Senegal*) and threats (*DRC, Zimbabwe*). In addition, in the *DRC*, those who denounced the pillaging of natural resources, arms trafficking and the continued fighting, especially in the east of the country, continued to be harassed and threatened. In *Zimbabwe*, a defender who denounced human rights violations related to the diamond trade was also subjected to judicial harassment.

### **Obstacles specifically targeting defenders of the rights of sexual minorities**

The defenders of the rights of lesbian, gay, bisexual and transgender (LGBT) individuals in many sub-Saharan African States continued to face various forms of prejudice and intimidation (*Cameroon, Kenya, Uganda*) and judicial harassment (*Zimbabwe*). Laws criminalising sexual minorities in many countries hindered the work of defenders. In January 2011, for example, the *Cameroon* Government declared illegal the European Union funding for a project in support of sexual minorities in application of a law criminalising sexual relations between people of the same sex. In *Uganda*, a bill aiming at criminalising the promotion and protection of LGBT rights was still under consideration in Parliament in late April 2011, and helped

to fuel stigmatisation of human rights defenders; a prominent defender was assassinated in January 2011. In the *DRC*, a similar bill representing the same risks for defenders of LGBT rights was debated in the National Assembly.

**Urgent interventions 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
MALAWI	Messrs. Undule Mwakasungula, Levi Mvula and Gift Trapence	Threats / Reprisals	Urgent Appeal MWI 001/0311/OBS 045	March 24, 2011
NIGERIA		International inquiry mission report	Joint Press Release	May 11, 2010



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# BURUNDI

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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In 2010-2011, human rights defenders were repeatedly considered as opposition members. Those denouncing acts of corruption and embezzlement were also subjected to judicial harassment and several human rights organisations were threatened, victims of defamation by the media and intimidated because of their fight against impunity.

## Political context

General elections held in Burundi between May and September 2010<sup>1</sup>, the first ones since the 2000 Arusha Agreement that took place in a context of peace, generated a particularly tense political climate. Indeed, citing electoral fraud, the main opposition political parties rejected the provisional results of the elections of May 24, 2010, the first of five scheduled elections, which devoted a large victory to the ruling party, the National Council for the Defence of Democracy - Forces for the Defence of Democracy (*Conseil national pour la défense de la démocratie - Forces de défense de la démocratie* - CNDD-FDD). Brought together in the framework of the Democrat Alliance for Change in Burundi (*Alliance des démocrates pour le changement au Burundi* - ADC-Ikibiri), the opposition parties, with the exception of the Union for National Progress (*Union pour le progrès national* - UPRONA), chose to boycott the presidential legislative and local elections due, according to them, to a lack of regulation in the electoral process<sup>2</sup>. As a result, this almost single-party context allowed the CNDD-FDD to consolidate its power within the whole Government institutions.

Throughout the electoral process, Government authorities also tried to silence any criticism regarding the ways of governance and the conduct of elections. This led to restrictions on freedom of movement, prohibition of meetings and press conferences<sup>3</sup>, the arbitrary arrest and detention of

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1/ The election process was made up of five elections, including municipal (May 24), presidential (June 28), legislative (July 23), senatorial (July 28) and local (administrative subdivision - September 7).

2/ See ADC-Ikibiri, *Mémoire sur les irrégularités et fraudes massives des élections communales du 24 mai 2010*, June 2010.

3/ On June 8, 2010, the Interior Minister, Mr. Edouard Nduwimana, banned all meetings and activities of parties not participating in the presidential elections. After the vote on June 28, he announced that the opposition parties could resume their activities. On September 17, 2010, Mr. Nduwimana said that coalitions are not allowed to operate outside the electoral period.

dissidents and the killing of militants of the ruling party and the opposition. This violence drove many of the main opposition leaders to exile<sup>4</sup>.

From September 2010, a wave of violence was also observed in some localities in western areas, especially in the provinces of Bujumbura Rural and Bubanza, former strongholds of the National Forces of Liberation (*Forces nationales de libération* - FNL). Military operations were launched by the Government authorities to try to counter a resurgence of armed groups close to the ADC-Ikibiri<sup>5</sup>. This period was marked by acts of violence and repression against opposition members, as well as against civil society activists and journalists, accused by the authorities of being behind the resurgence of insecurity in the country.

On January 25, 2010, the Burundian Parliament enacted Law No. 1/03 on the Organisation and Functioning of an Ombudsman with a mandate to investigate complaints, conduct investigations into embezzlement and violations of human rights committed by State agents, and to make recommendations to the competent authorities. On November 12, 2010, despite the challenge of parliamentary opposition regarding its lack of neutrality, Mr. Mohamed Khalfan Rukara, a senior leader of CNDD-FDD, was elected unanimously by the National Assembly and approved by the Senate for a term of six years<sup>6</sup>. On January 5, 2011, the Burundian Parliament also enacted a law establishing the Independent National Commission on Human Rights (*Commission nationale indépendante des droits de l'Homme* - CNIDH), arising from a process which began several years ago. The law, which contains the main recommendations made by civil society and fully complies with the Paris Principles, was however challenged in some points, particularly regarding the selection of commissioners and the financial independence of the institution<sup>7</sup>. The CNIDH will have the mandate to

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4/ See the Forum for the Strengthening of Civil Society (*Forum pour le renforcement de la société civile* - FORSC) and the Association for the Protection of Human Rights and Detained Persons (*Association pour la protection des droits humains et des personnes détenues* - APRODH).

5/ See FORSC.

6/ The National Assembly is dominated by almost 80% of the CNDD-FDD. The few members of UPRONA and the three representatives of the Batwa minority withdrew before the vote, because they objected to the lack of consultation and consensus before the vote and wanted a candidate who was politically neutral.

7/ Civil society had proposed that the commissioners should be nominated by their peers in their respective electorates. The enacted law however, states that the application is free and that the selection of candidates will be made by an ad hoc committee of the National Assembly. The National Assembly will elect seven members appointed by the then President of the Republic, despite the consultation process that promotes the Paris Principles. This reduces the room for a consultation process with civil society because the law does not force the National Assembly to consult with civil society for the appointment of members of the CNIDH. Neither the bar nor the unions are represented. Funding for the Commission is channeled through the Government, potentially undermining the independent and self-management of the Commission.

receive complaints and investigate human rights violations, to fight against torture, rape and other forms of gender-based violence, to provide legal assistance to victims or to propose concrete measures for the Government to promote the protection of rights.

### **Human rights defenders considered as opposition members**

Civil society, private media and international NGOs were repeatedly considered by the power as members of opposition parties. This phenomenon is particularly worrying for the continuation of the activities of the defenders and their security. In June 2010, in response to the report on pre-election political violence by the NGO Human Rights Watch (HRW), its representative in Burundi was expelled from the country, deemed as politically favourable to the opposition<sup>8</sup>. In October 2010, the *Burundi News* website published an article accusing some leaders of the civil society to be agents of the opposition, including Mr. **Gabriel Rufyiri**, President of the Observatory for the Fight Against Corruption and Economic Embezzlement (*Observatoire de lutte contre la corruption et les malversations économiques* - OLUCOME). On November 5, 2010, following a visit to a leading member of the FNL in the central prison of Mpimba, during which the latter would have provided a list of FNL political prisoners in the prison, Ms. **Elyse Ingabire** and Mr. **Dieudonné Hakizimana**, two journalists from the newspaper *Iwacu*, were arrested without a warrant by the Municipal Commissioner Mr. Parfait Hakizimana and were taken to the Special Bureau of Research (*Bureau spécial de recherche* - BSR), a special investigation unit of the Gendarmerie. There, they were held for 48 hours under the orders of another Municipal Commissioner. During the interrogation, they were accused of collaborating with the FNL and of “undermining the security of the State”. During their detention, the newspaper’s lawyer was not allowed to see the two journalists, in violation of legal provisions. As of late April 2011, charges of violations of State security were still pending against them<sup>9</sup>.

### **Judicial harassment against defenders denouncing State corruption and embezzlement**

In 2010, defenders denouncing acts of corruption and embezzlement within the State were one of the favourite targets of the authorities. Thus, on April 2, 2010, following the publication of a letter from OLUCOME to the President of the Commission on Defence and Security of the National Assembly concerning a draft statute for granting benefits to the

8/ They were not allowed to return to Burundi, but in April 2011, the authorities agreed that HRW could appoint a new representative.

9/ See OLUCOME.

generals of the national police and of the army, the Minister of Public Safety filed a complaint against Mr. Gabriel Rufyiri to the Attorney General of the Republic for “disturbing the public peace”, “spreading false news” and “misinformation and intoxication”, accusing him of a “breach of trust between institutions and people”. On April 8, 2010, the Council of Ministers issued a press release stating that the National Security Council, which was “concerned about the consequences of these allegations, would be meeting shortly to address the issue”. On April 14, 2010, Mr. Rufyiri was informed of the issuance of an arrest warrant against him and the next day, plainclothes police were looking for him but without success. However, Mr. Rufyiri was never arrested and the case was finally not brought to court<sup>10</sup>. On August 10, 2010, in response to a complaint filed by the Director of Regideso, a State company for the production and marketing of water and electricity, Mr. **Thierry Ndayishimiye**, the Editor of the weekly newspaper *Arc-en-Ciel*, was arrested by the police for “defamation”, in connection with an article published on July 30, 2010 involving the complainant in a case of embezzlement regarding the work done by Regideso in Gitega, Ruyigi and Rutana. After being placed in custody for two days at the Mpimba Central Prison in Bujumbura, Mr. Ndayishimiye was released on bail before the closure of the file<sup>11</sup>. On July 17, 2010, Mr. **Jean-Claude Kavumbagu**, Editor-in-chief of the *Net Press* website, targeted by the power for several years because of his articles denouncing State corruption and embezzlement, was arrested by the General Commissioner of the police in the western region of Burundi, on an arrest warrant issued by the Prosecutor of Bujumbura. Remanded in custody at the Mpimba central prison, the journalist was accused of “treason”<sup>12</sup>, “damaging allegations” and “libel”, under the pretext of the publication of an article published a few days earlier, expressing reservations about the ability of the army and police forces of Burundi to prevent a possible attack on the Somali Islamist group Al Shabab, who had claimed responsibility for a terrorist attack in Uganda. On April 13, 2011, the Prosecutor of Bujumbura called for a life sentence against Mr. Kavumbagu who, as of the end of April 2011, was still detained at Mpimba central prison, pending the verdict<sup>13</sup>.

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10/ *Idem*.

11/ See FORSC.

12/ Under the Criminal Code, the crime of treason is only considered in times of war and is punishable by life imprisonment.

13/ On May 16, 2011, Mr. Kavumbagu was released following the decision of the District Court of Bujumbura to drop the charges of “treason,” of “damaging allegations” and of “libel” pending against him. The Court nonetheless decided to sentence him to eight months in prison - a sentence he had already completed - and to a fine of 100,000 Burundian francs (about 58.10 euros) on the grounds of “publishing writing likely to affect the credit of the State and national economy”.

## Ongoing acts of harassment against defenders fighting impunity

In 2010-2011, several human rights organisations and defenders were subjected to threats, defamation and intimidation, because of their commitment to the fight against impunity. Thus, on October 20, 2010, during a press conference held at the General Direction of the police, the Spokesman of the National Police charged Mr. **Pierre Claver Mbonimpa**, Head of the Association for the Protection of Human Rights and Detained Persons (*Association pour la protection des droits humains et des personnes détenues* - APRODH), with “support[ing] armed bandits” because of his denunciations of extrajudicial killings of FNL members. In addition, during a meeting held on October 20, 2010 in his office with representatives of several NGOs, the Interior Minister, Mr. Edouard Nduwimana, threatened to withdraw approval of APRODH or remove Mr. Pierre Claver Mbonimpa from his post.

Moreover, while the legal proceedings initiated in response to the killing on April 9, 2009 of Mr. **Ernest Manirumva**, Vice-President of OLUCOME, had still not determined the exact circumstances of his death nor the responsibilities of the individuals involved in the operation due to deficiencies in the conduct of the investigation of the case<sup>14</sup>, human rights defenders who mobilised to demand an independent and impartial justice were subjected to threats, intimidation, obstruction and surveillance, particularly from the Government authorities. Thus, on March 20, 2010, Mr. Pierre Claver Mbonimpa received an anonymous call threatening him with death if he kept working on the case of Mr. Manirumva. On the evening of April 1, 2010, a group of armed men went to the house of Mr. Gabriel Rufyiri while he was out. A few days earlier, his wife had received an anonymous call to warn her husband to “pay attention to the issues he was dealing with”. Mr. Mbonimpa and Mr. Rufyiri did not file a new complaint as the complaints previously filed by both organisations were not pursued. On November 1 and 2, Mr. Rufyiri and his wife again received death threats by phone. A week before, a man presented himself at the OLUCOME premises and uttered insults against Mr. Rufyiri and his wife. Following these incidents, OLUCOME filed a complaint on November 9, 2010 requesting the identification of the owners of the phone numbers. The police managed to identify the numbers and forwarded them

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14 / Twelve people were prosecuted in connection with the case, but no leading figure among them. On January 26, 2011, the Bujumbura Court of Appeals declined jurisdiction and referred the case to the High Court which, in late April 2011, had not yet received the said file. On June 22, 2011, at the request of the Prosecution, the Criminal Division of the High Court of Bujumbura requested that additional instructions should be carried out, including DNA samples and interrogations of some senior officials, before further consideration of the case.

to the judiciary in late April 2011, which had not yet acted on this information. In 2010-2011, Mr. **Pacifique Nininahazwe**, Chairman of the Forum for the Strengthening of Civil Society (*Forum pour le renforcement de la société civile* - FORSC), a platform of 146 civil society organisations<sup>15</sup> particularly active in campaigning for justice in the murder of Mr. Manirumva and for the release of the journalist Mr. Jean-Claude Kavumbagu, was regularly subjected to death threats, stalking and defamatory statements on Internet websites close to the ruling party. His phone was also tapped and he observed some National Intelligence Service (*Service national de renseignements* - SNR) vehicles, parked outside his residence<sup>16</sup>. On April 8, 2011, just before the second anniversary of the assassination of Mr. Manirumva, a peaceful march organised by NGOs in Bujumbura as part of the campaign calling for shedding light on the assassination and for pursuing and prosecuting those responsible, was prevented from advancing by a group of policemen, twenty yards after leaving the headquarters of the Burundian League of Human Rights (*Ligue burundaise des droits de l'Homme* - ITEKA). The police then tore the posters and banners of the demonstrators. At the scene, Mr. David Nikiza<sup>17</sup>, Commissioner of the western region for the Burundian national police, ordered the arrest of Mr. Gabriel Rufyiri and Mr. **Claver Irambona**, a member of OLUCOME. The two men were detained at the BSR and then released without charge a few hours later. The event was legally declared in a letter sent on April 4 to the Mayor of Bujumbura, who responded through a letter dated April 5, that he was shocked that OLUCOME had organised an event and that the OLUCOME should go to the relevant court. The organisers of the march received no notification of the prohibition. In addition, on April 22, 2011, *Radio sans frontières Bonesha FM* reported the circulation of a pamphlet containing a list of forty people who had to die by the end of 2011, including Mr. Rufyiri, Mr. Nininahazwe, Mr. Mbonimpa and Ms. **Eulalie Nibizi**, President of the STEB teachers union and Vice-President of the Confederation of Trade Unions of Burundi (*Confédération des syndicats du Burundi* - COSYBU), one of the main leaders of the union movements. Finally, on April 26, 2011, during a march supported by the ruling party, protesters were carrying placards bearing the words "Pacifique Nininahazwe: stop this divisionism. Not only Ernest died in Burundi". Mr. Rufyiri informed the police before

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15/ On January 28, 2011, the Interior Minister reinstated the legal status of the FORSC, revoking the decree of November 2009 which had set aside the order approving it.

16/ On August 25, 2010, for example, he was followed by a police car. When he arrived at his home, he found two jeeps parked outside his house and two others arrived later, before leaving the scene together. Mr. Nininahazwe, who has been protected by two police officers since November 2009, did not press charges after the death threats were made against him.

17/ Mr. Nikiza would be involved in the operation that led to the assassination of Mr. Ernest Manirumva.

speaking in the media but no legal proceedings had been opened at the end of April 2011<sup>18</sup>.

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

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Pierre Claver Mbonimpa, Gabriel Rufyiri and Ernest Manirumva	Death threats / Acts of intimidation / Impunity	Urgent Appeal BDI 001/0409/OBS 061.1	April 7, 2010
Ms. Prudence Bararunyetse and Messrs. Gabriel Rufyiri, Pierre Claver Mponimpa and Ernest Manirumva	Death threats / Harassment / Impunity	Urgent Appeal BUR 003/1110/OBS 134	November 12, 2010
Messrs. Gabriel Rufyiri, Pierre Claver Mponimpa and Ernest Manirumva	Death threats / Impunity	Press Release / International Mission of Inquiry	November 29, 2010
Mr. Ernest Manirumva	Impunity	Press Release / Mission Report	April 7, 2011
Messrs. Gabriel Rufyiri, Claver Irambona and Ernest Manirumva and Ms. Pacifique Nininahazwe	Obstacles to freedom of assembly / Detention / Liberation / Impunity	Urgent Appeal BUR 001/0411/OBS 060	April 8, 2011
Mr. Ernest Manirumva	Impunity	Joint Press Release	April 9, 2011
Ms. Neela Ghoshal	Expulsion	Urgent Appeal BDI 001/0510/OBS 064	May 21, 2010
		Joint Press Release	May 28, 2010
Mr. Pierre Claver Mbonimpa / Association for the Protection of Human Rights and Detained Persons (APRODH)	Threats / Risk of obstacles to the freedom of association	Urgent Appeal BDI 002/1110/OBS 131	November 4, 2010
Forum for the Strengthening of Civil Society (FORSC)	Rehabilitation	Press Release	February 10, 2011
Mr. Jean-Claude Kavumbagu	Arbitrary detention / Judicial harassment	Press Release	April 21, 2011

18/ See FORSC.

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# CAMEROON

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010-2011, human rights defenders fighting against corruption and in favour of economic and social rights were subjected to harassment while defenders of the rights of the LGBTI community continued to suffer various forms of prejudice and acts of intimidation from the religious authorities, as well as from the hostility of the authorities. Moreover, a human rights defender was placed under close surveillance following her participation in a meeting on the protection of defenders and because of her activities.

## Political context

When in 2008, President Biya amended Article 6.2 of the Constitution allowing him to seek a third term in presidential elections set for October 2011, he also appointed by decree the twelve members of the electoral commission (Elecam) which mandate is to organise and supervise the elections in an independent manner. All twelve Elecam appointees were either members or close allies of the ruling Cameroon People's Democratic Movement (*Rassemblement démocratique du peuple camerounais* - RDPC). This total control of Elecam by the Executive was reinforced even further on March 26, 2010, when an amendment to Law No. 2006/11 on the establishment, organisation and functioning of Elecam formally authorised the return of the Ministry of Administration and Decentralisation within the organisation of the electoral process and eliminated the requirement for consultation with civil society in this regard<sup>1</sup>. Moreover, despite calls by the opposition parties and civil society, the country still lacks a single electoral code allowing for the harmonisation of the different and sometimes contradictory texts which regulate the normative election framework.

The fight against corruption in Cameroon was also a dominant topic throughout 2010. "Operation Sparrow Hawk", launched in 2004 to investigate a large number of allegations of embezzlement involving public officials and former ministers of State, led to further arrests of former members of Government and heads of public enterprises, and to the holding of several trials of persons remanded in custody since 2008. Described by some as a means to settle scores through the courts, the anti-corruption

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1/ The new text stipulates that Elecam "organises its consultations with the administration, the judiciary, political parties and possibly with civil society in the framework of management of the electoral process", while the former text simply stated that Elecam "organises its consultations with the administration, the judiciary, political parties and civil society".



operation was also seen as an opportunity for the Head of State to eliminate potential political rivals<sup>2</sup>. In addition, the UN Committee Against Torture and the UN Commission on Human Rights expressed deep concern about the various allegations of human rights violations and the prevailing climate of impunity in the country. In their respective reports of May 19 and August 4, 2010, they regretted in particular the fact that two years after the events of February 2008<sup>3</sup>, the State is still not able to provide an exhaustive report on the allegations of serious human rights violations committed by its security forces. These two bodies have therefore recommended the initiation of “prompt, impartial and exhaustive forensic” investigations following allegations of extrajudicial killings and other acts of torture and cruel, inhuman or degrading treatments in order to ensure that those responsible are brought to justice. The UN Committee Against Torture also expressed concerns about allegations of harassment, arbitrary detention, torture or cruel, inhuman or degrading treatments and death threats against journalists and human rights defenders and about the fact that such acts remain unpunished<sup>4</sup>. The Human Rights Committee also expressed its deep concern about Article 347 bis of the Cameroon Criminal Code, which punishes “any individual having sexual relations with a person of the same sex” with a fine ranging from 20,000 to 200,000 CFA francs (about 30 to 305 euros) and six months to five years imprisonment. The Commission noted that this discriminates and violates the right to privacy of individuals, and called on the State to take steps to make it clear that it does not tolerate any form of harassment, discrimination and violence against the sexual orientation of individuals<sup>5</sup>, in conformity with the International Covenant on Civil and Political Rights.

### **Intimidation and judicial harassment of journalists who denounce corruption**

In 2010, investigative journalists covering stories related to the management of public finances and the conduct of criminal investigations as part of “Operation Sparrow Hawk” were subjected to judicial prosecution. Thus, on February 5, 2010, the correspondent of the weekly *Bebela*, Mr. **Simon Hervé Nko’o**, and Messrs. **Serge Yen Sabouang**, **Harrys Robert Mintya Meka** and **Germain Cyrille Ngota**, alias **Bibi Ngota**, respectively Editors

2/ See Home for Human Rights (*Maison des droits de l’Homme* - MDH).

3/ See Annual Report 2009.

4/ See UN Committee against Torture, *Concluding Observations of the Committee against Torture - Cameroon*, UN Document CAT/C/CMR/CO/4, May 19, 2010, and UN Human Rights Committee, *Concluding Observations of the Human Rights Committee - Cameroon*, UN Document CCPR/C/CMR/CO/4, August 4, 2010.

5/ See UN Human Rights Committee, *Concluding Observations of the Human Rights Committee - Cameroon*, UN Document CCPR/C/CMR/CO/4, August 4, 2010.

of the bimonthly *La Nation*, the weekly *Le Devoir* and the *Cameroun Express*, were arrested by the Directorate General of External Research (*Direction Générale de la Recherche Extérieure* - DGRE) for “possession of documents compromising” State dignitaries. The journalists were investigating allegations of embezzlement in connection with the acquisition of a boat-hotel by the National Hydrocarbons Corporation (*Société nationale des hydrocarbures* - SNH) in 2008, and were in possession of a note dated June 20, 2008 signed by Mr. Laurent Eso, Minister of State, Secretary General at the Presidency of the Republic and Chairman of the Board of SNH, ordering the payment of substantial commissions to intermediaries in connection with this acquisition. Mr. Ngota was released on February 8, 2010, while Messrs. Nko’o, Yen Sabouang and Mintya Meka were freed on February 12. During their detention, they were allegedly subjected to interrogation and ill-treatment aiming at forcing them to reveal the source of the confidential note<sup>6</sup>. On February 26, 2010, Messrs. Serge Yen Sabouang Yen, Bibi Ngota and Harrys Robert Mintya Meka were again arrested and brought before the Prosecutor of the High Court of Mfoundi. All three were held in custody under order of an Investigating Judge on March 10, 2010, and then incarcerated at Kondengui central prison in Yaounde for “co-action of forgery” and “imitation of the seals of the Republic”. They were accused of being the authors of the note dated June 20, 2008, which the investigation purportedly revealed was in fact a fake. On November 24, 2010, Mr. Mintya Meka and Mr. Yen Sabouang were released and the charges against them were dropped, with no official reasons given for their release. As for Mr. Bidi Ngota, he died in prison on April 22, 2010 from “abandonment”, “bad treatment” and “non-assistance” of the authorities, according to the initial death certificate of the prison doctor, even though the authorities had been informed that he suffered from asthma and hypertension. On April 27, 2010, President Biya ordered a police investigation but two days later the Minister of Communication, Mr. Issa Bakary Tchiroma, stated that according to an official medical report provided by the prison authorities on April 29, 2010, the journalist was believed to have “succumbed to HIV/AIDS”<sup>7</sup>. In addition, on February 3, 2011, Mr. Jean-

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6/ Thus, Mr. Nko’o, who had been held in solitary confinement, said security agents subjected him to waterboarding, sleep deprivation, nudity and prolonged exposure to cold. Upon his release, the Director of his newspaper denounced a series of acts of torture and cruel, inhuman and degrading treatments, including the use of iron bars to beat the soles of the feet. A medical certificate dated February 22, 2010 noted there were lacerations on the soles of his feet.

7/ See MDH. The Minister said the report’s conclusions were based on the results of an autopsy performed by a physician at the University Hospital in the presence of the family, which was denied by the victim’s brother. On September 14, 2010, the Deputy Minister of Justice, Mr Amadou Ali, presented the results of the criminal investigation, dismissing the hypothesis that Mr. Ngota reportedly died as a result of mistreatment during his successive periods of detention.

**Marie Tchatchouang**, Editor of the weekly journal *Paroles*, was arrested by the police and held in detention until the following day. On February 4, he was accused of “defamation” by the Douala Public Prosecutor on the basis of a complaint lodged by Mr. Jean Ernest Ngallé Bibébé, Director General of the Cameroon urban transport company (*Société camerounaise de transport urbain - SOCATUR*), following a series of articles published between September and December 2010 related to the alleged embezzlement of public funds by Mr. Bibébé and his wife. On March 28, 2011, the Court of First Instance of Douala-Ndokoti found him guilty of the charge and condemned him to a six-month suspended prison sentence and to a fine of 185,200 CFA francs (about 282 euros) and one million CFA francs (about 1,524 euros) in damages. The court also decided to suspend the newspaper for an indefinite period. Mr. Tchatchouang was then held in custody and taken to Douala prison. He appealed the court decision<sup>8</sup>. On January 12, 2011, Mr. **Thierry Ngogang**, Editor-in-chief of the private television channel *STV2*, Mr. **Alex Gustave Azebaze**, an independent journalist and the Second Secretary of the National Union of Journalists of Cameroon (*Syndicat national des journalistes du Cameroun - SNJC*), Mr. **Anani Rabier Bindzi**, a journalist working for the private TV channel *Canal2 International*, and Mr. **Manassé Aboya Endong** a political scientist and professor at the University of Douala, were cited to appear before the Criminal Court of Douala to face criminal proceedings based on Articles 74, 96, 169 and 310 of the Criminal Procedural Code<sup>9</sup>. On June 1, 2009, they had disclosed and discussed a report during an *STV2* televised debate on police investigations in connection with “Operation Sparrow Hawk” involving former managers of public funds suspected of corruption. The trial was adjourned several times in 2010 and no substantive discussions to move the process forward had been initiated by the end of April 2011<sup>10</sup>.

### **Obstacles to the organisation of demonstration in support of economic and social rights**

Although freedom of peaceful assembly is enshrined in Law No. 990/055 of December 19, 1990 on meetings and demonstrations, a rally held in Yaoundé on November 11, 2010 advocating for economic and social

8/ See Network of Human Rights Defenders in Central Africa (*Réseau des défenseurs des droits humains en Afrique centrale - REDHAC*).

9/ They are being prosecuted for having “related publicly a judicial procedure that was not finalised in conditions that even intentionally sought to influence the opinion of others for or against the parties” and for having “revealed without authorisation” confidential information that was entrusted to them in view of their profession or function. They are facing up to three years in prison and a five million CFA francs (about 7,622 euros) fine.

10/ See REDHAC.

rights was ordered to be dispersed by the Deputy Prefect of Yaoundé III district, despite being officially notified to the authorities, in accordance with Article 6 of that law. The rally was called by the Public Sector Central Trade Union (*Centrale syndicale du secteur public* - CSP) outside the Prime Minister's office, in order to present him with a memorandum from public service workers addressed to the Head of State calling in particular for improved working conditions in the country. It was banned by the Deputy Prefect on the grounds that "public demonstrations of a vindictive and/or protest nature are and shall remain prohibited throughout the entire department of Mfoundi" (Yaoundé). However, only the Prefect – not the Deputy Prefect – has the authority to impose such a ban<sup>11</sup>. Officers from the central police station in Yaounde were subsequently dispatched to the scene and arrested Mr. **Jean-Marc Bikoko**, President of the CSP, Mr. **Eric Nla'a**, the CSP accountant, Mr. **Maurice Angelo Phouet Foe**, Secretary General of the Autonomous National Education and Training Trade Union (*Syndicat national autonome de l'éducation et la formation* - SNAEF), Mr. **Joseph Ze**, Secretary General of the Unitary National Union of Teachers and Professors (*Syndicat national unitaire des instituteurs et professeurs des écoles normales* - SNUIPEN), Mr. **Theodore Mbassi Ondo**, Executive Secretary of the Federation of Education Trade Unions of Cameroon (*Fédération camerounaise des syndicats de l'éducation* - FECASE), and Messrs. **Nkili Efoa** and **Claude Charles Felein**, SNUIPEN members. Accused of holding an "illegal demonstration" and "disturbing public order", they were brought before the Public Prosecutor the next morning without having an opportunity to consult a lawyer. That evening, the Public Prosecutor ordered their provisional release, informing them that they were to appear before the Court of First Instance of Yaounde on November 15, 2010. The trial was subsequently postponed several times, and had not resumed by late April 2011.

### **Harassment against defenders of the rights of sexual minorities**

In 2010-2011, the lesbian, gay, bisexual, transgender and intergender (LGBTI) community and the defenders of their rights, remained subject to various prejudices and acts of intimidation by the religious authorities, and to the hostility of the authorities. On January 13, 2011, for example, following the decision of the European Union (EU) to finance the Project to Provide Assistance and Guidance to Sexual Minorities (*Projet*

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11/ In addition, the trade unionists only became aware of the existence of a letter banning their demonstration during the interrogation at the police station on the day of their arrest.

*d'assistance et d'encadrement des minorités homosexuelles - PAEMH*)<sup>12</sup>, proposed jointly by the Association for the Defence of Homosexuality (*Association de défense de l'homosexualité - ADEFHO*), the Collective of Families with Homosexual Children (*Collectif des familles d'enfants homosexuels - COFENHO*) and Youth Against AIDS (*Adolescents contre le sida - Sid'ado*), the Minister of External Relations, Mr. Henri Eyebe Ayissi, summoned Mr. Raoul Mateus Paula, Head of the EU Delegation in Cameroon, to convey the Government's opposition to this decision on the grounds that the Cameroon Criminal Code criminalises homosexuality. Moreover, following the project launch on December 22, 2010, Ms. **Alice Nkom**, ADEFHO President, as well as a human rights lawyer and one of the chief officials of PAEMH, received death or rape threats on several occasions.

### **Harassment and intimidation of a defender who participated in a meeting on the protection of defenders**

Since February 2010, a human rights activist has been subjected to close surveillance and repeated acts of intimidation after she attended a meeting on the protection of human rights defenders. Thus, having participated in the fifth Dublin (Ireland) platform for human rights defenders organised by the international NGO Frontline on February 10 to 12, 2010 and during which she presented a report on the human rights situation in Cameroon, Ms. **Maximilienne Ngo Mbe**, Secretary General of the organisation Solidarity for the Promotion of Human Rights and Peoples (*Solidarité pour la promotion des droits de l'Homme et des peuples - PRODHOP*) and Executive Director of the Network of Human Rights Defenders of Central Africa (*Réseau des défenseurs des droits humains en Afrique Centrale - REDHAC*), received an anonymous threat by letter at her workplace, accusing her of "tarnishing the image of the President of the Republic". No complaint was made to the authorities<sup>13</sup>. Following her return from Dublin, Ms. Ngo Mbe was also the victim of repeated thefts. On July 6, 2010, on the eve of the REDHAC General Assembly in Douala bringing together representatives of all REDHAC human rights NGO members, her computer and mobile phone as well as various computer accessories and documents related to the meeting were stolen. The victim complained to the police, but the perpetrators remained unidentified as of mid-April

12/ The PAEMH was responding to a call for proposals from the EU that includes a section on legal and medical assistance to persons arrested and detained because of their sexual orientation, some of whom have HIV/AIDS, and a component for advocacy with the Cameroon authorities, notably to persuade the Cameroon Supreme Court to take a stand on the legality of Article 347 bis, which criminalises homosexuality. Universal access to health care for homosexuals is also part of the advocacy component.

13/ See MDH and REDHAC.

2011. In addition, since March 7, 2011, her telephone has been wiretapped and she has been followed by a car with no registration plates. At a press conference at REDHAC headquarters on March 10, 2011, Ms. Ngo Mbe, accompanied by Ms. Alice Nkom, publicly denounced the conditions of arrest and incommunicado detention of eight association and political leaders, and notably deplored the violation of their right to defence. On March 22, 2011, on the eve of a seminar on the protection of human rights defenders organised by REDHAC at its headquarters in Douala, Ms. Ngo Mbe's wallet, containing her identity papers, driver's license and other documents, were stolen. On April 3, 2011, on her return from the Douala first district police station, where she had gone to obtain a new identity card, she noticed that her new wallet containing only the provisional receipt for the latter had disappeared along with other working papers, while the money in her handbag was intact.

### **Urgent interventions issued by The Observatory from January 2010 to April 2011**

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
<b>Messrs. Jean-Marc Bikoko, Maurice Angelo Phouet Foe, Eric Nla'a, Joseph Ze, Théodore Mbassi Ondo, Nkili Effoa and Claude Charles Felein</b>	Arrests / Obstacle to the right to peaceful assembly	Urgent Appeal CAM 001/1110/OBS 135	November 12, 2010
	Judicial harassment	Urgent Appeal CAM 001/1110/OBS 135.1	December 17, 2010
		Urgent Appeal CAM 001/1110/OBS 135.2	February 11, 2011
<b>Association for the Defence of Homosexuality (ADEFHO), Collective of Families with Homosexual Children (COFENHO) and Youth Against AIDS (Sid'ado) / Ms. Alice Nkom</b>	Obstacles to freedom of association / Death threats	Joint Press Release	February 10, 2011
<b>Ms. Maximilienne Ngo Mbe</b>	Theft / Harassment	Urgent Appeal CAM 001/0411/OBS/063	April 15, 2011

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# CENTRAL AFRICAN REPUBLIC

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In the Central African Republic, several cases of judicial harassment against journalists working on corruption cases involving members of the Government were reported in 2010 and early 2011, in a context of acts of intimidation in the run-up to the elections.

## Political context

Despite the hopes placed in the electoral process and the prospect of a new era of dialogue between the ruling regime and the opposition, President François Bozize, former Chief of Defence Staff who took power by force in 2003, was re-elected in the first round of the presidential election on January 23, 2011<sup>1</sup> with 64% of the votes cast. In addition, 26 of the 35 deputies elected in the first round of legislative elections, were belonging to his party, the “Kwa Na Kwa” (*Work Just Work* - KNK), including President Bozize himself<sup>2</sup> and several family members. The opposition quickly denounced irregularities<sup>3</sup> and demanded the cancellation of the election. The European Union (EU), in a report published in March 2011, also noted many irregularities and concluded that “under the criteria of fairness and equity governing democratic elections, the election of January 23 is subject to question”<sup>4</sup>.

The election period was marked by acts of intimidation, arrests and restrictions on freedom of movement against the opponents of the regime<sup>5</sup>. Following the decision of the Constitutional Council on February 12, 2011 to reject the appeals that were filed by three candidates in the presidential election, the opposition decided to boycott the second round of parliamentary elections scheduled for March 27, which saw the election of 36 new KNK candidates, allowing the ruling party to win an absolute

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1/ His main opponent, Mr. Patassé, received only 21% of the vote.

2/ In violation of Article 23 of the Constitution.

3/ The opposition denounced in particular the fact that the Electoral Commission had failed to account for 1,262 polling stations of the existing 4,618, the equivalent of about 27% of the vote. See Chadian League of Human Rights (*Ligue tchadienne des droits de l'Homme* - LTDH ) and *Radio France internationale* (RFI) Press Release, February 5, 2011.

4/ The expert report of the EU has not been published, but extracts were reported by RFI in a press release on March 25, 2011.

5/ Opponents were subject to bans from leaving the country, which were lifted after the elections.

majority in the Assembly. The death of Mr. Patassé on April 5, 2011 ended the electoral process in a somber tone, leaving the country deeply divided.

Moreover, despite the 2008 cease-fire and peace agreement, the fighting continued in the north-east where armed militias continued to benefit from diamond mining and to commit abuses against local populations. The withdrawal of UN troops in November 2010 exacerbated the vulnerability of these populations. In the south-east, incursions of the Lord's Resistance Army (LRA) were also particularly bloody in the year 2010.

On November 22, 2010, after months of uncertainty, the trial of Mr. Jean-Pierre Bemba, former Vice-President of the Democratic Republic of Congo, began before the International Criminal Court (ICC) for "crimes against humanity" and "war crimes" because of the actions perpetrated by rebel forces of the Movement for the Liberation of Congo (MLC) in the Central African Republic<sup>6</sup>. In addition, on December 1, 2010, Sudanese President Omar al-Bashir was invited by President Bozize to attend the ceremony of the 50<sup>th</sup> anniversary of the independence of the Central African Republic while Mr. al-Bashir was the subject of an ICC arrest warrant. The Central African Republic is party to the Rome Statute and the ICC has an office in Bangui.

### **Judicial harassment against journalists who expose corruption**

In 2010, journalists interested in corruption cases involving members of the Government were often exposed to reprisals. Thus, from September 3 to 6, 2010, the journalist of the private daily newspaper *Le Confident*, Mr. Alexis Remangai, was taken into custody at the Research and Investigation Section (*Section de recherche et d'investigation - SRI*) of the Gendarmerie in Bangui with regard to a complaint for "defamation" brought by an official of the Ministry of Mines. In response to an official summons that was addressed to the newspaper by Dr. Obed Namsio, the Chief Secretary to the Minister of State for Mines, Mr. Remangai went again to the ministerial office on September 3, 2010. He was then accused of being the author of a letter signed by the Presidents of the Central African mining cooperatives and published the day before, accusing the Minister of Mines of embezzling 20 million CFA francs (about 30,500 euros). Mr. Obed Namsio was then arrested by officials of the Central Office of Repression and Banditry (*Office central de la répression et du banditisme - OCRB*). On September 6, the reporter was referred to the Prosecutor, who

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6/ In 2002, former President Patassé asked Mr. Jean-Pierre Bemba and his troops to intervene in his country to support its attempts to miscarry a coup d'état.



granted him provisional release. As of late April 2011, no trial date was set<sup>7</sup>. In addition, on March 18, 2010, Mr. **Ferdinand Samba**, Publication Director of *Le Démocrate*, was arrested and detained at the SRI by order of the Prosecutor, who accused him of reprinting an article published on February 9, 2010 by another newspaper, *L'Indépendant*, which he says defamed him by questioning the origin of his fortune. The article reported the purchase by the Prosecutor of an apartment in France worth 100,000 euros, well above the means afforded to him by his official salary. On March 19, 2010, Mr. Samba was released upon paying bail of 400,000 CFA francs (about 800 euros). As of late April 2011, no further information were obtained on the trial against him before the High Court of Bangui<sup>8</sup>. Moreover, on March 18, 2010, the Prosecutor also summoned the Managing Editor of *L'Indépendant*, Mr. **Adrian Poussou**, to appear before the Criminal Court of Tours, France<sup>9</sup>. On February 28, 2011, this court dismissed the Prosecutor's request for libel, thus ending the process. On March 24, 2010, a new summon was issued to Mr. Adrien Poussou to appear in court, this time before the High Court of Tours, which also requested the President of the Court "to order the deletion of the articles in question on the website of the *Indépendant* newspaper". On March 30, the High Court of Tours rejected the Prosecutor's request to withdraw the articles in question from the website, marking the end of the proceedings<sup>10</sup>.

7/ See LTDH and Press Releases of International Freedom of Expression Exchange (IFEX), September 9, 2010 and Reporters Without Borders (RSF), September 7 and 17, 2010.

8/ See LTDH and *RFI* Press Release, March 29, 2010.

9/ Court jurisdiction in which is located the apartment mentioned in the article in question.

10/ See LTDH and *L'Indépendant* Press Release, March 31, 2010.

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# CHAD

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In Chad, 2010-2011 was marked by the obstruction of activities organised by civil society bodies to promote transparent management of public property, as well as by acts of intimidation against a newspaper which denounced the poor redistribution of wealth in the country.

## Political context

Since the 1990 coup d'état which brought to power Mr. Idriss Deby Itno, who was then re-elected in 1996, 2001 and 2006, the legality of the election procedures has been regularly contested by the opposition and by the civil society. The parliamentary elections on February 13, 2011, the first vote of the election calendar provided under the Agreement for the Reinforcement of the Democratic Process concluded in 2007 and which saw the victory of the political alliance of President Idriss Deby Itno confirming his absolute majority in the National Assembly, were not an exception<sup>1</sup>. Initially planned for April 3, 2011, the presidential election was held on April 25, 2011 in spite of the withdrawal of the three main opposition candidates who denounced a "huge election masquerade". President Idriss Deby was re-elected with 88.26% of the votes, according to the results announced on May 9 by the National Independent Election Commission (*Commission électorale nationale indépendante* - CENI).

In response to the recommendations issued in 2009 by the United Nations Human Rights Committee on lifting restrictions related to attacks on freedom of the press<sup>2</sup>, on August 18, 2010, the National Assembly adopted a draft law on the press regime, which had previously been rejected on June 2, 2010, and that abolishes prison sentences for press offences as well as for the crime of insulting the Head of State, whilst introducing new offences punishable with prison sentences of six months to one year and

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1/ The eleven opposition parties making up the Coalition of Political Parties for the Defence of the Constitution (*Coalition des partis politiques pour la défense de la Constitution* - CPDC) and the National Independent Electoral Commission (*Commission électorale nationale indépendante* - CENI), which confirmed the results of the parliamentary elections on February 27, 2010, pointed to a number of irregularities. See also Monitoring and Support Committee for the Agreement for the Reinforcement of the Democratic Process in Chad, *Mémoire relatif aux irrégularités de nature à entacher la sincérité et affecter les résultats d'ensemble du scrutin du 13 février 2011*, March 4, 2011.

finances of 100,000 to one million CFA francs (about 150 to 1,500 euros), as well as suspension of publication from six months for “crimes” of incitement of racial or ethnic hatred and the praise of violence<sup>3</sup>. In addition, from March 9 to 11, 2010, the Ministry responsible for Human Rights and the Promotion of Freedoms organised in N’Djamena the first National Forum on Human Rights, which aim was to report on human rights situation in the country. This initiative was welcomed by human rights defenders, who regretted however, the lack of involvement of civil society in its organisation and in drawing up the agenda<sup>4</sup>.

Furthermore, during the 14<sup>th</sup> session of the United Nations Human Rights Council held from May 31 to June 18, 2010, the Minister for Human Rights announced that his Government agreed that international experts should participate in the monitoring committee in charge of the investigation into the disappearance of Mr. Ibni Oumar Mahamat Saleh, one of the main Chadian opponents who was arrested by the army in February 2008, since when he disappeared<sup>5</sup>. However, as of the end of April 2011, this case was still not solved. In addition, although as of the end of April 2011, the Government of Senegal where the former Head of State Hissène Habré took refuge, had still not taken concrete measures to arrange his trial, the Chadian Government for its part, neither took action to bring to justice the other political officials of the previous regime, currently holding positions in important bodies such as security, defence and administration<sup>6</sup>. Finally, on July 21, 2010, the Sudanese President, Mr. Omar Hassan al Bashir, travelled to Chad to take part in a meeting of the region’s leaders<sup>7</sup>, and although he is subject to two arrest warrants issued by the International Criminal Court (ICC) for “genocide”, “crimes against humanity” and “war crimes” committed in the Darfur region and although Chad is a State Party signatory to the Rome Statute, the Chadian authorities refused to arrest him. This violation of international obligations occurred several months after the start of a new diplomatic dialogue between the two countries, who signed an agreement normalising their

3/ See International Freedom of Expression Exchange (IFEX) Press Release, 24 August 2010.

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

5/ Postponed for almost two years, the National Commission’s investigation report had not led to any judicial proceedings and, in the name of national sovereignty, the Chadian President had always rejected foreign collaboration in local judicial affairs.

6/ See ATPDH.

7/ This was the 12<sup>th</sup> ordinary session of the Conference of Leaders and Heads of State of the Community of Sahel-Saharan States (*Conférence des leaders et des chefs d’Etat de la Communauté des Etats sahélo-sahariens* - CEN-SAD) that took place in N’Djamena from July 22 to August 23, 2010.

relations on January 15, 2010, after five years of conflict by proxy through rebel groups<sup>8</sup>.

### **Obstruction of defenders who promote transparent management of public property**

Whilst in the recent years the issue of transparency in the exploitation of natural resources has become essential to the action of Chadian civil society in its work to achieve good governance and respect for the people's economic and social rights, especially in the field of petroleum extraction, the Government authorities did not have any hesitation in placing obstacles in the way of their actions. The Local Permanent Petrol Commission (*Commission permanente pétrole locale* - CPPL), a local civil society organisation that has been working for several years for the transparent management of revenue from petroleum activities in compliance with human rights and with the environment, was refused permission on March 22, 2010, to hold a workshop planned for March 23 to 26, 2010 that would have brought together representatives of the Doba oilfield. The refusal was justified by a decision of the Interior Ministry, although the Prefect, the Governor of the region and the district chiefs had permitted this event to be held. No information about the reason for this ban could be obtained. The workshop was organised to validate a study on the best way to allocate part of the income from petroleum extraction, attributed by the law to the producing region in order to better respond to the needs of local people. Following this ban, the Chadian League of Human Rights (*Ligue tchadienne des droits de l'Homme* - LTDH) organised on April 16, 2010, a workshop in N'Djamena to publish this study at the Centre for Study and Training for Development (*Centre d'études et de formation pour le développement* - CEFOD) in cooperation with the Monitoring Committee of the Appeal for Peace and Reconciliation (*Comité de suivi de l'appel à la paix et à la réconciliation* - CSAPR)<sup>9</sup>.

Similarly, the Chadian authorities made accusations against a newspaper that reported the incorrect redistribution of wealth within the country.

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8/ This agreement led to a reciprocal undertaking to end all support for rebel movements and to deploy a joint security force responsible for surveillance in the light of the withdrawal of the United Nations peace-keeping forces in eastern Chad. On May 25, 2010, the United Nations Security Council reconsidered the mandate of the United Nations Mission in the Central African Republic and Chad (MINURCAT) and authorised the end of escort and security operations in the east of the country and the gradual reduction of its military component until its final withdrawal. Since then, the Chadian Government has officially taken over responsibility for the security and protection of the civilian population, including refugees, displaced persons and host communities. See United Nations Security Council Resolution 1923, S/RES/1923, May 25, 2010.

9/ See LTDH and ATPDH.

On October 18, 2010, during a press conference held at his office, the Prime Minister issued a warning to the weekly newspaper *N'Djaména Bi-Hebdo*, accusing it of publishing “untruths calling for tribal hatred and division of the country”. In an article in the edition number 1316 (October 14 to 17, 2010) called “The Lessons of South Sudan”, the newspaper compared the development of the human rights situation in Sudan with the one in Chad and made a particular mention on the lack of fairness in the distribution of resources to Chadian people. During his press conference, the Prime Minister requested the intervention of the media regulation body, the High Communication Council (*Haut conseil de la communication* - HCC) and the Observatory for Ethics and Professional Conduct in the Media (*Observatoire de la déontologie et de l'éthique des médias* - ODEMET). The following day, on October 19, 2010, the HCC, in a press release broadcast on radio, considered that the newspaper “put unproven acts on the record” and proceeded to “an abusive general use in the comparison of no current facts”, while lacking “moderation in the used tone”. No complaint was filed<sup>10</sup>.

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10/ See ATPDH and CEFOD.

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# CÔTE D'IVOIRE

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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While human rights defenders - with the exception of journalists covering sensitive topics - were able to work for the promotion and protection of human rights without any major obstacles in 2010, they were the first to be targeted by media smear campaigns and death threats during the political crisis which accompanied the protests against the election results from December 2010 to April 2011. This prevented them from carrying out their activities and forced many to flee the country.

## Political context

On October 31 and November 28, 2010, the Ivorian electorate massively came out to elect the President of the Republic. The elections were viewed as a step towards pulling this deeply divided country out of a protracted politico-military crisis<sup>1</sup>. While the results of the first round were largely uncontested, the second round opposing Mr. Laurent Gbagbo, the candidate of the Presidential Majority (*La majorité présidentielle* - LMP), and Mr. Alassane Ouattara representing the Rally of Houphouëtists for Democracy and Peace party (*Rassemblement des Houphouëtistes pour la démocratie et la paix* - RHDP), witnessed a radicalisation of the discourse. This development followed the refusal by Mr. Gbagbo's camp to accept his loss to Mr. Ouattara, proclaimed winner by the Independent Electoral Commission (*Commission électorale indépendante* - CEI)<sup>2</sup> and recognised as such by the international community<sup>3</sup>. All attempts under the aegis of the international community to mediate the crisis failed one after the other. After several weeks of stalemate, accompanied by a reprisal campaign by the defence and security forces (*Forces de défense et de sécurité* - FDS) backed by pro-Gbagbo clan militias against RHDP supporters or people suspected of being so because of their origin or place of residence, the

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1/ In addition, the restoration of State authority throughout the territory and the dismantling of the New Forces combatants and militias especially in the west had still not been completed.

2/ On December 2, 2010, the CEI proclaimed him winner with 54.10% of the vote against 45.90% for Mr. Laurent Gbagbo. The following day, the Constitutional Council invalidated the results of seven departments located in the north and declared Mr. Gbagbo the winner.

3/ On December 3, 2010, the Special Representative of the United Nations Secretary-General, charged with a mandate to certify the elections based on the provisions of the Pretoria Agreement of April 6, 2005 and United Nations Security Council Resolution 1765 of July 2007, certified the results of the CEI. The victory of Mr. Ouattara was subsequently endorsed, notably on December 7, 2010 by the Heads of State of the Economic Community of West African States (ECOWAS) and on December 9 by the African Union's Peace and Security Council.

violence escalated into armed clashes in several locations in the west and south of the country. While pro-Gbagbo forces multiplied abuses against the civilian population and used heavy weapons in Abidjan, violations were also committed by pro-Ouattara forces against civilians suspected of being favourable to Mr. Gbagbo<sup>4</sup>. In mid-March 2011, the Republican Forces of Côte d'Ivoire (*Forces républicaines de Côte d'Ivoire* - FRCI), the new name of New Forces (*Forces nouvelles*), launched a military offensive, which was accompanied by extrajudicial executions, rape, looting and acts of retaliation against civilians by the armed forces of both sides<sup>5</sup>. Despite the arrest of Mr. Laurent Gbagbo and a number of his supporters on April 11, 2011 after several days of clashes in Abidjan, the violence had still not ended by late April, notably in Abidjan's Yopougon district and in the west of the country. On April 12, 2011, President Ouattara announced the opening of legal proceedings against Mr. Gbagbo, members of his family and his entourage, as well as the creation of a commission of inquiry into the crimes committed during the pre-election crisis. For its part, the Human Rights Council decided on March 25, 2011 to establish an independent international commission of inquiry to investigate the post-election violence<sup>6</sup>.

In parallel, while independent journalists such as those close to one of the rival camps or suspected of being so, were subjected to arbitrary arrest, acts of intimidation and threats from the beginning of the crisis<sup>7</sup>, some of Côte d'Ivoire's highly polarised media contributed largely to the disinformation, fuelling hatred between communities. Foreign media were also attacked by both sides as of December 2010 and during the last days of fighting in Abidjan.

In addition, following controversy over the establishment of the electoral list and the dissolution of the Government and the CEI, the police violently suppressed demonstrations organised by the RHDP in several cities in 2010. According to the United Nations Operation in Côte d'Ivoire (UNOCI), several people were summarily executed or victims

4/ See Statement of the Ivorian Human Rights League (*Ligue ivoirienne des droits de l'Homme* - LIDHO), March 19, 2011.

5/ By mid-April 2011, more than 163,000 people had fled the country and devastated areas. See High Commission for Refugees (HCR) Press Release, April 8, 2011.

6/ See Human Rights Council Resolution related to the human rights situation in Côte d'Ivoire, UN Document A/HRC/16/L.33 amended March 25, 2011.

7/ See LIDHO Statement, March 19, 2011. Furthermore, newspapers ceased publication on March 31, 2011 when the fighting intensified with the arrival of the FRCI in Abidjan. The independent and pro-Ouattara newspapers resumed publication on April 16, 2011, while the pro-Gbagbo dailies did not reappear and were even attacked and vandalised. The houses of journalists working for these dailies were also broken into. See Reporters Without Borders (*Reporters sans frontières* - RSF) Press Releases, April 6 and 19, 2011.

of ill-treatment and arbitrary arrest by the police, while protesters looted and destroyed public and private buildings such as police stations, courts and the premises of the Ivorian Popular Front (*Front populaire ivoirien - FPI*)<sup>8</sup>. Most of the perpetrators of these acts, as well as people responsible for serious human rights abuses committed over several years - including those involved in violent communal and land disputes in the west of the country that continued to take a heavy toll in 2010 and 2011 - had still not been punished as of late April 2011.

### **Threats and intimidation against human rights defenders calling for the safeguard of democracy and respect for the election results**

In this extremely polarised context, human rights defenders were the target of threats and intimidation by both sides, which systematically reproached them – according to the content of their interventions – for supporting their rivals. For example, several members of the Ivorian Civil Society Convention (*Convention de la société civile ivoirienne - CSCI*), a coalition of Ivorian organisations that monitored the elections, had to leave the country in March 2011 for fear of reprisals. On February 8, 2011, Mr. **Patrick N’Gouan**, National Coordinator of the CSCI, was subjected to verbal abuse by telephone and media attacks, particularly in the *Patriote*, a pro-Ouattara newspaper, alleging that he had joined the “side of those who encourage Gbagbo and his clan in their attempt to confiscate the State power”. This followed comments by Mr. N’Gouan in a UNOCI radio broadcast on February 7 and 8, 2011, regarding the African Union panel mandated to resolve the Ivorian crisis. The threats intensified when the CSCI issued its report on the elections on February 24, 2011, concluding that the irregularities noted during election monitoring were “not likely to significantly tarnish the integrity and credibility of the ballot”. Mr. N’Gouan received threats and insults by SMS from supporters of Mr. Gbagbo. Consequently, and in the view of the increasing insecurity in Abidjan, Mr. N’Gouan left the country on March 20, 2011<sup>9</sup>. Similarly, Mr. **Jean Bosson**, a project chief with the CSCI monitoring mission, received anonymous threats by telephone accusing him of being an “enemy of the nation”. In view of these threats and after the CSCI headquarters office was burgled on March 22, Mr. Bosson left the country on March 26<sup>10</sup>. Prior to this, Mr. **Traoré Wodjo Fini**, General Coordinator of the Civil Society Coalition for Peace and Democratic Development in Côte d’Ivoire (*Coalition de la société civile pour la paix et le développement démocratique en Côte d’Ivoire - COSOPCI*) and Chairman of the African Union

8/ See UNOCI, *Report on human rights violations linked to the events of February 2010*, August 26, 2010.

9/ See CSCI.

10/ *Idem*.



Club of Côte d'Ivoire (*Club Union africaine Côte d'Ivoire* - Club UACI), received anonymous death threats by telephone after returning from the World Social Forum (WSF) on February 14, 2011. At the WSF, Mr. Traoré had called on all sides to respect the outcome of the elections as proclaimed by the CEI. Faced with increasing threats, Mr. Traoré fled the country on February 29, 2011. After his departure, the Club UACI in Abidjan continued to receive threatening telephone calls<sup>11</sup>. In another instance, Mr. **Armand Behibro Kouadio**, a member of Amnesty International Côte d'Ivoire, started to receive death threats from the Student and School Federation of Côte d'Ivoire (*Fédération estudiantine et scolaire de Côte d'Ivoire* - FESCI) following the second round of the election because of his views on the degree of regularity in the electoral process. Following these threats, he left the country on January 9, 2011<sup>12</sup>.

### **Harassment and smear campaigns against defenders aiming at muzzling their denunciation of human rights violations**

Although civil society denounced the increase and severity of human rights violations during the weeks following the elections, human rights defenders subjected to intimidation, threats and a regular media campaign aiming at discrediting them in the eyes of Ivorian public opinion, subsequently moderated their remarks. The majority even stopped taking public positions on the issue, imposing self-censorship for fear of reprisals.

#### **Arrests and acts of intimidation aiming at dissuading defenders from investigating human rights violations<sup>13</sup>**

Defenders were thus subjected to arrests and intimidation to dissuade them from investigating violations of human rights. Members of the Ivorian Human Rights Movement (*Mouvement ivoirien des droits humains* - MIDH) were particularly targeted. Its President, Mr. **Drissa Traoré**, received telephone threats and his house was surveyed by the FDS on December 2, 2010. He left his home the next day after being informed by various sources of the risks he was facing. On February 28, 2011, Mr. Traoré was arrested by gendarmes, and armed militiamen who searched the house of one of his colleagues. Mr. Traoré's telephone contact numbers were copied and he received verbal threats before being released three hours later after the intervention of several international organisations. In view of these events and the intensifying fighting in Abidjan, Mr. Traoré, who was on a trip to France, decided in mid-March 2011 not

11 / See LIDHO, MIDH and the Ivorian Coalition for the Defence of Human Rights (*Coalition ivoirienne des défenseurs des droits humains* - CIDDH).

12 / *Idem*.

13 / *Idem*.

to return to Côte d'Ivoire. At the beginning of February 2011, Messrs. Drissa Traoré and **André Kamaté**, President of the Ivorian Human Rights League (*Ligue ivoirienne des droits de l'Homme - LIDHO*), were accused of bias and threatened by a senior police officer when they went to the Research Brigade of Missing Persons in Abidjan in search of two journalists from the Notre patrie TV station arrested by the FDS, who they were eventually able to meet. On February 17, 2011, Mr. **Nahouala Soro**, Secretary General of the MIDH and Head of its investigation unit, received two death threats by SMS targeting him and members of his family. Previously, on February 6 and 7, 2011, Mr. Soro had received two anonymous telephone calls informing him that both he and the MIDH were being monitored. Because of these threats, Mr. Soro ceased investigative operations in the field and had to go into hiding. On February 27, 2011, Mr. **Moussa Daouda Diarrassouba**, President of the MIDH Gagnoa section, received an anonymous threat by telephone. A few days later, Mr. Diarrassouba was informed by a friend that a militia group housed in the Ajavon high school had brought up his case. The friend advised him to take security precautions, which he did. Earlier, the car of Mr. **Dopali Coulibaly**, Deputy Treasurer of the MIDH, who was actively involved in advocacy and election monitoring, was vandalised outside his home. Mr. Coulibaly filed a complaint on December 7, 2010 at the Cocody 12<sup>th</sup> district police station, which has so far remained unanswered. Because of the increasing threats it has received, the MIDH closed its offices in the Deux plateaux district on March 7, 2011. Furthermore, the houses of Messrs. **Doumbia Yacouba** and **Bamba Mamadou**, respectively Senior Vice-President and Head of Finance of the MIDH, were looted on March 31, 2011. While looting has affected all inhabitants of Abidjan, it would appear that in these two particular cases MIDH members were targeted specifically since no other looting incidents were reported in the same neighbourhoods. Similarly, on December 4, 2010, a day after the election results were certified by the United Nations Secretary-General's Special Representative in Côte d'Ivoire, the Coordinator of the Ivorian Coalition for the International Criminal Court (ICC), Mr. **Ali Ouattara**, who was also the COSOPCI observer in Abidjan during the elections and a former President of Amnesty International, was accused by one of his neighbours, an LMP representative, of "selling out" and "supporting foreigners". The neighbour vowed to "settle up" with him at an "appropriate time". The same person had previously threatened Mr. Ouattara at a public meeting in Abidjan on October 12, 2010. On March 7, 2011, after the ICC Deputy Prosecutor had announced on March 5, that the ICC was collecting information and would act quickly if necessary, Mr. Ouattara received a phone call warning him not to continue "to provide information [...] to [his] justice of imperialism". Following a press release by Amnesty

International relating to the bombing of Abobo by pro-Gbagbo forces, Mr. Ouattara was again threatened on March 18, 2011 in these terms: “You Mr. Amnesty, you continue to make false reports about us. Stop. Otherwise ...”. Following these threats, Mr. Ouattara decided to leave Côte d’Ivoire.

### **Media smear campaign against human rights defenders**

The media hate campaign conducted by Mr. Laurent Gbagbo, which basically aimed to demonise anyone who did not support him, did not spare human rights defenders. The primary aim was to discredit the latter by accusing them of turning a blind eye to violations of human rights committed by supporters of his rival, and thus try to minimise the impact of the numerous damning reports that many organisations were publishing about atrocities perpetrated by his supporters, and stir up feelings of hatred among the population. For example, on January 27, 2011, Ms. **Salimata Porquet**, Ms. **Edwige Sanogo** and Ms. **Genevieve Diallo**, respectively Regional Coordinator, member and National Coordinator of the Women’s Network for Peace and Security in the ECOWAS region (*Réseau paix et sécurité des femmes de l’espace CEDEAO - RPFESCO*), were accused in the pro-Gbagbo daily *Notre voie* of supporting the rival RHDP during their participation in a seminar on negotiations and mediation to resolve conflicts organised by Women Africa Solidary (*Femmes Africa Solidarité - FAS*) in Addis Ababa from January 23 to 29, 2011<sup>14</sup>. Similarly, on March 14, 2011, the same *Notre voie* newspaper accused a number of international and Ivorian organisations, including the United Nations, the European Union, ECOWAS, Reporters Without Borders (RSF), MIDH and the African Human Rights League, of deliberately ignoring the atrocities committed against pro-Gbagbo supporters. Following the publication of a report by the international organisation Human Rights Watch (HRW) about abuses committed by security forces and militias under the control of Mr. Gbagbo, *Notre voie* headlined in its January 27 edition: “HRW flies to the rescue of Alassane Ouattara”<sup>15</sup>. Members of the LIDHO and MIDH were systematically denied access to the Ivorian Radio and Television (*Radiodiffusion télévision ivoirienne - RTI*), close to Mr. Gbagbo, after the second round of voting<sup>16</sup>.

### **Obstacles and attacks against members of UN organisations**

Following the political crisis triggered by the contested election results, UN organisations were the target of various acts of harassment. Thus,

14/ See CIDDH.

15/ See LIDHO and MIDH.

16/ *Idem*.

after certifying the election results as announced by the EI, UNOCI was subjected both to numerous attacks by Laurent Gbagbo supporters, who accused it of bias, and an aggressive media campaign orchestrated mainly through RTI. Investigators from the UNOCI human rights division repeatedly denounced the obstacles they faced in trying to carry out their protection and investigative work in the field. The UN High Commissioner for Human Rights reported that UNOCI investigators trying to verify allegations received by the organisation of the existence of mass graves in many parts of the country, were systematically turned back by the FDS. Thus, “a team led by the Special Representative had already tried to conduct an investigation on December 20. In both cases, soldiers loyal to Mr. Gbagbo had prevented UNOCI investigators’ access to the building where bodies were believed to be located. The Special Representative was obliged to stop and leave the premises under threat of a weapon”. In addition, a senior member of the UNOCI human rights division who was returning to Côte d’Ivoire was brutalised by police forces loyal to Laurent Gbagbo on his arrival at the Abidjan airport, and was not allowed to enter the country<sup>47</sup>. On January 27, 2011, the *Notre voie* daily accused the United Nations Development Programme (UNDP) of supporting certain civil society organisations in order to conduct a smear campaign against the candidate of the Presidential Majority<sup>48</sup>. Meanwhile, international organisations had to work in an extremely difficult environment. The fighting and insecurity was compounded by restrictions of movement with the proliferation of roadblocks, attacks and looting. For example, the High Commission for Refugees (UNHCR) had to interrupt its activities in the west of the country from mid-March to April 8, 2011 because of the security conditions. In one security incident on March 23, 2011, its offices in Guiglo were looted by armed elements who took away various materials and several vehicles<sup>49</sup>.

### **Harassment against journalists who denounced human rights violations unrelated to the political crisis**

In 2010, journalists who denounced human rights abuses were also harassed prior to the political crisis. For example, the daily *L’Expression* was subjected to harassment because of its coverage of the RHDP demonstrations in the central region of Gagnoa in late February 2010, especially following its publication of an article on February 20 related to the violence

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17/ See Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Côte d’Ivoire*, UN Document A/HRC/16/79, February 25, 2011.

18/ Cf. LIDHO et MIDH.

19/ See United Nations Security Council, *27th Report of the Secretary-General on the United Nations Operation in Côte d’Ivoire*, UN Document S/2011/211, March 30, 2011 and UNHCR Article, April 7, 2011.

committed there by the police during an opposition rally on February 19. The authorities also accused the daily of sending images of the violence to the French news channel *France 24*, which then had its signal suspended by decision of the National Council of Audiovisual Communication (*Conseil national de la communication audiovisuelle* - CNCA) from February 22 to March 3, 2010. On May 7, 2010, Mr. **David Gnahoré**, the correspondent of the daily in Gagnoa, was summoned to police headquarters, where he was questioned by members of the Directorate of Territorial Surveillance (*Direction de la surveillance du territoire* - DST), who forced him to disclose the password of his email. His house was searched, and his laptop was confiscated and not returned. On the same day the DST in Abidjan questioned him about the article published on February 20. Then, on May 25, 2010, Mr. Gnahoré was summoned along with Mr. **Dembélé Al Séni**, the Managing Editor of *L'Expression*, and both were interrogated throughout the day by the DST Director about the same article. Messrs. Al Séni and Gnahoré were again summoned for further questioning by the DST on the following day, after which they were not interrogated or the target of accusations again<sup>20</sup>. In another case, on July 26, 2010, Mr. **Traoré Médandjé**, a journalist with the daily *L'intelligent d'Abidjan*, was sentenced to a twelve-month imprisonment term and a fine of five million CFA francs (about 7,600 euros) by the Criminal Court of Abidjan for “defamation” and “extortion”, following a complaint filed by Dr. André Tia, the Departmental Director of Health, related to an article in which he notably denounced the illicit enrichment of Dr. Tia. The facts reported by Mr. Médandjé in an article published on September 4, 2009, revealing the illegal training of clandestine health actors by Dr. Tia and his creation of a string of private clinics without authorisation from the Ministry of Health, were confirmed by the latter following an inspection at the scene, causing the doctor to lose his position as director, although he was retained in the public service. The verdict was not accompanied by a warrant and Mr. Médandjé has not been arrested or asked to pay the fine. On July 28, 2010, Mr. Médandjé appealed against the verdict but no date had been set for a court hearing by the end of April 2011. Although Mr. Médandjé has resumed his work, he no longer engages in investigative journalism for fear of similar reprisals<sup>21</sup>.

20 / See RSF Press Release, May 26, 2010, MIDH and LIDHO.

21 / See MIDH and LIDHO.

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# DEMOCRATIC REPUBLIC OF CONGO

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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The murder of several human rights defenders in 2010, caused a shock wave in the human rights community and demonstrated once again the climate of insecurity in which they work. Women defenders who denounce sexual violence, defenders who fight against impunity for international crimes, who denounce women's poor working conditions or who work on issues linked to the management of natural resources, continued to be especially vulnerable. In addition, as of the end of April 2011, a proposal for a law aiming at criminalising homosexuality and defenders who work in defence of the rights of sexual minorities, remained pending before the National Assembly.

## Political context

In the run-up to the presidential and parliamentary elections due to be held in the Democratic Republic of the Congo (DRC) in November 2011, violations of the rights of people who criticise the regime in power increased, whilst civilian population continued to be subjected to grave atrocities by the regular army and armed rebel groups that clashed in several regions in the east and the north of the country<sup>1</sup>. Operation Amani Leo, launched on January 1, 2010 in the Kivu provinces and led by the Armed Forces of the DRC (*Forces armées de la RDC - FARDC*) to fight against the Democratic Forces for the Liberation of Rwanda (*Forces démocratiques de libération du Rwanda - FDLR*), led to a deterioration in the security of civilians, who are victims of the atrocities committed by both FDLR and FARDC. Other operations carried out by the FARDC against armed groups, such as the "Rwenzori" Operation led in Beni against an Ugandan armed group, the Alliance of Democratic Forces – National Army for the Liberation of Uganda (ADF-NALU), resulted in serious human rights violations and population displacement<sup>2</sup>. In the eastern province, on the Ugandan border, operations by the FARDC and the Uganda People's Defence Forces (*Forces de défense populaires de l'Ouganda - FDPO*) were

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1/ In November 2010, the United Nations Security Council also recalled that these conflicts were fuelled by pillaging of the country's natural resources. See United Nations Security Council Resolution, United Nations document S/RES/1952 (2010), November 29, 2010.

2/ See Security Council, *Report of the Secretary General on the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo*, United Nations document S/2010/512, October 8, 2010.

unable to stop the attacks, the pillaging and the recruitment of child soldiers by the Lord's Resistance Army (LRA)<sup>3</sup>.

In this context, impunity continued to prevail. General Bosco Ntaganda, despite being sought by the International Criminal Court (ICC) since 2006, accused of war crimes committed in Ituri in 2002-2003, was still active within the FARDC. In addition, several officers suspected of war crimes remained in positions of command, in particular of the Operation Amani Leo. However, some symbolic progress may be noted, especially towards the adoption of a draft law to incorporate the provisions of the ICC statute<sup>4</sup> into national legislation, as well as to hold the trials of several high-ranking officials. Furthermore, following the publication in October 2010, by the Office of the United Nations High Commissioner for Human Rights, of a Mapping Report of serious human rights violations perpetrated in Zaire and then in DRC between March 1993 and June 2003 against the civilian population by various armed rebel groups that could be termed as international crimes, a draft law on the creation of a specialised mixed court within the Congolese judicial system to try the authors of the most serious crimes committed since 1990 was in the course of being adopted by Parliament as of the end of April 2011. At international level, positive developments were also to be noted, particularly with the arrest by the French authorities of Mr. Callixte Mbarushimana on October 11, 2010, in accordance with an arrest warrant issued by ICC for "war crimes" and "crimes against humanity" committed by the FDLR in the Kivu provinces between the end of 2008 and 2009<sup>5</sup>.

Finally, journalists continued to work in a context not auspicious for them. Although *Radio France internationale* (RFI), whose signal had been interrupted since July 2009, was able to resume broadcasts in October 2010, other media were the subject of suspension measures for having criticised the authorities. Journalists in Danger (*Journalistes en danger* - JED) noted

3/ See Security Council, *Report of the Secretary General on the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo*, United Nations document S/2011/20, January 17, 2011.

4/ On November 4, 2010, parliamentarians voted in favour of the admissibility of the draft law. However, the Political, Administrative and Legal Commission of the National Assembly must examine it before it is proposed for adoption to the parliamentarian in plenary session.

5/ However, on October 25, 2010, the ICC Pre-Trial Chamber I rejected the request of Congolese victims to question the prosecutor on the decision not to prosecute Mr. Jean-Pierre Bemba, President of the Movement for the Liberation of Congo (*Mouvement pour la libération du Congo* - MLC), for crimes he is alleged to have committed in the Congolese province of Ituri during the 2002-2003 conflict. On November 22, 2010, therefore, his trial began solely for crimes committed in the Central African Republic, and continued until April 2011.

87 cases of attacks on freedom of the press in 2010, including arrests, threats and administrative, economic or judicial pressure<sup>6</sup>.

### **Lack of any operational mechanism to guarantee the protection of defenders at national level**

Although the United Nations Organisation Stabilisation Mission in DRC (MONUSCO)<sup>7</sup> was renewed and its mandate extended specifically to cover the protection of civilians and human rights defenders, and although at the end of April 2011, a draft law on the promotion and protection of human rights defenders was being prepared at the level of the Government Legislation Subcommittee, defenders continued to work without any operational mechanism to guarantee their protection. Furthermore, although during the United Nations Human Rights Council's Universal Periodic Review in December 2009, the Government had encouraged human rights defenders to refer their complaints to the courts<sup>8</sup>, these had rarely been the subject of investigation or fair trial. Finally, in her report presented during the Human Rights Council session in March 2011, the United Nations Special Rapporteur on the situation of human rights defenders noted that 57 of the 58 communications sent to the Government since 2004, had remained unanswered, and she considered that "the situation of human rights defenders working in the Democratic Republic of the Congo remains very worrying"<sup>9</sup>.

### **Assassination of several human rights defenders**

While persistent impunity for the murder of several human rights defenders, especially in 2005, of Mr. **Pascal Kabungulu Kimembi**, Executive Secretary of the Congolese NGO Inheritors of Justice (*Héritiers de la justice*), and in 2007, of Mr. **Serge Maheshe**, a journalist with *Radio Okapi* which plays a key role in the fight against violence particularly in eastern DRC, probably contributed to the cycle of violence against defenders that intensified in 2010<sup>10</sup>, the murder of three of them caused a shock wave within the human rights community and once again demonstrated the great climate of insecurity in which defenders work. As an example, on June 1,

6/ See JED Annual Report, *L'état de la liberté de la presse en RDC*, December 2010.

7/ The United Nations Mission in DRC (MONUC) was replaced by a similar mission called MONUSCO in July 2010. See Security Council Resolution, United Nations document S/RES/1925 (2010), May 28, 2010.

8/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Democratic Republic of the Congo*, United Nations document A/HRC/13/8, January 4, 2010.

9/ See Human Rights Council, *Report of the United Nations Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya*, United Nations document A/HRC/16/44/Add.1, February 28, 2011.

10/ On May 4, 2010, the Bukavu Military Court sentenced two soldiers and a civilian to death for the murder of Mr. **Didace Namujimbo**, a journalist with *Radio Okapi*, in 2008. However, this trial shed no light on the facts and the responsibilities in this case.



2010, Mr. **Floribert Chebeya Bahizire**, Executive Director of the Voice of the Voiceless (*Voix des sans voix* - VSV), National Executive Secretary of the National Network of Human Rights NGOs of the DRC (*Réseau national des ONG des droits de l'Homme de la RDC* - RENADHOC) and a member of the OMCT General Assembly, disappeared after going to the offices of the Inspector General of the Congolese National Police (IG/PNC), General John Numbi Banza Tambo, in the company of Mr. **Fidèle Bazana Edadi**, a member of VSV and one of its drivers. The next day, the police found the lifeless body of Mr. Chebeya in his car on a road on the way out of Kinshasa. Furthermore, Mr. Bazana was declared dead on March 14, 2011, as his body had not been found<sup>11</sup>. Irregularities that were noted as soon as the body of Mr. Chebeya was discovered – problems for his family in getting access to the body, contradictory statements concerning the cause of death – gave rise to serious concerns about the willingness of the authorities to investigate the case. In spite of appeals by Congolese civil society and the international community to set up an independent commission of enquiry, the investigation was carried out by the Military Justice Department. A trial against eight officers of the PNC for the murder of the two defenders opened on November 12, 2010 before the Kinshasa / Gombe Military Prosecutor's Department<sup>12</sup>. However, the main suspect, General John Numbi was not charged and was only heard as a witness, although he was suspended from office on June 7, 2010<sup>13</sup>. Furthermore, the families of the two defenders were subjected to intimidation and pressure, forcing them to leave the DRC. During the night of June 29 to 30, 2010, unidentified men wearing military clothing killed Mr. **Salvator Muhindo**, leader of the human rights NGO The Good Samaritan (*Bon samaritain*) at his home in Kalunguta, in North Kivu province. Mr. Muhindo was very active and was known for his work to denounce the human rights violations committed by the military in the Beni and Lubero territories. Shortly before his death, he was organising a peaceful demonstration in protest against the murder of Mr. Chebeya and the disappearance of Mr. Bazana, planned for June 30, on the occasion of the 50<sup>th</sup> anniversary of the independence of the DRC. An investigation was opened, with no result by April 2011<sup>14</sup>.

11/ Congolese legislation provides for a disappeared person to be declared dead six months after disappearing. The families' lawyers consequently obtained the requalification of the disappearance of Mr. Bazana as a murder during the trial.

12/ Three of them were on the run as at the end of April 2011, and were tried *in absentia*. After the trial opened, two of them were promoted to the respective grades of major and lieutenant colonel.

13/ On June 23, 2011, the Court issued its verdict, sentencing four of the accused to capital punishment, one to life imprisonment, and discharging the other three defendants.

14/ See Committee on Human Rights and Development (*Comité des droits de l'Homme et de développement* - CODHOD), African Association for the Defence of Human Rights (*Association africaine de défense des droits de l'Homme* - ASADHO), the Lotus Group (*Groupe Lotus*) and the League of Electors (*Ligue des électeurs*).

## Harassment of women defenders who denounce sexual violence

In 2010, women defenders who denounce sexual violence continued to be particularly exposed. As an example, the members of the Women's Association for Solidarity, Peace and Integral Development (*Solidarité féminine pour la paix et le développement intégral* - SOFEPADI), an organisation involved in the fight against impunity for sexual violence in the east of the country, were on several occasions the target of threats and harassment, in particular its President, Ms. **Julienne Lusenge**, in February and May 2010. Similarly, on September 19, 2010, Ms. **Zawadi Leviane Musike**, SOFEPADI Programme Officer, was stopped and threatened by a group of military whom she presumed belonged to FARDC. SOFEPADI had also had to close its offices in Bunia in December 2009, because of the threats they received. During the night of October 4, 2010, six armed men dressed in military clothing, burst into the home in Beni of Ms. **Clémence Bakatuseka**, Coordinator of the Great Lakes Human Rights Program (GLHRP), an NGO that had succeeded in obtaining the sentencing of civilians and military belonging to FARDC for sexual violence. They fired two shots at the lock of her bedroom door and ordered her to give them the money received from an international NGO to finance her legal aid work. When the victim refused, the attackers fired a third shot and then ran off. Ms. Bakatuseka filed a complaint with the Military Prosecutor at Beni Garrison but this has not been acted on. On December 27, 2010, a magistrate from the Goma Military Prosecutor's Department called Ms. **Justine Masika Bihamba**, Coordinator of Women's Synergy for Victims of Sexual Violence (*Synergie des femmes pour les victimes des violences sexuelles* - SFVS), to warn her that she might be arrested if she continued to denounce the human rights violations committed in eastern DRC. He said that he had received the order to arrest her, following her appearance on November 28, 2010 during the *TV5* programme "And what if you told me the whole truth" (*Et si vous me disiez toute la vérité*), during which Ms. Masika had spoken in particular about the impunity, sexual violence and human rights violations perpetrated by General Bosco Ntaganda.

## Reprisals of defenders who fight against impunity for international crimes

Although the trials of Messrs. Thomas Lubanga Dyilo, Germain Katanga and Mathieu Ngudjolo Chui for crimes committed in Ituri in 2002 and 2003 continued before the ICC and General Bosco Ntaganda was still in post in the region, defenders involved in the fight against impunity for international crimes were once again the subject of reprisals in 2010. Several of them were the target of death threats and had to leave the country, stopping consequently their activities. Mr. **Gilbert Angwandia**, President of the Association for the Protection of the Rights

and Dignity of Victims in Ituri (*Association pour la protection des droits et dignité des victimes en Ituri* - APROVIDI) and the Focal Point in the region for the DRC Coalition for the ICC (*Coalition de la RDC pour la CPI* - CN-CPI/RDC), and Mr. **André Kito**, the CN-CPI/RDC National Coordinator, received death threats by text message on April 17 and May 3, respectively. During the week of April 26, 2010, Mr. Kito appeared on the *Digital Congo* TV channel and on the Congolese National Radio and Television station (RTNC) to call on the Congolese authorities to carry out their obligations in terms of international justice. On May 24, 2010, Mr. Angwandia received threats in a text message from Uganda, referring to his work with the “*Haki ya Amani*” network, a group of NGOs for which he had identified land conflicts in Ituri, and to his work with the Network of Human Rights Associations in Ituri (*Réseau des associations des droits de l’Homme en Ituri* - RADHIT) to promote human rights. Mr. Angwandia left DRC in July 2010, following these threats. Other defenders received similar threats, as Mr. **Simon Angoyo**, Programme Officer with the association Hope for All (*Espoir pour tous*), a development organisation working with the most disadvantaged populations, on May 13. Mr. **Sylvestre Bwira Kyahi**, Chairman of the Civil Society of Masisi (*Société civile de Masisi*), in North Kivu, was abducted in Goma on August 24, 2010 by armed men wearing FARDC uniforms. He was found six days later near Sake, about thirty kilometres from Goma. Mr. Bwira was the target of death threats by the security services and had been living in hiding since July 30, 2010, date when civil society had sent an open letter to President Joseph Kabila requesting the withdrawal of troops from General Bosco Ntaganda’s National Congress for the Defence of the People from Masisi territory, denouncing the atrocities committed by this group and demanding implementation of the ICC arrest warrant against the General. After his release, Mr. Bwira Kyahi filed a complaint against unknown persons with the Goma Military Prosecutor’s Department, which had not been followed up as of April 2011. He left the country in December 2010.

### Threats and judicial harassment against human rights lawyers

In 2010–2011, several lawyers were the target of threats and intimidation because of their work to defend human rights. As an example, on September 30, 2010, Mr. **André Marie Mwila Kayembe**, Secretary General of the association Black Gowns (*Toges noires*), was arrested by the General Directorate of Special Intelligence Services (DGRSS), while he was visiting Ms. **Nicole Bondo Muaka**, in detention after her arrest on the previous day<sup>15</sup>.

15 / Accused by the DGRSS of having filmed President Joseph Kabila’s bodyguards beating up a person suspected of throwing a stone at the presidential motorcade in Kinshasa, Ms. Bondo Muaka was released without charge after eight days in detention.

His laptop computer, his memory stick and his telephone were violently snatched from him. His lawyer was not allowed to meet him. He was released without charge at the end of the afternoon and his personal belongings were returned to him. In addition, on February 15, 2010, Mr. **Peter Ngomo**, who was defending a former election candidate who was sentenced to death in March 2010, was arrested at nightfall by agents of the National Intelligence Agency (ANR), who made him get into a vehicle and searched him on the way, without the slightest explanation. He was released near Gombe cemetery.

### **Threats and stigmatisation of human rights activities by the authorities**

In February 2011, two human rights defenders were the target of acts of harassment following a statement by the Minister of Communication stigmatising their activities. Messrs. **Jean-Claude Katende** and **Georges Kapiamba**, respectively National President and Vice-President of the African Association for the Defence of Human Rights (*Association africaine de défense des droits de l'Homme – ASADHO*), had in fact received threats following a press conference and a press release on February 1, 2011, denouncing the revised Constitution adopted by the Congolese Parliament and the political intolerance of political opponents that was encouraged by the Government in the run-up to the presidential elections in November 2011. Following this press conference, the Minister of Communication, Mr. Lambert Mendé, publicly stated that ASADHO was an organisation in the pay of foreign powers that were trying to destabilise the country. Threats were subsequently made against the two defenders by telephone. In mid-February, Mr. Georges Kapiamba filed a complaint before the Court of the Republic in Kinshasa, which one had still not been acted on as of the end of April 2011.

### **Judicial harassment and threats against defenders of economic and social rights**

Defenders of economic and social rights who denounce the activities of Congolese and foreign mining and petroleum corporations that contravene the national legal framework and the international instruments, as well as the environmental effects of their activities and the working conditions in DRC, continued to be vulnerable to threats and obstacles to their work. As an example, at the end of April 2011, sixteen small farmers from the villages of Kongo and Tshiende who denounced the pollution of their lands by the PERENCO-MIOC petroleum corporation after toxic waste was buried near their villages, were still being prosecuted for “rebellion”, although they had received no summon since their release in January

2010<sup>16</sup>. Furthermore, on February 25, 2010, two policemen arrested Messrs. **Papy Avugara, Josep Likonga** and **Didier Nzau**, members of the Committee on Human Rights and Development (*Comité des droits de l'Homme et de développement* - CODHOD), in the commune of Barumbu in Kinshasa, while they were filming the testimony of Ms. **Elise Lokoku** on the working conditions of women in DRC. They were all taken to the Epolo village sub-police station, where they were held in a container until 2 p.m., before being referred to the cells of the main police station. They were all released at around 5 p.m. on the same day. While they were in detention, the police seized the defenders' camera in order to look at the films, and questioned them about CODHOD activities and the sources of their funding. When he returned their camera, the police officer warned them that they should be careful, as they were making "false accusations against the Government". On March 10, 2011, Ms. Justine Masika Bihamba received threats during a press conference organised in Goma by the Congo Business Federation (*Fédération des entreprises du Congo* - FEC). On the same day, two unknown persons were waiting for her daughter in front of her home. Mistaking her for Ms. Bihamba, they snatched her passport and her digital camera before running away. Ms. Masika filed a complaint with the Goma police on March 15, 2011, but no action had been taken as of the end of April 2011. On March 14, 2011, a Senator from North Kivu province also publicly attacked Ms. Bihamba and the SFVS in these words: "Civil society organisations don't know what they are doing; the story behind minerals is none of their business". These threats came after a letter from SFVS, dated March 7, 2011, was sent to Ms. Hillary Clinton, the US Secretary of State, asking the American State Department to support the rapid and effective implementation of an American law aiming at regulating the American financial markets to prevent American companies from procuring minerals from Congolese armed groups.

### **Proposal to criminalise homosexuality and the defenders of the rights of sexual minorities**

On October 21, 2010, a legislative proposal to criminalise homosexuality and defenders of the rights of sexual minorities was debated in the National Assembly. The proposed legislation, entitled "Proposed law on unnatural sexual practices", filed on October 13, 2010, describes homosexuality as a "threat to the family, the foundation of society, and

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16 / Messrs. Loka Makuiza, Kuebo Edouard, Mabedo Mabedo, Diangu Kakudu, Tshikokolo Sibub, Tshikokolo Njimbi, Nzau Mateka, Phoba Mayuma Pablo, Mualangu Phaka, Nsamvu Sasulu, Kadioto Nsamu, Nzinga Tshitunda, Bendo Balu, Nzau Njimbi, Buella Bembe and Lakula Bueya had been arrested on December 15, 2009 before being released on bail on January 7, 2010.

a serious attack on Congolese culture. It is nothing other than a deviation of the human race to unnatural relations”. If this proposal were approved, homosexuality would be punished with three to five years of prison and a fine of 500,000 Congolese francs (about 382 euros), and any association that defends the right of sexual minorities would be banned. In fact, it is proposed to ban “on DRC territory any association that promotes or defends unnatural sexual relations. A punishment of six months to one year of prison and a fine of 1,000,000 Congolese francs (about 760 euros) will apply to whoever creates, finances, sets up and establishes any association or any structure to promote unnatural sexual relations in DRC”. Furthermore, it forbids “all publications, posters, pamphlets or films that highlight or are likely to provoke or encourage unnatural sexual practices”. As the United Nations Special Rapporteur on the situation of human rights defenders stressed, this draft legislation would make defenders who work on these issues very vulnerable and have a damaging effect on the country’s efforts in the fight against HIV/AIDS<sup>17</sup>. As of the end of April 2011, the draft law was still before the National Assembly.

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

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Loka Makuiza, Kuebo Edouard, Mabedo Mabedo, Diangu Kakudu, Tshikokolo Sibiu, Tshikokolo Njimbi, Nzau Mateka, Phoba Mayuma Pablo, Mualangu Phaka, Nsamvu Sasulu, Kadioto Nsamu, Nzinga Tshitunda, Bendo Balu, Nzau Njimbi, Buela Bembe and Lakula Bueya	Arbitrary detention / Judicial harassment	Urgent Appeal COD 001/0110/OBS 007	January 13, 2010
	Provisional release / Judicial harassment	Urgent Appeal COD 001/0110/OBS 007.1	January 21, 2010
Messrs. Firmin Yangambi and Olivier Marcel Amisi Madjuto	Arbitrary detention / Judicial harassment / Torture and ill-treatment / Release	Urgent Appeal COD 002/0110/OBS 011	January 20, 2010
	Death penalty / Torture and ill-treatment	Urgent Appeal COD 002/0110/OBS 011.1	March 5, 2010
Messrs. Papy Avugara, Josep Likonga and Didier Nzau	Arrest / Intimidation	Urgent Appeal COD 002/0310/OBS 031	March 5, 2010

17/ See Human Rights Council, *Report of the United Nations Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya*, United Nations document A/HRC/16/44/Add.1, February 28, 2011.

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. André Kito and Gilbert Angwandia	Death threats	Urgent Appeal COD 004/0510/OBS 054	May 5, 2010
Messrs. Gilbert Angwandia, Simon Angoyo and Ms. Sylvie Laissi	Death threats	Urgent Appeal COD 004/0510/OBS 054.1	June 1, 2010
Messrs. Floribert Chebeya Bahizire and Fidele Bazana Edadi	Enforced disappearance	Urgent Appeal COD 005/0610/OBS 069	June 2, 2010
	Murder / Enforced disappearance	Press Release	June 2, 2010
		Press Release	3 June 2010
		Joint Open Letter to the authorities	June 5, 2010
		Open Letter to the authorities	June 10, 2010
		Open Letter to the authorities	June 22, 2010
Messrs. Floribert Chebeya Bahizire, Fidele Bazana Edadi, Pascal Kabungulu Kibembi, Frank Ngyke, Serge Maheshe, Didace Namujimbo, Bill Omar and Ms. Hélène Mpaka	Impunity / Kidnapping / Threats	Joint Closed Letter to the authorities	July 29, 2010
		Press Release	August 3, 2010
		Press Release	November 11, 2010
		Press Release	January 26, 2011
Mr. Sylvestre Bwira Kyahi	Disappearance	Urgent Appeal COD 006/0810/OBS 105	August 26, 2010
	Abduction / Ill-treatment	Joint Press Release	September 8, 2010
Ms. Zawadi Leviane Musike	Threats / Acts of intimidation	Urgent Appeal COD 007/910/OBS 117	September 24, 2010
Messrs. André Marie Mwila Kayembe and Nicole Bondo Muaka	Arbitrary arrest	Urgent Appeal COD 008/1010/OBS 119	October 1, 2010
	Release	Urgent Appeal COD 008/0710/OBS 119.1	October 7, 2010
Ms. Clémence Bakatuseka	Attack	Joint Press Release	November 1, 2010
Messrs. Jean-Claude Katende and Georges Kapiamba	Death threats	Urgent Appeal COD 001/0211/OBS 013	February 2, 2011
Ms. Justine Masika Bihamba	Threats / Intimidation	Urgent Appeal COD 002/0311/OBS 047	March 24, 2011

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# DJIBOUTI

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010-2011, the field of action of civil society remained restricted by almost constant repression by the authorities in the run-up to the presidential election in April 2011. Several hundreds of union members were arrested, including two members of the Djibouti League of Human Rights (*Ligue djiboutienne des droits humains - LDDH*). An international organisation working for the proper functioning of the election process was also expelled.

## Political context

Not surprisingly, the Djiboutian President Ismaïl Oumar Guelleh, in power since 1999, won the presidential elections on April 8, 2011. This candidature for a third term, which was possible due to the modification of Article 23 of the Constitution, amended by Parliament on April 19, 2010 to lift the restriction on presidential terms, sparked strong reactions from the opposition and civil society, creating a violent and tense pre-election climate. In 2010-2011, popular demonstrations that were unprecedented in the country's history, were organised to contest the opaque conditions of the organisation of the vote and the legality of the constitutional amendments. The Government responded to the protests by banning all demonstrations and with arrests, detentions and arbitrary criminal proceedings against peaceful demonstrators. On February 5 and 18, 2011, the security forces used violence to break up two demonstrations using tear gas, rubber bullets and live bullets, and causing at least nine deaths and hundreds of injured and arrests<sup>1</sup>. This situation drove the opposition parties to boycott the presidential election once again.

In this context, the field of action of civil society representatives, including the one of international organisations, remained restricted in 2010-2011.

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1/ On February 5, 2011, several demonstrators were arrested and taken to the Gabode prison and the Nagad detention centre, whose official function is for holding persons who are due to be escorted to the border but which is regularly used for the arbitrary detention of people who are critical of the Government. Around one hundred people were also arrested the day after the demonstrations on February 18, including three opposition leaders. On February 27, 2011, forty defendants were acquitted and, on May 6, 2011, 39 other defendants were released. At the end of April 2011, 45 people were still being held in the context of these two demonstrations. See LDDH.



## Attacks on freedom of peaceful assembly and judicial harassment of two human rights defenders who supported imprisoned demonstrators

In 2010, the Government illustrated its refusal to implement the recommendations of the Human Rights Council relating to guarantees of trade union freedom<sup>2</sup> by repressing social protest movements. For example, on March 7, 2010, during a peaceful demonstration organised in front of the Ministry of Transport in the city of Djibouti by the Djiboutian Labour Union (*Union djiboutienne du travail* - UDT) and the General Union of Djiboutian Workers (*Union générale des travailleurs djiboutiens* - UGDT) to claim payment of three months' wage arrears due to railway workers by the authorities, ninety union members were arrested by the police force of the Interior Ministry. They were all taken to the Nagad detention centre before being released the same day without charge. In the morning of March 6, a demonstration making similar demands had already been held around Djibouti station and had also ended with police arresting over one hundred union members. The latter were jailed at the Nagad detention centre and released the same day without charge.

Furthermore, in the context of the muzzling of any dissident voice that accompanied the election campaign, two members of LDDH were the target of judicial harassment for having supported protesters arrested during the demonstration by school and college students against the education policy of the Government on February 5, 2011. Mr. **Jean-Paul Noël Abdi**, the President of LDDH, who has for several years been subjected to constant harassment by the Government<sup>3</sup>, was prevented by the authorities from visiting people held at the Gabode prison following the arrests that took place during the demonstration on February 5, 2011. He had also denounced the arrest on the same day of his colleague, Mr. **Farah Abadid Heldid**<sup>4</sup>. On February 9, 2011, after visiting the Prosecutor to enquire about his colleague's situation, Mr. Noël Abdi was in turn arrested, without any arrest warrant being presented to him by the agents of the Gendarmerie who were acting under the orders of the same Prosecutor. On the same day, Messrs. Noël Abdi and Abadid Heldid were brought

2/ See Annual Report 2010.

3/ As of the end of April 2011, legal proceedings for "defamation" were pending against Mr. Noël Abdi after he stated in 2007 that the security forces were accomplices in the murders of seven people in 1994. Further proceedings remained pending against him for "public insult to the judiciary authorities", for having criticised in 2009 the lack of independence of the judiciary.

4/ Members of the Gendarmerie arrested Mr. Abadid Heldid without a warrant when he was at the headquarters of the Movement for Democratic Renewal and Development (*Mouvement pour le renouveau démocratique et le développement* - MRD), a party member of the main opposition coalition. Taken to the premises of the investigation division of the Gendarmerie in the city of Djibouti, he was the victim of acts of torture and ill-treatment for four days without access to his lawyer nor a doctor.

before the Court of Djibouti and accused of “participating in an insurgency movement” under Articles 145 and 146.4 of the Criminal Code, which provides up to fifteen years of imprisonment and a fine of 7,000,000 Djiboutian francs (about 27,222 euros)<sup>5</sup>. They were then placed under a committal order and imprisoned at the Gabode prison. After a malaise on February 17, Mr. Noël Abdi, who suffers from diabetes and heart problems, was released on probation on February 21, on grounds of ill health. On March 22, 2011, the Examining Magistrate agreed to his lawyer’s request to lift probation. On March 27, the Prosecutor appealed against this ruling, compromising then Mr. Noël Abdi’s participation in the work of the General Assembly of the East and Horn of Africa Human Rights Defenders Network held from March 29 to 30, 2011 in Kampala, Uganda. On March 31, 2011, the Court of Appeal finally confirmed the lifting of his probation. However, Mr. Farah Abadid Heldid was still detained in the Gabode prison at the end of April 2011, since the indictment Chamber of the Court of Appeal had rejected his application for provisional release.

### **Expulsion of an international organisation working for the proper functioning of the election process**

In the run-up to the election, an international organisation that was working for the proper functioning of the election process was expelled from Djibouti. On March 4, 2011, after sending several pre-election observation missions and publishing several reports, Democracy International (DI), an organisation financed by the United States Agency for International Development (USAID), which had provided the Djiboutian administration with experts to help with preparing the election, was accused by the Government of Djibouti of partiality and of being an “illegal organisation” supporting “seditious” opposition activities as it had called on the Government to respect the rights of its citizens, including the right to freedom of peaceful assembly and freedom of expression and the opportunity of taking part in a free and fair election. On March 5, 2011, the Djiboutian Government expelled DI, which was obliged to leave the country one month before the presidential election<sup>6</sup>.

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5/ These accusations were apparently mainly due to unreliable and contradictory evidence that tried to prove their support for the demonstration on February 5, 2011.

6/ See LDDH.

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

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Jean-Paul Noël Abdi	Judicial harassment	Open Letter to the authorities	January 15, 2010
	Arbitrary detention	Urgent Appeal DJI 001/0211/OBS 016	February 9, 2011
Messrs. Jean-Paul Noël Abdi and Farah Abadid Heldid	Arbitrary detention / Judicial harassment	Urgent Appeal DJI 001/0211/OBS016.1	February 10, 2011
	Arbitrary detention / Deterioration of health	Urgent Appeal DJI 001/0211/OBS 016.2	February 18, 2011
	Provisional release / Arbitrary detention / Judicial harassment	Urgent Appeal DJI 001/0211/OBS 016.3	February 22, 2011
Djiboutian Labour Union (UDT) and General Union of Djiboutian Workers (UGDT)	Obstacles to freedom of peaceful assembly	Urgent Appeal DJI 001/0310/OBS 039	March 16, 2010

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# ERITREA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010-2011, denouncing and reporting about the widespread and massive human rights violations remained impossible inside Eritrea. In particular, no independent human rights organisations or unions were able to operate in the country. Journalists willing to cover issues perceived as sensitive by the regime were obliged to, as in the past years, practice self-censorship or to flee the country as issues perceived as sensitive for the regime survival – such as human rights and democracy – continued to be censored. 2010-2011 was also marked by severe restrictions to the activities of the few international organisations still present in the country.

## Political context

Since independence in 1993, the unelected President Isaias Afewerki has continued to repeat that “this is not the right time” for elections and as of April 2011, none were planned<sup>1</sup>. Under his highly authoritarian regime, the 1997 Constitution was never implemented and Mr. Isaias Afewerki acts as the Head of State as well as the Chairman of the sole political party, the Popular Front for Democracy and Justice (PFDJ). No dissenting opinion is tolerated and publicly questioning Government policy continued to be a reason for suspicion, arrest and endless incommunicado detention. As of April 2011, eleven of the fifteen senior officials who were arrested in September 2001 after publicly calling for democratic changes and the implementation of the Constitution, including the holding of multi-party elections, remained in incommunicado and arbitrary detention – without access to a court – though some of them reportedly died in jail due to horrendous conditions of detention<sup>2</sup>. Many others arrested during and after the 2001 crackdown on dissenting voices, including journalists, were facing the same fate and new arrests were regularly reported.

Since the closure of all independent media outlets in September 2001 and the consecutive arrest of numerous journalists and editors<sup>3</sup>, newspapers, radio stations and TV channels are all State run and there is no

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1/ See International Crisis Group Report, Eritrea: *The Siege State*, Africa Report No. 163, September 21, 2010.

2/ See Declaration by the European Union High Representative, Ms. Catherine Ashton, on behalf of the European Union on political prisoners in Eritrea, September 17, 2010.

3/ According to Reporters Without Borders (RSF), in 2010, there were at least 29 journalists detained incommunicado and without trial or charges being brought against them, for some of them, for up to almost ten years.

independent or private media. As a consequence, information perceived as sensitive for the regime survival and particularly the ones linked to human rights and democracy continued to be censored<sup>4</sup>. Internet, in addition to being one of the sole means to obtain independent information, was also a vector of expression for the few people who could access it. It was consequently closely monitored<sup>5</sup>.

Despite the ban to leave the country opposed to many, particularly the youth, and the shoot-to-kill policy for attempt escapees, around 3,000 people continued to flee the country to Sudan and Ethiopia each month<sup>6</sup>. In addition to oppression, many attempted to escape endless mandatory national service. Those caught were sent to the multiple secret places of detention across the country which are full of citizens perceived as critical toward the Government, religious minorities and conscription evaders<sup>7</sup>. In those places of detention, torture and other cruel, inhuman or degrading treatment was commonplace<sup>8</sup>.

### **Impossibility to report on human rights violations**

Denouncing and reporting about the widespread and massive human rights violations remained impossible inside Eritrea. In particular, no independent human rights organisations or independent unions were able to operate in the country<sup>9</sup>. Thus, organisations representing women, youth and workers that were mentioned by the Government during its Universal Periodic Review (UPR) by the United Nations Human Rights Council in 2009<sup>10</sup> are controlled by the Government, headed by the President's closed allies and merely aim at promoting Government policies and ensure that its propaganda is conveyed to all groups of the society. In such a context, the exercise of the legitimate right to peaceful assembly is also impossible. Eritrean journalists willing to cover issues perceived as sensitive by the regime were obliged to, as in the past years, practice self-censorship or to

4/ There was for instance an almost complete blackout about the January 2011 referendum on the independence in Southern Sudan, or the protests for democracy launched at the beginning of 2011 in several countries including neighbouring countries like Yemen and Sudan. See Human Rights Concern - Eritrea.

5/ See RSF Report, *Internet Enemies 2011: Countries under surveillance - Eritrea*, March 11, 2011.

6/ See United Nations High Commissioner for Refugees (UNHCR), *2011 Regional Operations Profile - East and Horn of Africa*.

7/ It is impossible to know the exact number of people held since the Government never provided any information on the reasons for arrest, their place of detention and their fate.

8/ See Human Rights Watch (HRW), *2010 Annual Report, January 24, 2011 and Report, Service for Life State Repression and Indefinite Conscription in Eritrea*, April 2009.

9/ According to Human Rights Concern Eritrea, the last NGO working on human rights that operated in the country, the Regional Centre for Human Rights and Development, was closed down in 1993.

10/ See UN Human Rights Council, *Working Group on the Universal Periodic Review, National Report of Eritrea*, UN Document A/HRC/WG.6/6/ERI/1, November 26, 2009.

flee the country. For instance, Mr. **Eyob Kessete**, a journalist for the radio *Dimtsi Hafash*, was arrested in July 2010 as he was trying to escape the country for the second time. As of the end of April 2011, his fate remained unknown<sup>11</sup>. Several were reportedly released but others were still detained as of April 2011, without charge, including one of the few female journalist in the country, Ms. **Yirgalem Fisseha Mebrahtu**, who was arrested in February 2009<sup>12</sup>.

### **Severe restrictions to activities of the few international organisations still present in the country**

Likewise, international human rights organisations continued to face restrictions to their activities. In order to fully isolate the population and to prevent an outside look on its policy, the Government progressively reduced the number of humanitarian NGOs entitled to work in the country and in the meantime imposed more and more restrictions to the ones still present, thereby preventing most of them from carrying out any effective activities. As a result, in 2010, only four international humanitarian NGOs were still carrying out operation in Eritrea though their operations were severely restricted<sup>13</sup>. Arrests of Eritrean staffs, denial of entry visa for foreign staffs, restrictions on diesel fuel as well as obligation to obtain Governmental authorisation to travel outside Asmara were among the tactics used to incite international organisations to restrict, if not stop, their activities. In addition, though still present in the country, the activities of the International Committee of the Red Cross (ICRC) were severely restricted in 2010. It has been, for instance, denied since 2009 authorisation to continue its visit of detainees of Ethiopian origin, including prisoners of war, and as of October 2010 was still seeking to regain access<sup>14</sup>. The United Nations agencies still present in the country faced similar restrictions, as did the United Nations Office for the Coordination of Humanitarian Affairs (OCHA)<sup>15</sup>. On January 26, 2011, the Ministry of Finance, relying on self reliance, informed the United Nations Humanitarian Coordinator that, starting from June 2011, the Government will deal only with a few selected UN agencies, thereby, probably, paving the way for a reduction of the UN agencies entitled to work in the country<sup>16</sup>.

11/ See RSF Press Release, September 17, 2010, and RSF 2011 Freedom of the Press Barometer - Journalists Imprisoned.

12/ See RSF and IFEX Joint Urgent Appeals, February 19 and May 13, 2010.

13/ See Internal Displacement Monitoring Centre Report, *Internal Displacement: Global Overview of Trends and Developments in 2010 - Eritrea*, March 23, 2011.

14/ Since 2009 the Government has denied travel authorisation to ICRC expatriate staff. See ICRC, Annual Report 2009, May 2010 and ICRC, *The ICRC in Eritrea: Overview*, October 29, 2010.

15/ See OCHA website, [www.unocha.org/where-we-work/eritrea](http://www.unocha.org/where-we-work/eritrea).

16/ See Letter from the State of Eritrea Ministry of Finance, January 26, 2011.

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# ETHIOPIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010 and until April 2011, drastic restrictions continued to affect the activities of civil society in Ethiopia, confronted with funding restrictions undermining their very existence, but also with hindrances as regards the monitoring of the elections. Human rights activities were further hampered by a prevailing climate of fear, surveillance and denial of access to zones of rebellion. Early 2011, a journalist reporting on democracy and human rights developments in Egypt was also arrested and warned about possible repercussions he could face because of his activities.

## Political context

Mr. Meles Zenawi's Ethiopian People's Revolutionary Democratic Front (EPRDF) and its allied parties won with 99,6% of the votes the May 23, 2010 parliamentary elections. The electoral process was qualified by the European Union observers as falling "short of international commitments for elections, notably regarding the transparency of the process and the lack of a level playing field for all contesting parties"<sup>1</sup>. Indeed, in the run-up to the May 2010 general elections<sup>2</sup>, the first since the contested 2005 elections that were followed by violence and a severe repression, the Ethiopian Government sought to muzzle all dissenting opinions, particularly political opponents, journalists and human rights defenders. Voters were reportedly threatened to lose their jobs or other resources if they did not vote for the EPRDF<sup>3</sup>, numerous opposition members were arrested before the elections and some were still in jail when the election took place, and access to independent information before the elections was restricted.

Moreover, recently enacted laws – such as the 2009 Anti Terrorism Proclamation and the 2009 Charities and Societies Proclamation Law – were successfully used to intimidate and dismantle the independent media and civil society critical of the Government's actions. Although as of April 2011 no journalist had been prosecuted under the Anti-Terrorism Proclamation, the law increased fears and self-censorship. As a consequence, several journalists fled the country for fear of reprisals.

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1/ See European Union (EU) Election Observation Mission to Ethiopia, *Final Report*, November 8, 2010.

2/ The elections for the State Councils also took place on May 23, 2010. The EPRDF and affiliated parties won all but four of the 1,904 seats for the State Councils.

3/ See Human Rights Watch (HRW) Statement, May 24, 2010.

In the areas where ethnic federalism remained artificial, particularly in the Oromia and Ogaden regions, the rebellion maintained its operations. At the end of 2010, an estimated 300,000 people remained internally displaced due to fighting between the Government forces and rebellion groups for instance in the Somali region, but also ethnic clashes such as among Nuer in the Gambella region as well as communal violence across the country<sup>4</sup>. In March 2011, around 200 ethnic Oromo opposition members were arrested, including at least 68 people from the Oromo Federalist Democratic Movement (OFDM). On March 30, 2011, the Government reportedly confirmed that 121 were detained without charge and alleged that they were members of the Oromo Liberation Front (OLF), an armed group that is banned in Ethiopia<sup>5</sup>.

## **Drastic restrictions of civil society activities as a result of the implementation of the 2009 Proclamation on Societies and Charities**

### **Use of the CSO Law to restrict funding of human rights organisations and thereby their activities**

In March 2010, the Government rejected recommendations made at the Human Rights Council's Universal Periodic Review (UPR) in December 2009 to modify the Law No. 621/2009 (CSO Law), which was adopted by the Parliament in 2009 and created a very restrictive environment for human rights defenders and forced them to sharply restrict their activities, in particular due to draconian restrictions on their funding sources<sup>6</sup>. As a consequence, NGOs such as the Human Rights Council (HRC), the Ethiopian Women Lawyers Association (EWLA) and the Ethiopian Lawyer Association (ELA)<sup>7</sup>, were almost totally incapacitated to keep pursuing their human rights activities. In August 2010, HRC appealed to the board of the Government-appointed "Charities and Societies Agency" (ChSA), which has wide-ranging discretionary powers related to the registration, functioning and dissolution of NGOs, after its bank account was frozen by the ChSA on December 8, 2009, which alleged that HRC fund was from foreign sources in violation of the CSO Law. Yet, the funds were from pre-existing grants received before the issuance of the law and

4/ See Internal Displacement Monitoring Centre (IDMC) Report, *Internal Displacement: Global Overview of Trends and Developments in 2010 - Ethiopia*, March 23, 2011.

5/ See HRW Press Release, April 6, 2011.

6/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Ethiopia*, UN Document A/HRC/13/17/Add.1, March 18, 2010.

7/ HRC was named the Ethiopian Human Rights Council (EHRCO) and ELA the Ethiopian Bar Association until 2009, when the Charities and Societies Agency (ChSA), created by the CSO Law, forced them to change their name. In addition, the original name of ELA was given to a pro-Government lawyers group by the ChSA.



part of it had been generated locally. On February 7, 2011, HRC learned by an article published in the *Addis Fortune* that ChSA Appeal Board had upheld the decision to freeze its account as well as EWLA's one. The HRC was only formally notified of the Board's decision on April 19, 2011, after repeated requests. The Board, in its decision, stated that HRC had attempted to delay the implementation of the Proclamation and failed to deliver documents showing that any money generated from local sources had been blocked although HRC had submitted extracts from its annual audit reports for the past eighteen years, showing how much had been collected from local sources and deposited on its account. HRC decided to bring the case before Federal Courts. Moreover, while as a result of the freezing of its bank accounts, HRC had to close nine of its twelve field offices in December 2009, as of April 2011 its office in Nekemet was to close down soon due to lack of funding. Besides, the ChSA prevented HRC from selling the assets from its closed branches and maintained that it should distribute these assets to other organisations having the same aim. Similarly, ELA had to scale down its activities since it was unable to access foreign funds and therefore to reduce its staff from fourteen to five. As its attempts to raise funds locally were unsuccessful, it accepted to operate a legal aid centre within the premises of the Federal High Court in Addis Ababa. At the beginning of 2011, it signed an agreement with the Ethiopian Human Rights Commission for a grant of 10,000 US dollars (about 7,024 euros) to run the legal aid centre and publish articles on human rights in its journal. However, as the Ethiopian Human Rights Commission is a Government creation, ELA independence for carrying out such activities might be questioned in the future. Furthermore, it is worth mentioning that after examining the initial report of Ethiopia in November 2010, the United Nations Committee Against Torture (CAT) noted with concern that "local human rights NGOs previously active in [carrying out prison visits and providing legal aid and other assistance or rehabilitation to victims of torture and ill-treatment], including the Ethiopian Human Rights Council, the Ethiopian Women Lawyers Association, the Ethiopian Bar Association and the Rehabilitation Centre for Victims of Torture in Ethiopia, are no longer fully operational"<sup>8</sup>.

### **Use of the CSO Law to prevent independent organisations from monitoring the elections**

In addition, a number of organisations were prevented from monitoring the 2010 elections as a result of the enforcement of the CSO Law. Indeed, in order to be involved in elections monitoring, NGOs had to obtain a

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8 / See CAT, *Concluding Observations of the Committee Against Torture - Ethiopia*, UN Document CAT/C/ETH/CO/1, January 20, 2011.

licence from the National Electoral Board of Ethiopia (NEBE). Yet, eligibility to obtain it was depending on the statute of the organisation. NGOs that had been obliged to abandon their activities on democracy issues when they re-registered in 2009 in order to continue receiving foreign funding were consequently prevented from taking part in the monitoring of the electoral process. Furthermore, as HRC was forced by the ChSA to amend provisions of its statute relating to elections monitoring when it applied for registration in 2009, it was consequently prevented from obtaining a licence from NEBE. As a result, local NGOs that finally obtained the licence had limited “technical ability and freedom to make critical assessments” while the other “made no tangible contribution to the electoral process”<sup>9</sup>. In addition, no NGO could be involved in voters education since NEBE decided to carry out all voters education activities itself<sup>10</sup>.

### **Human rights activities further hampered by a prevailing climate of fear, surveillance and denial of access to zones of rebellion**

Other obstacles faced by human rights defenders were the continuous climate of fear prevailing in the country because of the intimidation and arrests conducted in the past years. While several human rights defenders had no other options than to restrict their activities or to flee the country in 2009 and early 2010<sup>11</sup>, the few who stayed continued to face constant threats. For instance, Mr. **Ato Habtamu**, a member of HRC but also a well-known writer in the field of governance and human rights, was threatened by telephone and by undercover security agents who regularly stopped him in the street and threatened him by saying that “he is an opponent of the regime and a member of Ginbot 7 Party [a banned opposition party] and that his writings reflect his anti-Government stance”<sup>12</sup>.

Furthermore, in this climate and as a result of the restrictions on movement in armed conflict zones such as Ogaden and Oromia where identity is checked at checkpoints and anyone coming from another area without permission risks arrest and detention, NGO monitoring activities were seriously hampered.

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9/ See EU Election Observation Mission to Ethiopia, *Final Report*, November 8, 2010.

10/ See HRC.

11/ Including Ms. **Elsabet Gizaw**, an HRC investigator and former journalist, and Messrs. **Yoseph Mulugeta**, HRC Secretary General, **Abiy Tekle Mariam**, **Mesfin Negash**, Editor of *Addis Neger*, **Manyawkal Mekonnen**, Director of the Organisation for Social Justice (OSJE), and **Kassahun**, Programme Officer of the Peace and Development Committee. See Annual Report 2010.

12/ See HRC Report, *The State of Human Rights in Ethiopia 34th Regular Report*, November 8, 2010.

## Harassment of a journalist reporting on democracy and human rights issues

Early 2011, a journalist reporting on democracy and human rights developments in Egypt was also arrested and warned about possible repercussions he could face because of his activities. On February 11, 2011, Mr. **Eskinder Nega**, a journalist and former owner of several newspapers, was briefly arrested by the police as he was going out of a cyber café in Addis Ababa. He was reportedly warned by the police that his Internet writing were perceived as an incentive to protest in Ethiopia similar to those taking place in Egypt and Tunisia and that if such protest ever starts in Ethiopia he will be held responsible. Mr. Eskinder Nega wrote several articles about the uprising in Tunisia and Egypt and, on February 4, 2011, he had posted an article on *Ethiomeia News* titled “Egypt’s and General Tsadkan’s lesson to Ethiopian Generals”, analysing the role of Egyptian peaceful pro-democracy activists and the non-intervention of the army against them throughout the Egyptian revolution, and analysing to what extent such a scenario could be possible in Ethiopia<sup>13</sup>.

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<sup>13</sup>/ See CPJ Report, *Sub-Saharan Africa censors Mideast protests*, February 2011 and RSF Press Release, March 21, 2011.

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# GABON

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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While corruption remained endemic in Gabon in 2010, civil society engaged in promoting good governance and financial transparency, including the media and journalists, faced hostility from the Government and its supporters.

## Political context

Since the election of Mr. Ali Bongo Ondimba in August 2009 at the presidency of the Republic<sup>1</sup>, his opponents have repeatedly denounced the electoral fraud that marred the voting, as well as renewed fraud during the partial legislative and senatorial elections on June 6, 2010, which resulted in the victory of the ruling party, the Gabonese Democratic Party (*Parti démocratique gabonais* - PDG). Electoral disputes in 2009 were also reflected in the controversy over the constitutional reform, which ended on December 28, 2010 with the adoption by Parliament of a new draft revision of the Constitution, providing more rights to the President of the Republic, particularly in terms of national defense<sup>2</sup>. In addition, on January 25, 2011, the Executive Secretary of the National Union opposition party (*Union nationale* - UN), Mr. André Mba Obame, who came in third in the presidential election of 2009, unexpectedly proclaimed himself President of the Republic and formed his own “Government”, before taking refuge in the premises of the United Nations Development Programme (UNDP) office, in Libreville, by asking the international community to recognise him as the legitimate Head of State<sup>3</sup>. The next day, his party was dissolved with immediate effect for violating the Constitution, and the main private television station *TV+*, owned by Mr. Mba Obame, was suspended for a three-month period<sup>4</sup>.

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1/ During the single-tour presidential election on August 30, 2009, Mr. Ali Bongo Ondimba succeeded his father, Omar Bongo Ondimba, who died in June 2009 after 41 years as Head of State.

2/ The new text provides for example, that in order to ensure the continuity of public service upon the occurrence of a force majeure, natural disaster or a declaration of open war against Gabon, it would be possible to postpone any election without convening the Electoral College, resulting in an extension of the term in question. Return to the limitation of presidential terms and two rounds of voting, claimed by the opposition, were not included in the new provisions.

3/ Mr. Obame did not emerge from the United Nations until February 27, 2011. In the beginning of May 2011, the National Assembly voted to lift his immunity, opening the door to possible legal action against him.

4/ On April 18, 2011, the National Council for Communication (*Conseil national de la communication* - CNC) decided to lift this sanction “in an effort to restore calm in the national media landscape”.

Moreover, whereas at an internal scale the National Commission for the Fight Against Corruption and Illicit Enrichment (*Commission nationale de lutte contre la corruption et l'enrichissement illicite* - CNLCEI) kept refraining, since its inception in 2003, from ruling on actual cases of illicit enrichment or from punishing those responsible<sup>5</sup>, some progress were nonetheless reported internationally. Thus, on November 9, 2010, the Paris Court of Appeals approved the opening of an investigation in the case of the so-called “ill-gotten gains”, responding positively to the complaint filed by the French section of the Association “Transparency International” France (TI-France), denouncing the setting up of movable and immovable assets in France by former President Omar Bongo Ondimba and some of his relatives, which were acquired by “concealing embezzlement of public funds”. On November 10, 2010, the CEO strongly criticised this decision, stating the “reserve[d] right to initiate any action to ensure the failure” of such proceedings.

Finally, the year 2010 was marked on February 15, by the President of the Republic’s promulgation of Law No. 3/2010 to abolish the death penalty, information that was not revealed until April 2011<sup>6</sup>.

### **Harassment against defenders denouncing corruption**

In 2010, representatives of civil society engaged in promoting good governance and financial transparency faced hostility from the Government and its supporters. Thus, Mr. **Marc Ona Essangui**, National Coordinator of the Publish What You Pay (PWYP) coalition and Executive Secretary of the organisation of environmental protection, “Brainforest”, was subjected to a stigma campaign orchestrated by pro-Government media for supporting the said trial of “ill-gotten gains”<sup>7</sup>. Since November 9, 2010, the date of the decision of the French Supreme Court, many media including *Radio-Television Gabon* (RTG1), the TV show *Pluriel*, the newspaper *L’Ombre* and the daily newspaper *Gabon Matin*, organised a stigma campaign to discredit Mr. Essangui. As an example, in its issue of December 8, 2010, *Gabon Matin*, who devoted six pages to the trial of “ill-gotten gains”, presented Mr. Essangui as an agent seeking to destabilise the State and as working for a group of foreign organisations, comprising the Extractive Industries Transparency Initiative (EITI), Global Witness, PWYP, the Revenue Watch Institute of Open Society, TI, Survival and Sherpa. During the same period, the *Pluriel* issue presented Mr. Marc Ona

5/ See Transparency International Report, *Rapport sur la corruption*, October 28, 2010.

6/ See World Coalition Against the Death Penalty and Amnesty International.

7/ See Frontline.

Essangui as “exploited by Sherpa, Survival and Transparency International, an accomplice of carnage and secret wars among the great powers in Africa, who award prizes to fellow countrymen”, presumably referring to the Goldman Prize awarded in 2008 to the latter and the Transparency International Integrity Prize 2009-2010, awarded to Mr. Gregory Ngbwa-Minsta, complainant in the case of “ill-gotten gains”. In addition, the RTG1 re-broadcasted for several days in December 2008 a press conference delivered by the Interior Minister at that time, which justified the arrest and imprisonment of Mr. Marc Ona Essangui and other defenders, including extracts in which the Minister claimed to have evidence that these defenders were exploited by French NGOs that financially supported them to destabilise the State, and that they were at the head of a vast conspiracy that was to begin by encouraging the Gabonese to revolt and by recruiting compatriots from the country’s nine provinces, but also from South Africa, France and Canada. Since his release on bail on January 12, 2009, Mr. Marc Ona Essangui was also charged with “possession of a document for distribution for purposes of propaganda” and “oral and written propaganda for the incitement to revolt against the authority of the State”.

Similarly, the media and the journalists who exposed corruption within the administration were sanctioned by the National Communication Council (*Conseil national de la communication* - CNC). Thus, on May 21, 2010, the CNC suspended the publication of the newspaper *Ezombolo* for six months for “repeatedly insulting the Head of State” following the publication of an article deemed critical of President Ali Bongo in relation with expenditures made on some of his travels. The newspaper resumed operations after the suspension period ended on November 21, 2010<sup>8</sup>. Furthermore, on March 29, 2010, Mr. **Albert Yangari** and Mr. **Jonas Moulenda**, respectively Editor and journalist of the newspaper *L’Union*, were summoned for the third time before the Court of First Instance in Libreville, following a complaint for “defamation” filed on March 24, 2010 by Mr. Ngui Alfred Banda, former Director General of the Gabonese Shippers’ Council (*Conseil gabonais des chargeurs* - CGC), a national institution responsible for shipping. This complaint was filed following an article published on November 28 and 29, 2009 relating to the unsolved murder of the new CEO of CGC, Mr. René Ziza, who was stabbed on November 25, 2009. The article suggests that this crime could be linked to the consequences of an internal audit ordered by Mr. Ziza, which would have revealed the misappropriation of over one billion CFA francs

(about 1,52 million euros) within the CGC. While Mr. Yangari was released on June 9, 2010, the Libreville Criminal Court sentenced Mr. Jonas Moulenda on the same day to a three-months suspended prison sentence and a 500,000 CFA francs (about 760 euros) fine for “defamation”<sup>9</sup>.

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9/ See RSF Press Releases, March 25 and June 22, 2010.

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# THE GAMBIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In The Gambia, a general climate of fear remained amongst human rights defenders, notably following the unsolved assassination and enforced disappearance of two journalists who covered human rights issues. While defenders still operated in a restricting legal and institutional environment, journalists faced a continuing campaign of harassment by the National Intelligence Agency (NIA), and members of human rights NGOs and lawyers were victims of judicial harassment.

## Political context

Since the alleged 2006 failed coup d'état, allegations of conspiracy plots against President Yahya Jammeh have become a regular excuse to hamper the enjoyment of civil and political rights, as well as to launch waves of mass arrests of high-ranking officials in 2010<sup>1</sup>. Members of the National Intelligence Agency (NIA), the army and the police arbitrarily arrested and detained Government opponents, human rights defenders, journalists and former security personnel. Torture and other ill-treatment in custody were reported but were never investigated by the police.

In 2010-2011, the environment for independent and opposition media remained hostile, with numerous obstacles to freedom of expression, including administrative hurdles, arbitrary arrest and detention, intimidation and judicial harassment against journalists and the closure of media outlets, leading to self-censorship. Although Section 25 of the 1997 Constitution guarantees freedom of expression, according to the Gambian authorities, this right is subject to "restrictions necessary for the promotion of national security, morality and the rights of other persons"<sup>2</sup>. A hope's glimmer for possible future improvement of this situation came on November 12, 2010, when alongside the 48<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, the first ever formal meeting between the African Union (AU), the African Peer Review Mechanism (APRM) Secretariat and key freedom of expression experts

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1/ See African Assembly for the Defence of Human Rights (*Rencontre africaine pour la défense des droits de l'Homme* - RADDHO) and Amnesty International-Senegal.

2/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Gambia*, UN Document A/HRC/14/6, March 24, 2010. In particular, The Newspaper Amendment Act 2004, the Criminal Code Amendment Bill 2004, the Official Secrets Amendment Act and the Communications Bill 2009 form the legal framework for judicial prosecution against "sedition", "libel", "false publication" and "defamation", which makes it practically impossible for journalists to work without breaching the law.



from across the continent took place in Banjul to discuss freedom of expression<sup>3</sup>. Minister Gomez promised to look into current hostile laws and their provisions to press freedom in line with international standards of free expression<sup>4</sup>. However, this positive momentum was chilled down on March 16, 2011, when the Gambian President, during a rare meeting with select members of the media corporation, accused some journalists of being “mouthpiece of opposition parties” and declared that “one freedom I will never give you is the freedom, the liberty to write whatever you want (...)”<sup>5</sup>.

### **Legal and institutional framework restricting the environment for human rights activities**

In 2010–2011, the legal and institutional environment continued to limit the development of human rights monitoring activities by civil society groups, which led human rights organisations to apply self-censorship, to focus on non-sensitive issues and not to carry out human rights monitoring activities. This was mainly due to the stifling climate in which they operated, as well as the absence of public institutions that offer them effective protection and the obstacles imposed through the registration process. Indeed, the operation of a non-governmental organisation (NGO) is regulated by 1996 Decree No. 81 (NGO Decree). Since then, the system has not been amended. In 2010, the supervision of NGOs activities was placed under the authority of the office of the President, through the NGO Affairs Agency (NGOAA), thus demonstrating an attempt by the President himself to exercise a closer scrutiny over the existence and activities of civil society organisations. In addition, the NGOs are bound by an NGO Code of Conduct and a Protocol of Accord, signed with the relevant ministries, departments or agencies. The NGOAA is responsible for ensuring their compliance with both documents, for monitoring and evaluating their activities, for implementing the National Policy on NGOs as well as for preparing and implementing institutional and human resources development programmes for NGOs. As a consequence, their activities are strictly monitored and must be in line with the national development policy. Furthermore, NGO registration with NGOAA obliges an NGO to participate in development activities that are in consonance with the policies and priorities of the Government. NGOs are therefore seen by the Government as bodies to implement The Gambia’s development

3/ See Article 19. Within this framework, a delegation of journalists’ rights advocacy organisations met with Minister for Justice and Attorney General Mr. Edward Gomez in his office, to discuss about the oppressing media environment.

4/ See IFEX Press Release, November 16, 2010.

5/ See CPJ Press Release, March 23, 2011.

programme and not as independent entities. Moreover, the NGOAA has the authority to revoke the Protocol of Accord granted to an NGO without judicial review. As a result, NGOs choose to focus on issues which are deemed not sensitive and on which the Government is making progress such as women and children's rights in order to avoid reprisals from State authorities. In this context, no NGO can carry out any monitoring of human rights violations. But NGOs working on issues that are not deemed "politically sensitive" nonetheless face acts of harassment if the authorities feel threatened by their growing reputation or activities.

In addition, the Gambian authorities continued to make aggressive and denigrating public statements intended to intimidate any one from conducting human rights activities. For example, in an interview given to *The Daily News* published on January 10, 2011, Justice Minister Edward Anthony Gomez warned that Gambians abroad engaged in "painting a grim picture" about The Gambia's human rights record would be prosecuted if they returned in the country. He added that "these are unfortunately evil members of the Gambian society who took refuge abroad putting every nonsensical story on papers and on radios to tarnish the good image of The Gambia Government"<sup>6</sup>.

### **Acts of reprisals against journalists who denounce human rights violations and corruption**

A general climate of fear remained amongst journalists covering human rights issues, notably following the unsolved assassination of Mr. **Deyda Hydera**, Editor and co-founder of the private newspaper *The Point* and also a correspondent in The Gambia for *Agence France-Presse* and Reporters Without Borders (RSF), in 2004<sup>7</sup>, the ongoing enforced disappearance of Mr. **Ebrima Manneh**, a journalist at the *Daily Observer* newspaper, in 2006, and the continuing campaign of harassment by the NIA against journalists. In 2010, journalists who promoted the respect of human rights and denounced corruption indeed continued to face acts of intimidation. For instance, on February 16, 2010, two journalists of the *Daily News*, Messrs. **Saikou Ceesay** and **Lamin Njie**, were requested to go to the office of Mr. Ensa Badjie, Inspector General of Police (IGP), at the police headquarters in Banjul. Once arrived, both journalists, who

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6/ The Justice Minister was reacting to *The Daily News* story about 24 British MPs who signed an Early Day Motion the month before calling for international pressure on the Gambian Government for human rights violations.

7/ The Government claimed that the disappearance of Mr. Deyda Hydera was still being investigated, but faced challenges as the two key witnesses are outside the jurisdiction and several attempts to reach them were unsuccessful. See Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Gambia*, UN Document A/HRC/14/6, March 24, 2010.

reported in company of Messrs. **Madi Ceesay**, Publisher and Editor of *Daily News*, and **Ahmed Alota**, Executive Director of The Gambia Press Union (GPU), were questioned in relation to an article published on February 15, 2010 on the deploring conditions of the new police barracks in the capital. The IGP warned the journalists to refrain from reporting on the police if they did not want to face consequences. He also informed them that they would have been killed if the publications had concerned the military barracks. The IGP subsequently told journalists that he would send his thugs to terrorise Mr. Ceesay, for granting interview with *BBC* on the threats made by Mr. Badjie against him. On March 31 and April 1, 2010, another Gambian journalist who resided in the United Kingdom at the time, **Mr. Yusupha Cham**, received death threats by email from persons suspected to be agents of the NIA who reproached him of attacking the administration of President Jammeh in articles he contributed to publish on Gambian news websites. Mr. Cham wrote a number of critical articles about Government's bad administrative policies, excessive power abuses and human rights violations perpetrated in the country<sup>8</sup>. On December 16, 2010, the Court of Justice of the Economic Community of West African States (ECOWAS) confirmed that Mr. **Musa Saidykhan**, former Editor of the banned private newspaper *The Independent* who is now living in exile, was tortured by members of the President's security guard during a 22-day detention without charge in 2006. He had been arrested upon his return from South Africa, where he attended a human rights forum and granted an interview to the media about the deteriorating human rights situation in The Gambia, particularly the murder of Mr. Deyda Hydera, his paper's reports on the killing of fifty West African nationals in The Gambia, including 44 Ghanaians in 2005, and the publication of a list of alleged coup plotters in the aftermath of the alleged 2006 coup d'état in The Gambia. The ECOWAS Court stated that his arrest and subsequent detention by the authorities were illegal and that they violated his right to personal liberty and a fair trial as guaranteed by Articles 6 and 7 of the African Charter on Human and Peoples' Rights. Mr. Musa Saidykhan will receive 200,000 US dollars (about 140,000 euros) as damages. The ruling is final without possibility of appeal.

### **Judicial harassment against members of human rights NGOs**

In 2010–2011, several members of human rights NGOs were victim of judicial harassment as reprisals to their activities. On February 22, 2010, **Mr. Edwin Nebolisa Nwakaeme**, the founder and Programme Director of Africa for Democracy and Good Governance (ADG), an organisation

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8 / See IFEX Press Release, April 8, 2010.

that promotes human rights, democracy and good governance in Africa, was arrested by the Immigration Department for allegedly lying about the category of his organisation for registration purposes and released three days later. On March 1, he was summoned by the Serious Crimes Unit of the police headquarters in Banjul and rearrested. When he appeared before the Banjul Magistrate Court on March 8, Mr. Nwakaeme was charged with “giving false information to public officials” for having written, in a letter sent to the daughter of the Gambian President in November 2009 nominating her as an ADG ambassador at the occasion of the celebration of the World Day for the prevention of child abuse, that ADG was a NGO despite the fact that it was registered as a charity. When he was taken to court again on March 10, Mr. Nwakaeme pleaded not guilty and his lawyer applied for bail, which was denied by the Judge. On September 6, he was sentenced to a mandatory six-month prison term with hard labour and a fine of 10,000 dalasis (about 262 euros). The court also banned him from running ADG in the country and ordered him to surrender all the documents and licence pertaining to the organisation. On December 17, 2010, the Banjul High Court upheld his conviction in appeal. On January 14, 2011, Mr. Edwin Nebolisa Nwakaeme was released from jail, following completion of his six-month prison sentence, and he was deported from The Gambia to Nigeria, his native country. No court order was reportedly issued for his deportation. On October 11, 2010, Dr. Isatou Touray and Ms. Amie Bojang-Sissoho, Executive Director and Programme Coordinator of The Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP), an organisation working on sexual and reproductive health and rights of women and children, were called by an agent of the NIA for a meeting with the Public Relations Officer of the National Drug Enforcement Agency. Once arrived, they were arrested and held in custody for a day before being transferred to Mile 2 central prison. They were charged with “theft” for the alleged embezzlement of 30,000 euros received in 2009 from “Yolocamba Solidaridad”, a Spanish development NGO providing support to local civil society organisations. On October 12, their application to be released on bail was rejected by the court. After nine days of detention, on October 20, following wide national and international pressure, both human rights defenders were released on bail for the sum of 1,5 million dalasis (about 39,323 euros) and two sureties with a landed property by the Banjul Magistrates’ Court. On November 3, 2010, the trial opened before the Banjul Magistrates’ Court, but the principal witnesses who are Spanish citizens representing Yolocamba Solidaridad were absent. On January 31, 2011, Ms. Begoña Ballestros Sanchez, Director of the Spanish NGO, denied accusing anyone associated with GAMCOTRAP

of theft during a hearing at Banjul Magistrate's Court<sup>9</sup>. As of the end of April 2011, the trial was still ongoing.

### Harassment against human rights lawyers

In 2010-2011, lawyers were also subjected to acts of harassment and intimidation. Indeed, two prominent lawyers known for their commitment towards human rights were prosecuted under spurious charges. On January 26, 2011, lawyer **Lamin K. Mboge**, a senior member of The Gambia Bar Association (GBA) and former magistrate, who is also the leading counsel in the case involving the two officials of the GAMCOTRAP, was remanded at the Mile 2 central prison by the Banjul Magistrates' Court. Mr. Mboge was charged with "making false documents without authority", coupled with "false swearing" and "uttering false documents", following a criminal complaint lodged by one of his clients over a landed property he allegedly sold to another prospective buyer without formal paperwork. Mr. Mboge denied the charges. On January 31, 2011, he was released on a bail of 200,000 dalasis (about 5,243 euros) with two Gambian sureties who must have landed properties within the greater Banjul area and should deposit their national identity cards at the office of the registrar. As of the end of April 2011, the trial was still ongoing. Similarly, on December 30, 2010, lawyer **Moses Richards**, former High Court Judge at the Special Criminal Division, who is now practising as a lawyer, was arrested and detained at the NIA headquarters in Banjul. On the next day, he was charged with "giving false information" and "sedition" to public officer, after writing and addressing a letter on behalf of a client to the Honourable Sheriff of The Gambia. Acting as a legal counsel and following expressed instructions and information of his client, Mr. Richards addressed to the latter a letter dated December 6, 2010, which content was acknowledged by the Sheriff himself on the same day. However, on December 15, 2010, he wrote to Mr. Richards copying the office of the President, among others, and accused him of blackmail, showing disrespect to the office of the President, and giving false information to a public servant. On December 31, 2010, Mr. Richards, who denied both charges, was denied bail and returned to police custody. During the night of January 2, 2011, he was taken to the Mile 2 central prison without any court order. On January 3, 2011, Banjul Lower Court released him on a bail of 500 dalasis (about 13 euros)

9/ Although minor tensions had arisen between the European and the local NGO concerning receipt of invoices and other materials relating to funds donated, the Director of Yolocamba Solidaridad specified that she had not brought any kind of legal action against its implementing partner but rather had merely provided information to the Gambian authorities about their work in the country. She added that she had only been made aware of the detention of Dr. Isatou Touray and Ms. Amie Bojang-Sissoho through coverage in the media.

and also asked to deposit his travel documents to the Registrar of the Court. As of the end of April 2011, the trial was still ongoing.

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

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
		Press Release / International Fact- Finding Mission	May 18, 2010
<b>Ms. Isatou Touray and Ms. Amie Bojang-Sissoho</b>	Arbitrary detention / Judicial harassment	Joint Press Release	October 15, 2010
<b>Mr. Saikou Ceesay</b>	Threats	Urgent Appeal GMB 001/0211/OBS 015	February 9, 2011

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# GUINEA BISSAU

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010-2011, in a context of military-sponsored political instability, violence and drug trafficking, those who denounced human rights violations exposed themselves to retaliatory measures and failed to get protection from law enforcement bodies.

## Political context

In 2010-2011, the new President, Mr. Malam Bacai Sanhá, of the African Party for the Independence of Guinea and Cape Verde (*Partido Africano da Independência da Guiné e Cabo Verde* - PAIGC), elected in July 2009 to replace former President João Bernardo Vieira who was killed by soldiers in March 2009, was unable to restore political stability and the rule of law in the country. In particular, the predominance of military over civilian rule, military rivalries as well as the increasing presence of drug trafficking interests and violence, continued to characterise the political situation in the country<sup>1</sup>. On April 1, 2010, troops led by the Deputy Chief of General Staff, Major General Antonio Indjai, took control of the armed forces headquarters and detained Prime Minister Carlos Gomes Junior, Army Chief of General Staff Zamora Induta, the Head of the Intelligence Service Colonel Samba Djaló and other officers. The Prime Minister was released a few hours later, after civilian crowds converged in front of his office to denounce the military actions. Following a complaint that was lodged on April 12, 2010 by Major General Antonio Indjai against Mr. Zamora Induta accusing him, among other, of “embezzlement” and “involvement in drug trafficking”, the latter was arrested. He was kept in detention until December 2010<sup>2</sup>. In August 2010, the European Union (EU), citing among other reasons the nomination in June 2010 of Major General Indjai as Chief of General Staff after Mr. Induta was dismissed from his post, the political instability and the lack of respect for the rule

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1/ See UN Security Council Resolution 1949, UN Document S/RES/1949 (2010), November 23, 2010.

2/ Shortly before his arrest, Mr. Induta had launched a military investigation into drug related activities involving high-ranking military officers and had reiterated his commitment to combating drug trafficking within the armed forces. The Military High Court ordered his release in October 2010 due to a lack of evidence to substantiate charges, but he was kept in detention until December upon order of Major General Indjai for alleged security and safety concerns. See UN Security Council, *Report of the Secretary-General on developments in Guinea-Bissau and on the activities of the United Nations Integrated Peace-building Office in that country*, UN Document S/2010/335, June 24, 2010 and *Report of the Secretary-General on developments in Guinea-Bissau and on the activities of the United Nations Integrated Peace-building Office in that country*, UN Document S/2011/73, February 15, 2011.

of law, announced that it will not continue its activities to provide advice and assistance to the local authorities on the Security Sector Reform (SSR) after September 2010<sup>3</sup>.

Moreover, impunity, especially among the military and for 2009 political assassinations, continued to prevail. For instance, despite assertion by the Prosecutor General that the investigation into Mr. João Bernardo Vieira's assassination had progressed, it was not completed and no one had been charged as of April 2011<sup>4</sup>. Similarly, the assassination in June 2009 of the presidential candidate Mr. Baciro Dabó remained unpunished. In addition, in June 2010, the Government rejected recommendations made at the Universal Periodic Review of the UN Human Rights Council to improve the human rights records of armed forces and reinforce the fight against impunity in the military<sup>5</sup>.

The ratification in November 2010 of the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, both signed in 2001, was nevertheless a positive step.

### **Intimidation of journalists reporting on human rights violations**

In 2010-2011, journalists reporting on human rights violations continued to face reprisals. On May 15, 2010, Mr. **João de Barros**, owner and publisher of the newspaper *Diário de Bissau*, was attacked inside the newspaper's office by a businessman, Mr. Armando Dias Gomes, accompanied by his driver. Mr. João de Barros was threatened of death and warned not to report about drug trafficking. Two other journalists present in the office were also threatened. The newspaper's equipment was vandalised and as a result the newspaper could not continue publishing. The newspaper had published several articles on drug trafficking in the past including a recent one titled "Guinea-Bissau, a supposed narco-State". Mr. João de Barros filed a complaint and the two aggressors were briefly arrested on the same day but released a few hours later. As of April 2011, the criminal investigation remained pending<sup>6</sup>. In addition, in 2010, at least one journalist was

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3/ In January 2011, the EU took an additional step when the Council invited the authorities of Guinea-Bissau to hold consultations under Article 96 of the Cotonou Agreement and notified the authorities that parts of the EU development cooperation will be suspended pending results of the consultation. See Council of the EU Press Releases 12740/10 and 5750/11, August 2, 2010 and January 31, 2011.

4/ See Guinean Organisation for Human Rights (*Liga Guineense dos Direitos Humanos* - LGDH) Press Statement, March 2, 2011.

5/ See UN General Assembly, *Report of the Working Group on the Universal Periodic Review Guinea-Bissau*, UN Document A/HRC/15/10, June 16, 2010.

6/ See LGDH and Reporters Without Borders (RSF) Press Release, May 21, 2010.



forced to flee abroad after reporting on drug trafficking following threats he received<sup>7</sup>. On April 15, 2011, the Government reportedly threatened to suspend the newspaper *Última Hora* after it published on April 8 an article quoting the US State Department of States *2010 Country Reports on Human Rights Practices in Guinea Bissau*, in which the US Department of States wrote that President João Bernardo Vieira had been murdered by soldiers led by Major General Antonio Indjai. On April 20, 2011, the Presidency Minister, Ms. Maria Adiatu Djaló Nandigna, further warned to use her legal powers to definitely cancel licences if the media, especially the newspaper *Última Hora*, were not bringing their editorial policies “in line with the higher interests of Guinea-Bissau”<sup>8</sup>.

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7/ His name is not disclosed for security reasons. See RSF Press Release, May 21, 2010.

8/ See RSF Press Release, April 22, 2011.

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# GUINEA CONAKRY

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010, several human rights defenders were subjected to acts of harassment and threats in a context of ethnic tensions, notably during the electoral period, which was marred by fraud and human rights violations.

## Political context

After the massacre on September 28, 2009 in the stadium of Conakry of tens of opposition supporters and civil society representatives protesting against the intention of Captain Moussa Dadis Camara, President of the National Council for Democracy and Development (*Conseil national pour la démocratie et le développement* - CNDD), to run in the 2010 presidential elections<sup>1</sup>, none of the mainly responsible, including the perpetrators, were arrested or tried, despite a United Nations International Inquiry Commission report which demonstrated the responsibility of both the Head of the State at that time and several members of his direct inner circle<sup>2</sup>. The report presented on February 2, 2010 by the National Inquiry Commission, set up in October 2009 by the Guinean authorities, noted the violent repression of the event but considered that the responsibility was shared between the “over-excited demonstrators” and the under-equipped security forces which also lacked coordination. It also concluded that political leaders were partially responsible because they refused to cancel the event after it had been banned, and accused among others, Lieutenant Aboubacar Diakité, the man who attempted to assassinate President Camara in December 2009, of being responsible for the violence.

On April 19, 2010, the National Transitional Council set up under the Ouagadougou Agreement signed on January 15, 2010 following the

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1/ The demonstration was violently repressed by the military and certain security services presumed to be responsible for the death or disappearance of at least 156 people, as well as for rape and other sexual crimes. See United Nations Security Council, *Report of the International Commission of Inquiry mandated to establish the facts and circumstances of the events of September 28, 2009 in Guinea*, UN Document S/2009/693, December 18, 2009.

2/ On February 19, 2010, Ms. Fatou Bensouda, Deputy Prosecutor of the International Criminal Court (ICC), following her mission to Conakry, also qualified the exactions committed by security forces as “in the range of crimes against humanity.” See Press Release from *Radio France Internationale* (RFI), February 20, 2010.

forced exile of President Camara<sup>3</sup> adopted a new Constitution, which was promulgated on May 7. The latter represents major progress and notably provides for the creation of the first independent national human rights institution and a Court of Auditors responsible for conducting annual financial audits of public institutions. It also strengthens the independence of the Judicial Council and acknowledges the freedom of the press as a constitutional value. Two laws, both promulgated on June 22, 2010, also contributed to improvements in this area, in particular by partially decriminalising press offences, making them liable to fines rather than prison sentences, ensuring the creative freedom of newspapers, and establishing a new media regulatory body, the High Authority for Communication (*Haute autorité de la communication*).

The first round of presidential elections held on June 27, 2010 qualified Mr. Alpha Condé, leader of the Rally of the Guinean People party (*Rassemblement du peuple de Guinée* - RPG), and Mr. Cellou Dalein Diallo, President of the Union of the Democratic Forces of Guinea (*Union des forces démocratiques de Guinée* - UFDG), for the second round. Violence between supporters of both candidates marked the period between the two rounds of voting, exacerbated by the decision on September 9, 2010 of the Court of First Instance of Dixin to condemn the two most senior officials of the Independent National Electoral Commission (*Commission électorale nationale indépendante* - CENI) to a one-year prison term for “election fraud” in the first round of voting. These clashes witnessed a disproportionate use of force by security forces, resulting in several deaths and injuries as well as arbitrary arrests and detention, assault and forcibly entries<sup>4</sup>. The second round of presidential elections was finally held on November 7, 2010 after being postponed three times, and was won by Mr Alpha Condé, a victory which was confirmed by CENI on November 15. The announcement of the election results triggered further violent clashes between militants of the two candidates, prompting the introduction of

3/ Following the attempt of assassination against President Camara, who was evacuated to Morocco for treatment, the Minister of Defence, General Sékouba Konaté, was appointed acting President. On January 15, 2010, an agreement to form a Unity Government was signed, and on January 21, 2010, Mr Jean-Marie Dore, Spokesman for Forces Vives, a movement composed of opposition political parties and civil society, and Chairman of the opposition party, the Union for the Progress of Guinea (*Union pour le progrès de la Guinée* - UPG), was appointed Prime Minister of the transitional Government. The Government, formed on February 15, brought together civilian and military members of the National Council for Democracy and Development (CNDD), including two members of the junta cited in the United Nations Commission of Inquiry report as being among the presumed perpetrators of the serious violations of human rights committed on September 28, 2009.

4/ Between November 15 and 19, 2010, at least seven people were killed and 220 were injured. See Guinean Organisation for the Defense of Human and Citizen's Rights (*Organisation guinéenne pour la défense des droits de l'Homme et du citoyen* - OGDH).

a state of emergency on November 17 and the imposition of a curfew. On December 10, the state of emergency was lifted and, on December 21, Mr. Conde was sworn in as President of the Republic.

### **Harassment and threats against several human rights defenders in a context of ethnic tensions**

In 2010, during the electoral period, several human rights defenders were subjected to harassment and threats in a context of ethnic tensions, particularly for supporting a policy of appeasement of the tensions between the different political groups, factions and ethnic groups in the country. Thus, on January 15, 2010, at 1 a.m., several trade unionists received a message on their mobile phones inciting them to violence against other trade unionists because they belonged to the Peul ethnic group. Moreover, on October 23, 2010, Dr. **Mamadou Aliou Barry**, President of the National Observatory of Human Rights (*Observatoire national des droits de l'Homme* - ONDH), was violently attacked by the Guinean security forces on his arrival in Hamdalaye, a densely populated neighbourhood of Conakry, to investigate attacks against residents of the neighbourhood by police and members of the presidential guard. When he tried to intervene to stop them from hitting young people and ransacking homes and shops, one of the security force members said: "This is another Peul, and moreover a human rights defender. We are going to work him over". He was then beaten, arrested and taken away in a pick-up truck along with some 75 other people. Those arrested, including Mr. Barry, were again beaten on their arrival at the police station of the mobile squad of the Gendarmerie number four. Mr Barry was released one hour later, after a policeman at the scene recognised him. During the violence, Mr. Barry suffered a broken arm and multiple bruises. In addition, his mobile phone was stolen by the police. However, Mr. Barry did not take legal action and therefore no investigation was opened.

A more welcome development was the release from detention on February 5, 2010 of an ONDH member, Mr. **Muktar Diallo**, following an intervention by Prime Minister Jean-Marie Dore. Mr. Diallo was detained since November 26, 2009 for "endangering State security" through remarks he made to the *Voice of America* on September 29, 2009, condemning the massacre of the previous day in the stadium of Conakry.

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

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Rabiataou Sérah Diallo, Ms. Mamadouba Paye Camara, Ms. Mariama Kesso Diallo and Messrs. Barry Alpha, Kader Azize Camara, Mamadou Mansaré, Sy Savané, Binta Bangoura and Amadou Diallo	Threats	Press Release	January 21, 2010
Mr. Mouktar Diallo	Release	Press Release	February 11, 2010

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# KENYA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010-2011, human rights defenders who exposed and publicised grave violations of human rights as well as facilitated their investigation and prosecution faced heightened risks and reprisals. Defenders of sexual minorities' rights were also victims of harassment because of their activities.

## Political context

A referendum held on August 4, 2010 approved a new Kenyan Constitution by 67% of the voters, which provides for a detailed bill of rights and reforms the electoral system, the administration of land as well as the judiciary<sup>1</sup>. The Constitution was officially promulgated by President Kibaki on August 27, 2010 during a ceremony attended by among others, the Sudanese President Omar Al Beshir who is currently subject to two arrest warrants by the International Criminal Court (ICC) for “war crimes”, “crimes against humanity” and “genocide” committed in Darfur.

Despite an important judgement of the High Court of Nairobi on July 21, 2010 awarding compensation amounting to about 39 million shillings (about 315,000 euros) to victims of torture under Daniel Arap Moi's Government (1978-2002), impunity for serious violations of human rights remained the rule for the crimes perpetrated during the 2007-2008 post-election violence but also for other crimes such as those perpetrated during the army deployment in the Mount Elgon district (western province of Kenya) in 2008 to clamp down on the activities of the Sabaot Land Defence Forces (SLDF).

Given the failure of the Kenyan Government to address impunity for the crimes perpetrated during the post-election violence, the ICC opened an investigation into these crimes on March 31, 2010. The Government initially showed some willingness to cooperate with the ICC, which transformed into opposition when the ICC Prosecutor revealed its list of six suspects – including senior politicians – in December 2010. When on March 8, 2011, the ICC delivered its decision granting the Prosecutor request for the delivery of summons against the six suspects to appear in April 2011, the Kenyan authorities intensified their efforts to prevent

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1/ Constitutional reform was part of the 2008 Agreement on the Principles of Partnership of the Coalition Government reached after the violence that erupted following the 2007 general elections.

the proceedings from continuing, lobbying for the United Nations (UN) Security Council's deferral of the ICC proceedings for one year under Article 16 of the Rome Statute<sup>2</sup>. Moreover, on December 22, 2010, the Parliament passed a motion requesting the executive to take steps to withdraw from the ICC Statute<sup>3</sup>. In addition, a few days before the initial appearance of all suspects before the ICC, on March 31, 2011, the Government filed a request for inadmissibility of the cases on the ground that with the new Constitution it was now in capacity to investigate the case<sup>4</sup>.

In this context, the protection of witnesses became a key issue. A positive step was taken in May 2010 toward reforming the witness protection system, with the President's signature of the Witness Protection Amendment Act. It stripped witness protection from the Attorney General's control and created a witness protection agency. A Witness Protection Advisory Board, chaired by the Attorney General and composed of the governmental heads of intelligence, police, and prisons and a representative of the Kenya National Commission on Human Rights (KNCHR), was appointed. Nevertheless, concerns about the efficiency of this agency arose. For instance, it is composed of State bodies while some of them were accused of perpetrating violations during the post-election violence. In December 2010, the ICC Prosecutor warned that he was conducting investigation on reported threats against witnesses.

Furthermore, while homosexuality is illegal in Kenya and can be sanctioned by up to fourteen years of imprisonment pursuant to Articles 162 and 163 of the Criminal Code<sup>5</sup>, the gay community remained specifically targeted by politicians and religious leaders. For instance, in January 2011, at a rally, Prime Minister Raila Odinga stated that gay couples should be arrested and as a result several members of the gay community were threatened<sup>6</sup>.

On June 6, 2010, the Kenya's Broadcasting Content Advisory Council was inaugurated by the Minister of Information and Communications, which is now the one to control content on TV and radio instead of the Government. It includes the Permanent Secretary in the Ministry of

2/ Pursuant to Article 16 of the Rome Statute, the Security Council can request the Court to defer investigation for a year if it deems that there is a threat to international peace and security.

3/ It was feared that a bill, seeking the same effect and repealing the International Criminal Act of 2008, would be tabled. However, as of the end of April 2011, no such bill had been tabled.

4/ As of the end of April 2011 the ICC had not decided yet on the application.

5/ Condemnations are very rare since the police most of the time do not have evidence but it is used by the police to arrest individuals and extract bribes from them.

6/ See Gay and Lesbian Coalition of Kenya (GALCK).

Information and six other members to be appointed by the Information Minister. The creation of the Council resulted from the adoption by the Parliament of the 2009 amendments to the Communications Act<sup>7</sup>, which were agreed upon between the media and the Government as interim measures pending a further and more elaborate review of the law governing communications and the media<sup>8</sup>.

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

While impunity remained the rule for abuses committed by the police and military forces, human rights defenders who denounced such violations continued to face reprisals. Members of “Bunge la Mwananchi”, a grass roots movement that aims at fighting social injustice and promoting accountable leadership at all levels in Kenya, were particularly targeted. On April 22, 2010, Mr. **Kenneth Kirimi Mbae**, an active member of Bunge la Mwananchi and a member of Release Political Prisoners (RPP), was arrested near the headquarters of the General Service Unit (GSU) in Nairobi by four persons in civilian clothes. Mr. Kenneth Kirimi Mbae was detained in an isolated house at Suswa market, Narok district, until April 26, 2010, when he was released without charges. While in detention he was subjected to beating and intimidation including threats of sexual violence against his wife. As a result, he had to undergo medical treatment. Mr. Kirimi Mbae was interrogated about the work carried out by Mr. **Stephen Musau**, RPP Executive Coordinator, and the organisation’s activities concerning the Mount Elgon military operations, as well as about the work of Mr. Musau and the RPP regarding extrajudicial killings and the subsequent sharing of their report with Professor Philip Alston, UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. Furthermore, on April 23, 2010, Mr. **George Nyongesa**, a community organiser who works for Bunge la Mwananchi’s website, received an anonymous phone call threatening to silence him “if he did not close it and if he keeps doing noises”, and asking him to pull the website down. One of his colleague, Mr. **Lawrence Maina**, web manager of the organisation, received two similar phone calls earlier the same day. On May 4, 2010, the Commanding Officer of the police department came to the Jeevanjee Garden in Nairobi where Bunge la Mwananchi was holding a meeting to discuss current issues in the country and the post-election violence. The officer ordered the 200 persons present at the meeting to leave and arrested four activists of Bunge La Mwananchi, Messrs. **Jacob Odipo**, **Francis**

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7/ See The Statute Law (Miscellaneous Amendments) Act, 2009.

8/ See Annual Report 2010.



**Wetukha** and **Jebtekeny Tariq** as well as **Ms. Ruth Mumbi**. They were subsequently released without charge after arriving at the police station. In addition, Messrs. **Samson Owimba Ojiayo** and **Godwin Kamau Wangoe**, two members of Bunge La Mwananchi who had been arrested and maltreated in September 2009, before being released, after campaigning to end impunity for serious economic crimes and extrajudicial killings, were still awaiting trials as of April 2011 for, respectively, “belonging to an illegal organisation” and “participation in an illegal protest”<sup>9</sup>.

Moreover, as of April 2011, the investigation into the assassination of Messrs. **Oscar Kamau King’ara**, a lawyer and Chief Executive Officer of the Oscar Foundation Free Legal Aid Clinic Kenya (OFFLACK), and **John Paul Oulu**, OFFLACK Communications and Advocacy Officer, remained at the preliminary investigation stage, although the Minister for Justice, Mr. Mutula Kilonzo, indicated that the deaths were under investigation during the Universal Periodic Review (UPR) session of Kenya held by the UN Human Rights Council in June 2010<sup>10</sup>. The two defenders, who had been particularly active in reporting on police death squads and had provided information to the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions during his mission in February 2009, were murdered in March 2009.

### **Threats and reprisals against human rights defenders who provided information related to the ICC investigation**

Human rights defenders who were instrumental in providing information related to the ICC investigation were also at serious risk<sup>11</sup>. For instance, since December 2010, five human rights defenders have been forced to relocate from their regions after being threatened due to their activities. Another human rights defender was threatened at the beginning of 2011, by receiving anonymous calls as well as having a note pasted in her compound asking her why she was betraying her community. In addition, the human rights organisations that provided information in the framework of the ICC investigation saw their offices broken into in search of information and in some instance computers and hard drives were stolen, as for example in September 2010 in Nairobi and in November 2010 in Eldoret. Moreover, starting from mid-2010, human rights defenders

9/ Their lawyer had requested a postponement of their trials since they were in hiding following numerous threats. As of the end of April 2011, they were back to their normal work and the trial was supposed to start soon.

10/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Kenya*, UN Document A/HRC/15/8, June 17, 2010.

11/ Names of defenders and organisations are withheld for security reasons.

working on other human rights issues were also being targeted and labelled as working for the ICC even if it was not the case.

### **Intimidations against journalists exposing human rights violations**

In 2010, journalists who reported about and exposed human rights violations also remained subjected to acts of intimidation. For instance, on December 17, 2010, Mr. **Sam Owida**, a reporter for the private *Daily Nation*, received two anonymous threatening phone calls warning him that he could “share Nyaruri’s fate”<sup>12</sup>. Mr. Sam Owida reported the incident to the police, which would reportedly have launched an investigation. Mr. Sam Owida had reported about and publicised the murder of Mr. **Francis Nyaruri**, a journalist who wrote on corruption cases for the private *Weekly Citizen*, and who was found decapitated on January 29, 2009. Mr. Nyaruri had written a series of articles that exposed financial scams and other malpractice by the local police department. An investigation was immediately opened and one suspect was arrested, but the trial was postponed several times. It started afresh on April 5, 2011, after one additional suspect was added to the case, and the next hearing was scheduled to begin on May 25, 2011. As of April 2011, two civilian suspects were in custody. Furthermore, Mr. **Ken Wafula**, a journalist and the Director of the Centre for Human Rights and Democracy (CHRD), continued to be prosecuted in 2010-2011 for “incitement” to violence and disobedience of the law and “publishing inciting materials” after being charged in October 2009 for reporting on the clandestine re-arming of communities in the Rift Valley with the support of Government officials, partly in anticipation of possible violence during the 2012 parliamentary poll<sup>13</sup>.

### **Climate of fear and harassment of sexual minorities’ rights defenders**

Sexual rights defenders lived in fear as the gay community in Kenya and their defenders became targets from the community on instigations by politicians and religious leaders. For instance, in February 12, 2010, in Mtwapa, religious leaders issued anti-gay statements and requested the closure of the Kenya Medical Research Institute (KEMRI), a centre that conducts research and provides treatment on HIV/AIDS. On the following days, the centre was attacked by a crowd and one of the centre’s volunteer was beaten while others were taken to custody by police reportedly to protect them. All were released without charge. Nevertheless, none of the attackers were arrested<sup>14</sup>. Mr. **Denis Karimi Nzioka**, Public Affairs and Media Relations Officer at the Gay and Lesbian Coalition of

12/ See Kenyan Human Rights Commission (KHRC).

13/ On May 2, 2011, the ruling was delivered and the charges dismissed. See KHRC.

14/ See KHRC.

Kenya (GALCK) but also an extensive writer of Lesbian, Gay, Bisexual and Transgender (LGBT) rights and lifestyle in Kenya who appeared on various occasions on TV and on the radio to advocate for LGBT rights, faced stigmatisation and increasing difficulties in his day-to-day life. As a result, he barely goes out. On November 23, 2010, at around midnight, one of his neighbours, accompanied by two other people, knocked at his door, in Buruburu, Eastlands section of Nairobi, and told him that he had been sent to inform him to leave the premises as soon as possible since they knew from TV and radio that he was an homosexual, adding that Mr. Nzioka was corrupting their children and will rape them. The neighbour further warned him that if he did not move out soon, they will remove him by force. The next day, the neighbour came back, this time accompanied with three people, and delivered a letter to Mr. Nzioka and further warned him that he should move quickly. The letter also mentioned that they had been observing his movements and the persons visiting him. His landlord, informed of his work and orientation by the neighbours, requested him to leave. Mr. Nzioka was therefore forced to move within three days<sup>15</sup>. In May 2010, Mr. Nzioka had already been requested to move out from his apartment, after his photo was published in the *Daily Nation*. Mr. Nzioka was also targeted by unknown persons approaching him on the streets and threatening him with violence or death as well as hate e-mail. In November 2010, he was hit by a small bus driver, and his colleagues insulted him, as he was boarding it. His partner also faced threats and humiliating experiences when he was seen with him and, as a consequence, he had to undergo psychological counselling to assist him deal with the trauma and threats<sup>16</sup>. Similarly, Mr. **Paul Ogendi**, GALCK Deputy General Manager in charge of legal and human rights issues and then GALCK General Manager, also faced stigmatisation in his daily life due to his work and difficulties to carry his function. For instance, on the night of February 25, 2011, he was humiliated and brutally removed from a club in Nairobi city centre, when he introduced himself as a GALCK representative to the club's security officers in order to intervene in favour of members of the gay community who were being discriminated against. His shirt was torn and his arm and legs were bruised and slightly swollen<sup>17</sup>.

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15/ He did not file a complaint to the police as he was unsure of the police reaction toward a defender of sexual minorities. He contacted a human rights organisation that assisted him but told him to never mention them.

16/ See GALCK.

17/ He did not file a complaint to the police fearing that it could make the situation worst for LGBT people who frequent the Club. See GALCK.

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

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
Messrs. <b>Kenneth Kiriimi Mbae</b> and <b>Stephen Musau</b>	Arbitrary arrest / Release / Ill-treatments / Threats / Harassment	Urgent Appeal KEN 001/0410/OBS 053	April 29, 2010
<b>Bunge la Mwananchi / Messrs. George Nyongesa, Jacob Odipo, Francis Wetukha</b> and <b>Jebtekeny Tariq</b> and <b>Ms. Ruth Mumbi</b>	Threats / Harassment / Intimidation	Urgent Appeal KEN 002/0510/OBS 057	May 7, 2010

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# MAURITANIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010-2011, human rights defenders who denounced ongoing slavery practices were again the target of acts of intimidation by the political and religious authorities. In addition, strike movements started by the trade unions from economic sectors led to violent clashes with the anti-riot police and to arrests.

## Political context

While there was a persistent lack of dialogue between the Government and the opposition parties despite the first official meeting between the Head of State and opposition representatives in June 2010, which had led to the hope of the start of a truly inclusive dialogue between the various political forces, there was a slight improvement in the often strained relations between the Government and the press in 2010, notably after the release in February of the Director of the website *Tagadoumy*, who was granted a presidential pardon after several months of arbitrary detention<sup>1</sup>.

After the series of abductions of humanitarian workers and foreign tourists that took place in November and December 2009<sup>2</sup> and for which Al Qaeda in the Islamic Maghreb (AQIM) claimed responsibility, on January 5, 2010, the National Assembly adopted a draft law comprising several amendments to the 2005 Anti-Terrorist Law as well as draconian provisions<sup>3</sup>. After the motion for review filed by opposition members of Parliament, the Constitutional Council refused to validate the draft law on March 4, 2010, considering that part of its provisions did not comply with the Constitution.

Discrimination against the Negro-African population continued within the Mauritanian society, particularly after the speech on March 1, 2010 by

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1/ See Annual Report 2010.

2/ The three humanitarian workers belonging to the Spanish NGO "Solidarity Caravan" (*Caravana Solidaria*), who were kidnapped on November 29, 2009, were released on August 23, 2010, whilst the two Italians kidnapped on December 18, 2009 in the south-eastern Mauritania were released in the north of Mali on July 23, 2010.

3/ Especially those that permit telephone tapping of any person suspected of terrorism and their home to be searched at any time, the ending of the statute of limitations for terrorism and prolongation of the period of custody (from 48 hours to fifteen working days) with possible deportation in certain circumstances. The broader definition of terrorism would also have permitted repression "of simple acts of political opposition". See United Nations Human Rights Council, *Compilation prepared by the Office of the High Commissioner for Human Rights for the Working Group on the Universal Periodic Review for the Ninth Session in November 2010*, UN Document A/HRC/WG.6/9/MRT/2, August 10, 2010.

the Prime Minister and the Minister of Culture, who both announced their desire to promote “generalisation of the Arabic language as the language for work, administrative exchanges and scientific research” and to combat “the propagation of local languages and dialects that are substitutes for it”<sup>4</sup>. Furthermore, no legal proceedings were opened in 2010 after several cases of discrimination. However, following several years of advocacy in the fight against slavery, a first victory was won on March 27, 2011 when for the first time in the contemporary history of the country, the 2007 Law making slavery a criminal practice, was applied by the Prosecutor of the Republic of the Nouakchott Court, who found three people guilty under the flagrant offence procedure for the crime of slavery and two others for complicity<sup>5</sup>.

Furthermore, the Government agreed the opening of an office of the United Nations High Commissioner for Human Rights, which was officially opened on December 9, 2010. In addition, during the UN Human Rights Council examination of Mauritania under the Universal Periodic Review on November 10, 2010, the Government agreed to withdraw its general reservation to the Convention on the Rights of the Child and announced the adoption of specific criminal legislation to make torture a crime and the implementation of a national plan to combat human trafficking. On the other hand, the Government rejected the recommendation on the abolition of capital punishment and did not envisage withdrawing its reservation to the International Covenant on Civil and Political Rights concerning freedom of religion and opinion. As for women’s rights, the general reservation to the Convention on the Elimination of All Forms of Discrimination against Women should be replaced by specific reservations and the adoption of a law criminalising female genital mutilation should be part of future legislative reform<sup>6</sup>.

### **Continued harassment against defenders who denounce the persistent practice of slavery**

Advocacy efforts for real implementation of the 2007 Law criminalising slavery and its practices and the work carried out by human rights defenders to protect victims, were accompanied by continued acts of intimidation by the country’s political and religious authorities. In particular, Mr. **Biram Ould Dah Ould Abeid**, President of the Initiative for the Resurgence

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4 / See Mauritanian Human Rights Association (*Association mauritanienne des droits de l’Homme - AMDH*).

5 / All the defendants were jailed on the same day in the Nouakchott civil prison. See SOS-Slaves (*SOS-esclaves*) and the Initiative for the Resurgence of the Abolitionist Movement in Mauritania (*Initiative de résurgence du mouvement abolitionniste en Mauritanie - IRA*).

104 6 / See Human Rights Council, *Report of the Human Rights Council on its 16<sup>th</sup> Session*, April 6, 2011.

of the Abolitionist Movement in Mauritania (*Initiative de résurgence du mouvement abolitionniste en Mauritanie* - IRA) and a representative of SOS-Slaves (*SOS-esclaves*), continued to be the target of an intimidation campaign. On February 19, 2010, three Imams belonging to three different mosques violently attacked him, accusing him of being a “threat to the Islamic religion” for having denounced the persistence of slavery in Mauritania and saying that he “deserved hanging”. On March 31, 2010, articles published on the online Francophone news site Crossroads of the Islamic Republic of Mauritania (*Carrefour de la République islamique de Mauritanie* - CRIDEM) repeated the accusation of “blasphemy” and “racism” against the Muslim religion. Mr. Biram Ould Dah Ould Abeid was returning from a trip to Switzerland where he had taken part in the International Film Festival and Forum on Human Rights (*Festival du film et forum international sur les droits humains* - FIFDH), an event about which he already received a “warning” from the National Security Directorate on February 6 because of his activism, and an initial refusal to renew his passport. In addition, on April 1, 2010, when Mr. Ba Mariam Koita took up his duties as President of the National Human Rights Commission, he relieved Mr. Biram Ould Dah Ould Abeid of his post as advisor to the Commission, a position he had held for three years, and stated that the decision resulted from his activism in the fight against slavery in Mauritania. Two weeks later, Mr. Biram Ould Dah Ould Abeid was summoned by the Director of Public Liberties of the Ministry of the Interior who demanded that he “ceases all declarations and activities to fight against slavery”, threatening him with prosecution for “illegal activities” and imprisonment if he did not respect this order. On December 13, 2010, Mr. Biram Ould Dah Ould Abeid was arrested for “disturbance” after an altercation with police at Arafat 1 police station that took place when he informed them about a case of slavery involving two girls aged nine and fourteen years old, and during which Mr. Ould Abeid was beaten with sticks by several police officers. He was taken to hospital with injuries to his head and leg. Messrs. **Djiby Sow, Ali Ould Boubarak Vall, Sheikh Ould Abidine Ould Salem, Mouloud Ould Boubi, Bala Touré and Dah Ould Boushab**, sympathisers and activists with IRA and the Front for the Fight against Slavery, Racism and Exclusion in Mauritania (*Front de lutte contre l’esclavage, le racisme et l’exclusion en Mauritanie* - FLERE) who had demonstrated in front of the police station in support of Mr. Biram Ould Dah Ould Abeid, were also arrested. On December 15, 2010, on the same day as SOS-Slaves received the French Republic’s 2010 Human Rights Prize for its involvement in the fight against slavery in Mauritania and in the sub-region, the Prosecutor of the Republic decided to jail all the suspects, with the exception of Mr. Djiby Sow, in Nouakchott prison for “aggravated assault” against the police, “illegal gathering” and “belonging

to an unlicensed organisation”<sup>7</sup>. Mr. Biram Ould Dah Ould Abeid was not able to meet his lawyer until December 23, 2010. On January 6, 2011, Messrs. Biram Ould Dah Ould Abeid, Ali Ould Boubarak Vall and Sheikh Ould Abidine Ould Salem were sentenced to a one-year prison term, including a six-month suspended sentence, and a fine of 500,000 ouguiyas (about 1,366 euros). Messrs. Mouloud Ould Boubi and Bala Touré were given suspended sentences of six months in prison and a fine of 100,000 ouguiyas (about 267 euros) and Mr. Dah Ould Boushab received a six-month suspended prison sentence and a fine of 10,000 ouguiyas (about 27 euros). On February 15, 2011, the IRA President and the five members were released after a presidential pardon granted on the occasion of Aïd el-Maouloud (the Prophet’s Birthday).

### Repression of trade union demonstrations

The year 2010 was marked by an increase in the number of strike movements by several trade unions in various business sectors to call for improvements in workers’ wages, and which led to several violent clashes with anti-riot police and to arrests. On May 1, 2010, the professional trade union affiliated to the Free Confederation of Mauritanian Workers (*Confédération libre des travailleurs de Mauritanie* - CLTM) filed advance notice of a general strike by dockers in Nouakchott to call for the opening of negotiations to re-evaluate the profession and the application of labour regulations to protect workers against foreign competition. On May 3, 2010, dockers who had rallied to denounce the refusal of the authorities to start talks with the union, were dispersed by the police using tear gas, sticks and belts, causing several injuries and leading to the arrest of seven workers<sup>8</sup> and the CLTM Secretary General, Mr. **Samory Ould Boyer**. After these negotiations failed, dockers organised another demonstration on May 10, 2010 at El Mina II, which was also violently broken up by the police. Seventeen demonstrators were placed in custody<sup>9</sup>. After these arrests, on May 13, 2010, and despite not being authorised to do so, several dockers decided to return to the streets of Nouakchott to demonstrate and

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7/ However, the IRA registration declaration was filed with the Interior Ministry on June 15, 2010 and, under the Law of January 17, 2001, the lack of any response from the administration after a period of two months is equivalent to authorisation. The accusation of belonging to an unauthorised organisation therefore violates Article 10 of the 1991 Constitution, which guarantees the right of freedom of association and assembly.

8/ Messrs. Mohamed Ould Demba, Ahmed Misk Ould Moustapha, Abdallahi Ould Salem, Mohamed Ould Joumouna, Cheikh Ould Ely, Jafar Ould Mohamed and Bouna Ould Aleyatt.

9/ Messrs. Cheikh Ould Mohamed, Khalifa Ould Dah, Mohamed Ahmed Cheibib, Ahmed Ould Sidi, El Hacen Ould Sid’Ahmed, Cheibany, Abdi O Mohamed, Mohamed Mahmoud Ould MBareck, Sidi Ould Cheikh, Mohamed Lemine Ould Rachid, Malaïnine Ould Kedeichy, Mohamed Ould Merba, Mohamed Vall Ould Moustapha, Mohamed Lémine Ould Amar, El Houssein Ould Teyib, Oumar Ould Ahmed Louly and Houssein Ould Ismaïl.



call for the release of their colleagues and for an increase in their wages. The security forces, made up of anti-riot police squads, agents of the National Guard and the Gendarmerie, again ended this demonstration using tear gas grenades and they arrested seven demonstrators<sup>10</sup>. On the same day, the seven demonstrators arrested on May 3, 2010, were released without charge. On May 17, 2010, all the demonstrators who remained in detention were also released without charge. Similarly, on February 25, 2011, workers – particularly the dockers – organised a peaceful demonstration to call for liberty, social justice, democracy and dignity, which brought together thousands of young Mauritians. A large number of security forces surrounded the rally location and tried to disperse demonstrators with tear gas bombs and by making arrests. Two trade union officials, Messrs. **Mohamed Abdallahi Ould Mohamed Tfeil**, Secretary General of the National Telecommunications Union (*Syndicat national des télécommunications* - SYNATEL), affiliated to the General Confederation of Mauritanian Workers (*Confédération générale des travailleurs de Mauritanie* - CGTM), and **Mohamed Ould Daha**, President of the National Youth Movement of the National Confederation of Mauritanian Workers (*Mouvement national des jeunes de la Confédération nationale des travailleurs de Mauritanie* - CNTM), were arrested by the legal police, before being released without charge shortly afterwards<sup>11</sup>.

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

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Biram Ould Dah Ould Abeid	Attack on freedom of movement / Threats an defamation	Press Release	February 12, 2010
	Defamation campaign	Press Release	February 25, 2010
	Defamation campaign / Deportation	Press Release	April 8, 2010
	Threat of judicial harassment / Death threat	Press Release	April 19, 2010
	Attacked / Arbitrary detention	Press Release	December 15, 2010
	Continued arbitrary detention	Press Release	December 23, 2010
Messrs. Biram Ould Dah Ould Abeid, Ali Ould Boubarak Fall, Sheikh Ould Abidin Ould Salem, Mouloud Ould Boubi, Bala Touré and Dah Ould Boushab	Sentencing	Press Release	January 10, 2011
	Presidential pardon	Press Release	February 16, 2011

10 / Messrs. Moili Ould Mboirick, Jouwyid Ould Moilid., Ethmane Ould Moussa Blesse, Naima Ould Sidi, Md Mhmoud Ould Sidi, Hamad Ould Abeid and Joumoua Ould Souelim.

11 / See AMDH.

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# NIGER

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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During the transition period that followed the coup d'état in February 2010, a new legal and institutional framework more favourable for the respect of human rights appeared, civil society was given a new lease of life and no obstruction or intimidation was observed. However, three defenders continued to be subjected to judicial harassment for having denounced corruption or the constitutional reform in 2009.

## Political context

On February 18, 2010, the defence and security forces of Niger, combined within the Supreme Council for the Restoration of Democracy (*Conseil suprême pour la restauration de la démocratie* – CSRD) led by Lieutenant General Salou Djibo, overthrew President Mamadou Tandja who since 2009, had established a particularly repressive climate against people, including political opponents and the civil society who had denounced his anti-constitutional manoeuvring to ensure his stay in power. Mr. Tandja was placed in extra-judicial detention before being transferred to the civil prison in Kollo on January 16, 2011, in spite of the ruling on November 8, 2010, of the Court of Justice of the Economic Community of West African States (ECOWAS), confirming the arbitrary nature of the arrest and detention, and calling for his release<sup>1</sup>.

Unexpectedly, the military junta subsequently succeeded with the adoption of a new Constitution<sup>2</sup>, creating new institutions and organising general elections that permitted the return of a civil regime. In fact, the two-round presidential elections, which took place on January 31 and March 12, 2011, resulted in the victory of the “historic” opposition leader of the Nigerien Party for Democracy and Socialism (*Parti nigérien pour*

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1/ Charged with “misappropriation of public funds” and “violation of the Constitution”, Mr. Tandja was finally released on May 10, 2011, after Niamey Appeal Court Prosecution Chamber quashed all proceedings against him. Similarly, several officials of the National Movement for the Development of Society (*Mouvement national pour la société de développement* - MNSD), the managing directors of state enterprises and the military officers who had refused to join the authors of the coup, were arrested for “subversive activities” on March 28 and 29, 2010. Since then, they all have been released.

2/ On November 25, 2010, the new Constitution creating the Seventh Republic of Niger was promulgated, after being approved by referendum on October 31, 2010 by over 90% of the electors. The new text reaffirmed the principle of the limitation of the presidential mandate, specifying that the Head of State is elected for five years and may only be re-elected once.

*la démocratie et le socialisme* – PNDS), Mr. Mahamadou Issoufou, with nearly 58% of the vote<sup>3</sup>.

During this phase of political change, a new legal and institutional framework appeared which was more favourable for the respect of human rights. The new Constitution introduced basic standards of respect for economic and social rights, such as the right to safe and adequate food, and the right to drinking water<sup>4</sup>. It also adopted the principle of the elimination of all forms of discrimination against women and the fight against the violence of which they are victims, and provides for the implementation of specific policies to give women access to public institutions. In addition, on June 4, 2010, the Government adopted a preliminary draft text on decriminalisation of press offences, replacing prison sentences with the payment of fines. On June 14, 2010, the main private radio station in Agadez, *Sahara FM*, was re-opened with the approval of the National Communication Observatory (ONC), after a two-year broadcasting ban.

### **Continued judicial harassment of a journalist who denounced corruption**

In 2010-2011, a journalist who denounced corruption continued to be subjected to judicial harassment. At the end of April 2011, Mr. **Ali Soumana**, Director of the weekly newspaper *Le Courrier*, was still under conditional release while he waited for his trial. He had been arrested on August 1, 2009, along with seven other directors of publications, for implicating one of the sons of President Tandja in a case of corruption related to the signing of a mining contract. They had been all released without charge on the same day, with the exception of Mr. Ali Soumana who was released at a later date to wait for his trial, and the director of another publication who had been sentenced to three months in prison on August 18, 2009, for “throwing discredit on a jurisdictional act”<sup>5</sup>.

### **Continued judicial harassment of two defenders who denounced the reform of the Constitution in 2009**

In 2010, two defenders who had denounced the constitutional reform in 2009, continued to be subjected to judicial harassment. After he had

3/ The parliamentary elections on January 31, 2011, gave rise to the induction on March 30, 2011, of a new National Assembly made up amongst others, of members representing the PNDS, MNSD and the Nigerien Democratic Movement (*Mouvement démocratique nigérien* - MODEN).

4/ These provisions are very important in a country where most of the population lives in a situation of food insecurity and where there is inadequate access to drinking water to the extent that around 50% of the population has no access to it. See United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, United Nations document A/HRC/WG.6/10/NER/2, October 18, 2010.

5/ See Annual Report 2010.

spoken against the reform of the Constitution in June 2009<sup>6</sup>, on January 25, 2010, the Niamey Appeal Court sentenced Mr. **Marou Amadou**, President of the United Front for the Protection of Democracy (*Front uni pour la sauvegarde des acquis démocratiques* – FUSAD) and the Independent Advisory and Orientation Committee for the Defence of Democratic Gains (*Comité de réflexion et d'orientation indépendant pour la sauvegarde des acquis démocratiques* – CROISADE), a member of the national board of the Network of Organisations for Transparency and Budget Analysis – Publish What You Pay (*Réseau des organisations pour la transparence et l'analyse budgétaire – Publiez ce que vous payez* – ROTAB PCQVP Niger), to a suspended three-month prison sentence for “regionalist propaganda”. The lawyers of Mr. Amadou, who was accused of “participation in the creation and/or administration of a non-declared association”, “inciting the defence and security forces to disobey” and “conspiracy against State authority”, filed an appeal before the Supreme Court. The case was subsequently closed. In addition, at the end of April 2011, the case opened against Mr. **Wada Maman**, Secretary General of the Nigerien Association for the Fight against Corruption (*Association nigérienne de lutte contre la corruption* – ANLC), an active member of ROTAB PCQVP and Secretary General of FUSAD, was still pending before the Niamey High Criminal Court. Mr. Maman, who had been arrested in Niamey in 2009 and prosecuted for “participation in an unauthorised demonstration” and “destruction of a bridge, public monuments and an administrative vehicle”, consequently remained under provisional release.

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

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Marou Amadou	Sentencing / Judicial harassment	Urgent Appeal NER 001/0709/ OBS 095.8	January 26, 2010

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# RWANDA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In Rwanda, while serious obstacles to freedom of expression and opinion marked the pre-election period, several journalists who denounced cases of human rights violations were subjected to acts of harassment in 2010. Freedom of association also remained restricted in many respects and a lawyer working to defend political opponents barred by the regime was the victim of judicial harassment.

## Political context

In a context of tense security and severe repression against all forms of opposition, Mr. Paul Kagame was re-elected as President of the Republic on August 9, 2010 for a second seven-year term after ten years in power, obtaining 93% of the vote. The pre-election period was marked by a clear denial of freedom of expression and opinion with the systematic closure of independent news media and constant harassment against members of the opposition and journalists who were critical of the Government. On July 26, 2010, one week before the presidential election, the High Media Council, the State's press regulatory body, announced the suspension of thirty media bodies, and at the same time invited nineteen radio stations and 22 newspapers not affected by the suspension, since they fulfilled the criteria set out in the August 12, 2009 Law on the Media, to submit an operation permit application. On July 28, the same Council ordered the security forces to close down newspapers and radio stations that were found to be illegally operating<sup>1</sup>.

In order to muzzle dissident voices, the authorities also continued to intimidate opponents, journalists and human rights defenders, accusing them of "revisionism", "genocide ideology" or "divisionism", with no regard for the real arguments. Despite an announcement made by the Government in April 2010 that it would re-examine Law No. 18/2008 relating to "repression of the crime of genocide ideology" adopted on July 23, 2008, it was on these grounds that the leaders of the two main opposition parties – the new United Democratic Forces party (*Forces démocratiques unifiées* - FDU-Inkingi) and the Social Party (*Parti Social* - PS-Imberakuri) – were barred from the election process<sup>2</sup>.

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1/ See International Freedom of Expression Exchange (IFEX) Press Release, August 18, 2010.

2/ Whilst the President of FDU-Inkingi was arrested and placed under judicial supervision, the leader of PS-Imberakuri was sentenced in February 2011 to four years in prison. Furthermore, the Vice-President of the Democratic Green Party was murdered in July 2010 and as of the end of April 2011, his murder remained unpunished.

## Obstacles to freedom of association

In 2010-2011, the laws in force regarding the activities of non-profit-making organisations – Law No. 20/2000 of July 26, 2000 and Law No. 55/2008 of September 10, 2008 – continued to present obstacles to their activities. Indeed, these texts provide for two levels of registration for NGOs – on one hand with the local authorities, and on the other hand with the Minister of Justice – a procedure that can take up to one year and requiring an excessive number of documents to be transmitted to the administration. These texts also require decisions on NGO statutes to be approved by the Minister of Justice in order to be considered effective, that the legal representatives and their assistants must be subject to the same approval, and that “Government priorities” must be included in their missions<sup>3</sup>.

In this context, several attacks on freedom of association were noted in 2010. As an example, as of the end of April 2011, the Horizon Community Association (HOCA), which works to defend the rights of sexual minorities, in spite of several attempts, had still not obtained the approval that would enable it to exist legally<sup>4</sup>. In addition, international non governmental human rights organisations were the subject of criticism and slander in the pro-government press. The organisations Amnesty international, Human Rights Watch, the Commonwealth Human Rights Initiative, Reporters Without Borders (*Reporters sans frontières* - RSF) and the Committee for the Protection of Journalists (CPJ), in an article published on April 16, 2010 in the *New Times* newspaper, were termed as “human rights terrorists” for having condemned Law No. 18/2008<sup>5</sup>. More direct obstacles to the work of Human Rights Watch were also noted. On April 23, 2010, officials of the Directorate of Immigration rejected the application to renew the work visa of Ms. **Carina Tertsakian**, a Human Rights Watch researcher on Rwanda, forcing her to leave the country<sup>6</sup>.

## Attacks and harassment against journalists who denounce human rights violations

In 2010, several journalists who denounced cases of human rights violations were the target of attacks and harassment. On April 13, 2010, the High Media Council decided to suspend the two main independent Kinyarwanda language weekly newspapers, *Umuseso* and *Umuwugizi*, for

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3/ See International Centre for Non-Profit Law (ICNL).

4/ See Rwandan League for the Promotion and Defence of Human Rights (LIPRODHOR).

5/ See Amnesty International Report, *Safer to stay silent: The chilling effect of Rwanda's laws on 'genocide ideology' and 'sectarianism'*, August 31, 2010.

112 6/ See Human Rights Watch Press Release, August 2, 2011.

six months. Known for their criticism of President Paul Kagame and his administration on political issues or matters relating to human rights and to corruption, these two newspapers were accused of “inciting insubordination in the army and the police to the orders of their chiefs”, “publishing information that endangers public order”, “spreading rumours”, “defamation” and “invasion of privacy”. However, no specific article was cited in support of this sanction<sup>7</sup>. In addition, in the evening of June 24, 2010, Mr. **Jean Léonard Rugambage**, the Rwanda correspondent of the regional press freedom organisation Journalists in Danger (*Journalistes en danger* - JED) and Deputy Editor of *Umuwugizi*, was murdered when he was driving to his home in Kigali. Mr. Rugambage was the last *Umuwugizi* journalist still working in the country. Shortly beforehand, he had told his colleagues that he was being tailed and had received death threats. On the same day, Mr. Rugambage had stated in an online article that agents of the Rwandan intelligence services could be involved in the attempted murder of the former chief of staff of the Rwandan army, General Kayumba Nyamwasa, on June 19, 2010 in Johannesburg, South Africa. On June 28, 2010, the Minister of Internal Security announced that the day after the murder, two suspects whose identity was not revealed, had been arrested and that one of them had confessed to be guilty, explaining that it was an act of vengeance against the journalist, whom he held responsible for the death of his brother during the 1994 genocide. On October 29, 2010, the High Court of the Republic sentenced the two defendants to life imprisonment, which, according to the High Media Council in Kigali, removed all suspicion of the authorities’ involvement in the death of the journalist<sup>8</sup>. Furthermore, on July 8, 2010, Ms. **Agnès Uwimana Nkusi** and Ms. **Saidath Mukakibibi**, respectively the Editor and journalist with the privately owned bimonthly Kinyarwanda language newspaper *Umurabyo*, were arrested by the police and placed in provisional detention in Remera police station in Kigali for “inciting civil disobedience”, “insulting the Head of State”, “spreading false rumours” and “denying the Tutsi genocide” after publishing articles analysing and asking questions about several sensitive subjects such as the murder of the journalist Rugambage, government expenditure on the purchase of luxury jets, the attempted murder of General Nyamwasa and justice for the 1994 Hutu victims. On February 4, 2011, the High Court of the Republic found Ms. Agnès Uwimana Nkusi guilty of “threatening state security”, “genocide ideology”, “divisionism” and “defamation”, and Ms. Saidath Mukakibibi guilty of “threatening state security”, and sentenced them respectively to seventeen and seven years

7/ See LIPRODHOR and RSF Press Release, April 14, 2010.

8/ See LIPRODHOR and CPJ Press Release, June 29, 2010.

in prison<sup>9</sup>. Finally, on December 14, 2010, during a forum on human rights in Rwanda, General Richard Rutatina publicly accused Mr. **Nelson Gatsimbazi**, Editor of the bimonthly Kinyarwanda language newspaper *Umusingi*, of working with “enemies of the State” stating that he had received funding from abroad to spread “lies and rumours”. This accusation was made in response to a question asked by the journalist concerning the practise of prolonged pre-trial detention, referring in particular to the case of Lieutenant-Colonel Rugigana Ngabo, one of the brothers of former General Faustin Kayumba Nyamwasa<sup>10</sup>.

### Judicial harassment against lawyers

In a particularly repressive and violent pre-election climate, lawyers defending political opponents barred by the regime, were also targets of harassment. As an example, on May 28, 2010, Professor **Peter Erlinder**, an American lawyer and President of the Association of Defence Lawyers (*Association des avocats de la défense - ADAD*) at the International Criminal Tribunal for Rwanda (ICTR), was arrested by the police for “genocide ideology”, “revisionism” and “denial of the Tutsi genocide”. Mr. Erlinder arrived in Kigali on May 23, 2010 to help in defending the leader of FDU-Inkingi, Ms. Victoire Ingabire Umuhoya, who was standing as presidential candidate in August 2010, and who was accused of “genocide ideology” and of “minimising the genocide”, as well as of “ethnic divisionism” and “collaboration with a terrorist organisation”. The arrest of Mr. Erlinder occurred three days after the American Government expressed concerns to the Rwandan authorities about “a series of disturbing events” that constituted attempts to restrict freedom of expression in the run-up to the presidential election on August 9, 2010<sup>11</sup>. On June 7, the Kigali Court rejected the request to release Mr. Erlinder. On June 16, ICTR called for his immediate release on the principle of immunity as an associate of this body, since the charges against him related to his work at ICTR’s Arusha headquarters. On June 17, 2010, Mr. Erlinder was released on bail for health reasons, with permission to return to the United States, on the sole condition that he should leave an address with the Rwandan authorities so that he could be contacted if required<sup>12</sup>.

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9/ See Amnesty International Press Release, February 5, 2011.

10/ See CPJ Press Release, December 16, 2010.

11/ Furthermore, on April 30, 2010, he also filed a complaint for “death in suspicious circumstances”, on behalf of the two widows of the former Rwandan and Burundian Heads of State before a Federal Court in Oklahoma, USA, against Mr. Paul Kagame, accusing him of having ordered the destruction on April 6, 1994, of the aircraft aboard which were former President Habyarimana and his Burundian counterpart.

12/ See LIPRODHOR.



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# SENEGAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010, relations between the regime and civil society became tense given that the latter was more and more considered by the authorities as part of the political opposition and given the attempts of the Government to control the activities of NGOs. Meanwhile, journalists who denounced acts of corruption continued to be subjected to judicial harassment in 2010-2011. Finally, several peaceful demonstrations organised by civil society organisations were banned and repressed in 2010.

## Political Context

Civic protest movements against Government management of social issues intensified in 2010-2011, with more frequent and sometimes violent demonstrations taking place both in the capital and across the country<sup>1</sup>. In this time of energy crisis and strong social discontent, on October 4, 2010, President Abdoulaye Wade fired his Minister of Energy and appointed to the position, his son and adviser, Mr. Karim Wade. Mr. Karim Wade had already been appointed Minister of State shortly after the success of the opposition in the March 2009 municipal elections. This cabinet reshuffle, considered by some as a confirmed volition to install a “dynasty” power, came to be seen in an already enlivened political debate over the legality of a new candidature of the President in 2012, as the Constitution does not allow a third term.

In 2010-2011, the reluctance of the Senegalese President to try Mr. Hissène Habré, the former Chadian dictator who has been living in exile in Senegal for over 20 years and who is accused of “war crimes”, “crimes against humanity” and “crimes of torture”, provoked a strong reaction within the international and African civil society. Indeed, on December 11, 2010, the President publicly stated that he “regretted” having accepted the case and declared his intention to “get rid” of it because of the lack of support<sup>2</sup>.

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1/ These demonstrations were firstly to protest against the high cost of living, poor living conditions, electrical power outages and inadequate access to clean drinking water, but were also held to press for better disaster preparedness and management in order to reduce the risk of flooding in vulnerable communities.

2/ On November 24, 2010, international donors meeting in Dakar released funds covering the entire provisional budget of the trial estimated at 5,6 billion CFA francs (about 8,6 million euros). At its summit held in Addis Ababa on January 31, 2011, the African Union (AU) confirmed the task of organising the trial that it had entrusted to Senegal five years earlier. On March 24, 2011, Senegal and the AU announced agreement on the creation of an ad hoc international court to try Mr. Habré and fixed another meeting in April to finalise the statutes and regulations of the court. By the end of April, these documents had not been finalised. See Senegalese League for Human Rights (*Ligue sénégalaise des droits de l'Homme* - LSDH) and the African Assembly for the Defence of Human Rights (*Rencontre africaine pour la défense des droits de l'Homme* - RADDHO).

The working conditions of journalists improved following the adoption by the Council of Ministers on September 16, 2010 of a draft law on a new Press Code, which decriminalises press offences – a major innovation<sup>3</sup>. Moreover, the summons of journalists by the Criminal Investigation Division (*Division des investigations criminelles* - DIC) for questioning about their work slightly reduced. However, independent media continued to face acts of intimidation, police violence and judicial harassment<sup>4</sup>.

### **NGOs considered as part of the opposition and State attempts to control their activities**

At the end of 2010, relations between the authorities and the civil society became tense in a context in which the latter was increasingly considered as part of the opposition and where the State was trying to control the activities of human rights organisations. On October 1, 2010, at a ceremony to celebrate the 20<sup>th</sup> anniversary of the African Assembly for the Defence of Human Rights (*Rencontre africaine pour la défense des droits de l'Homme* - RADDHO), Prime Minister Ndéné Ndiaye who presided over the event, qualified the RADDHO Secretary General **Alioune Tine** as being close to the opposition. He reiterated this statement several times early in 2011<sup>5</sup>. In addition, by a presidential decree of October 20, 2010, the number of State-appointed members of the Public Procurement Regulatory Council was doubled, while the three members of Civil Forum (*Forum civil*) – the Senegalese section of the NGO Transparency International – were excluded from their seats in the council, on the grounds that they were a disruptive presence because of their systematic denunciations of bad governance practices contrary to the principle of transparency and the fight against corruption. Without the presence of Civil Forum representatives in the council, it became virtually impossible for NGOs to access information on this question<sup>6</sup>. Furthermore, on December 17, 2010, the President signed a new decree modifying Decree No. 96-103 of February 8, 1996, which established the regulatory framework governing NGO activities, by placing NGOs henceforth under the authority of the Interior Ministry rather than the Ministry of Social Development as it was previously the case. This decision was strongly criticised by the NGO Council of Development Support (*Conseil des ONG d'appui au développement* - CONGAD)<sup>7</sup>, which fears that this measure aims to place the organisations of the civil society under

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3/ This draft legislation, which was still under consideration by the National Assembly at the end of April 2011, stipulates that prison sentences will be replaced by financial sanctions or by the withdrawal of a journalist's press card.

4/ See LSDH and RADDHO.

5/ See RADDHO.

6/ *Ibid.* at 4.

116 7/ Created in 1982, CONGAD comprises 178 international and national NGOs.

the tutelage of a ministry considered as the police arm of the State, and therefore seeks to muzzle and control them.

### **Intimidation and judicial harassment against journalists who denounce corruption**

While a revision of the Press Code was awaited, journalists who recorded and denounced acts of corruption continued to be subjected to judicial harassment in 2010-2011. Thus, while his appeal against the Director of the Senegalese company Lonase games was still pending as part of a previous conviction for “spreading false news”<sup>8</sup>, the investigative journalist **Mr. Abdoulatif Coulibaly**, Editor of the magazine *La Gazette*, a former member of the Council for Ethics and Deontology (*Comité d’observation des règles éthiques et de déontologie* - CORED) Executive Committee, and Director of the Higher Institute of Information and Communication (*Institut supérieur des sciences de l’information et de la communication* - ISSIC), was convicted on November 16, 2010 for “defamation” by the Criminal Court of Dakar, and given a one-month suspended sentence and a 20 million CFA francs (about 30,489 euros) fine. The charges arose from the publication of two articles in *La Gazette* on May 27 and June 3, 2010, in which Mr. Thierno Ousmane Sy, adviser to the Head of State for Information and Communication Technologies, was accused of having received substantial commissions for the sale of the third telephone licence in the country to the private Sudanese telecommunication group Sudatel. In addition, his colleagues, Messrs. **Aliou Niane** and **Alioune Badara Coulibaly**, co-authors of the articles, were sentenced to the same penalties for “complicity in defamation”. The three journalists appealed, but as of late April 2011, the Criminal Chamber of the Court of Appeal in Dakar had not yet scheduled a hearing<sup>9</sup>. In relation with this issue, on June 5, 2010, some policemen broke into the publishing premises of the independent daily *Le Populaire*, and confiscated some of its printing equipment. The apparent purpose of this action was to prevent publication of a petition by Mr. Bara Tall, a shareholder of the COM7 group that owns *Le Populaire*, demanding the opening of judicial proceedings in relation to the Sudatel transaction<sup>10</sup>. On October 5, 2010, a number of individuals entered the house of Mr. Abdoulatif Coulibaly and took away his laptop, his two

8/ See Annual Report 2010 of the Observatory.

9/ While the case was still being deliberated, the day after the trial held on September 14, 2010, the Public Ministry sent a confidential note to the Minister of Justice, also father of the complainant, Mr. Cheikh Ousmane Sy, in which it specifically requested that the guilt of Mr. Coulibaly should be recognised. Made public by the Senegalese press, this note was denounced by the defence as an injunction to judges and evidence of interference in the judicial system, seriously undermining the principles of a fair trial. See RADDHO and LSDH.

10/ See International Freedom of Expression Exchange (IFEX) Press Release, June 11, 2010 and LSDH.

phones and his vehicle, which was found later the same day. The phones were not found until later, as was the laptop in which files were found to have been destroyed, including a proposed paper on the human rights situation in Senegal. After Mr. Coulibaly filed a complaint, an investigation was opened and several people were arrested before being released, with the exception of one person who was convicted on November 19, 2010 for “receipt of stolen goods” and sentenced to two years and three months of imprisonment, and ordered to pay 4 million CFA francs (about 6,100 euros) in damages to the plaintiff<sup>11</sup>. On December 9, 2010, Mr. Coulibaly was again summoned to appear before the Criminal Court of Dakar along with two journalists, Messrs. **Bocar Sakho** and **Mbaye Makébé Sarr**, for “defamation” and “complicity”. All three were cited in a complaint filed by Mr. Abbas Jaber, a friend of the Head of State and General Manager of Suneor, Senegal’s leading food company specialising in oilseeds, who following the publication of two articles in *La Gazette* on May 20 and 27, 2010, claimed 500 million CFA francs (about 762,245 euros) in damages<sup>12</sup>. On February 24, 2011, counsel for the complainant requested 2 billion CFA francs (about 3,048,980 euros) in damages, before the prosecutor asked for a six months suspended prison sentence. On April 14, 2011, Messrs. Coulibaly, Sakho and Sarr were convicted for “defamation, public insults and complicity” by the Criminal Court of Dakar, to the prejudice of the complainant. They each received a three-month suspended prison sentence and were ordered to pay jointly to the plaintiff 10 million CFA francs (about 15,245 euros) in damages<sup>13</sup>.

### Violations of freedom of peaceful assembly

While peaceful marches are protected by Article 10 of the Constitution as a form of exercising freedom of expression, several marches and peaceful demonstrations organised by various civil society groups were banned and repressed in 2010. For example, the peaceful demonstration organised by the Hann Maristes Collective of Associations (*Collectif des associations de Hann Maristes*), a group defending the rights of local residents of the Hann Marist region and protection of the environment, to protest against

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11/ See RADDHO.

12/ These newspaper articles revealed a plan to sell 80% of the land assets of the company, which according to the authors would result in an estimated profit of 65 billion CFA francs (about 251,195,921 euros) while it had only cost 8 billion CFA francs (about 12,195,921 euros), thus constituting a breach of the protocol between the company and the State of Senegal, which does not allow the sale of its land before February 2012. According to the journalists, any regime change following the forthcoming presidential election could result in the State repossessing this land. This is why, Mr. Jaber would like to sell the company, which despite having received a State subsidy of 6 billion CFA francs (about 9,146,941 euros) to ensure the marketing of its peanuts has not recovered from its financial difficulties. See LSDH.

the allocation of a portion of the perimeter of the local artificial lakes to real estate developers, was banned by the Prefect of Dakar on May 21, 2010, a day before it was due to take place. On May 22, 2010, the inhabitants of the Hann Marist region gathered to express their dissatisfaction with the proposed destruction and occupation of the site harbouring artificial lakes – a protected natural zone where no building was allowed according to the urban planning directives in force – to construct a gas station. In the view of Hann Marist residents, this project would have harmful consequences for the environment and their health, for example through the release of hazardous substances in lakes, noise and the risk of flooding caused by cutting down trees. National police units were deployed to prevent the march and the crowd was dispersed within a few hours. In addition, on May 25, 2010, the Coordinator of the Hann Marist group, **Mr. Aliou Diakhaté**, was invited to meet the Prefect to discuss their divergences regarding authorisation to hold the demonstration. However, on arrival at his office, Mr Diakhaté was greeted by members of the Hann Marist gendarmerie who arrested him for “disturbing public order”. He was detained for 48 hours at the gendarmerie and deferred to the Dakar Prosecutor in Dakar, who decided to release him without charge two days later<sup>14</sup>.

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14/ See Hann Maristes Collective of Associations Open Letter to the authorities, June 6, 2010, LSDH and RADDHO.

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# SOMALIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010-2011, in southern and central Somalia, many humanitarian organisations had to close offices or restrict their activities, and the few human rights defenders who continued to operate, increasingly faced travel restrictions and arrests. Journalists also remained in the frontline and faced arrest and intimidation for reporting on human rights violations.

## Political context

Somalia remained highly divided with its territory controlled by different forces. The north of the country was still divided between Puntland, an autonomous region, and Somaliland, a self proclaimed but not internationally recognised Republic. The Transitional Federal Government (TFG), despite support by the African Union Mission in Somalia (AMISOM) troops<sup>1</sup>, lost control over further territory in southern and central Somalia to Al-Shabab and other insurgents groups, which now control most of these regions. Key objectives assigned to the TFG, which mandate is due to expire in August 2011<sup>2</sup>, such as restoring peace and drafting a Constitution to be adopted by popular referendum, remained to be implemented. On the ground, the fighting intensified between TFG forces and Islamist insurgents. The humanitarian and human rights situation drastically deteriorated. From January to September 2010, at least 908 civilians were killed and 2,905 injured, mostly by shelling in Mogadishu<sup>3</sup>. Indiscriminate violence and frequent attacks against civilians continued, as well as the widespread recruitment of child soldiers and sexual and gender-based violence. It led to the new displacement of more than 300,000 people within Somalia in 2010, with a total of about 1,500,000 internally displaced persons (IDPs)

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1/ On December 22, 2010, the Security Council authorised the AMISOM force to maintain its deployment until September 2011 and to increase its strength to 12,000 troops. See Security Council Resolution, UN Document S/RES/1964, December 22, 2010.

2/ On February 3, 2011, the Transitional Parliament, by a vote, unilaterally extended its own mandate for three years “without the required level of discussion and consultation on how to end the transition and on the next political dispensation after August 20, 2011”, according to the UN Special Representative for Somalia. See UN Special Representative for Somalia, Augustine P. Mahiga, Statement, February 4, 2011.

3/ See UN High Commissioner for Human Rights Statement, September 29, 2010.

at the end of 2010<sup>4</sup>. In areas under control of Al-Shabab, execution for alleged spies, amputation of suspected thieves, beating or other types of extrajudicial punishment for breaching orders on social behaviour or dress codes such as bans on playing music, were among the violations reported<sup>5</sup>. Due to the threats, restrictions and intimidations faced by human rights defenders, humanitarian workers and journalists, particularly in the area under control of Al-Shabab, there was a clear deficit of information on the human rights situation.

There was a relative stability in the self proclaimed Republic of Somaliland in the north of the country where the incumbent President Dahir Riyale was defeated during elections which, after a number of delays, finally took place in June 2010. The electoral process was considered free and fair by international observers<sup>6</sup>. An opposition candidate, Mr. Ahmed Mohamed Mohamoud “Silanyo”, was sworn in on July 27, 2010. Another positive aspect was the promulgation, on October 30, 2010, of the legislation creating a Human Rights Commission<sup>7</sup>. In the autonomous region of Puntland, the situation was more volatile with political violence and recurrent clashes among clans. In both Puntland and Somaliland, growing concerns arose from the creation of new rebels groups, with alleged connections to Al-Shabab<sup>8</sup>.

According to the National Union of Somali Journalists (NUSOJ), three journalists were killed and six wounded in 2010, either during fighting or as a result of a targeted attack<sup>9</sup>. Many were arrested and intimidated by Al-Shabab and other insurgent groups but although, to a lesser extent, by TFG forces and Puntland authorities. In addition, media houses were

4/ See Internal Displacement Monitoring Centre (IDMC) Report, *Internal Displacement: Global Overview of Trends and Developments in 2010 - Somalia*, March 23, 2011. In April 2011, the United Nations High Commissioner (UNHCR) announced that 33,000 persons had been displaced by the fighting in the past six weeks. See UNHCR News Stories, *Fighting in Somalia displaces some 33,000 people over past six weeks*, April 8, 2011. Moreover, at the beginning of March 2011, the UN Independent Expert on the Human Rights Situation in Somalia warned that “the drought is now a cause for displacement in Somalia, in addition to conflict”. See UN Independent Expert on the Human Rights Situation in Somalia Press Release, March 2, 2011. Between November 2010 and April 2011, the number of people in Somalia needing humanitarian assistance and livelihood support has reached 2.4 million, an increase of 20%. See Secretary General Report, *Report by the Secretary-General on Somalia*, UN Document S/2011/277, April 28, 2011.

5/ See General Assembly Report, *Report of the independent expert on the situation of human rights in Somalia, Shamsul Bari*, UN Document A/HRC/15/48, September 16, 2010.

6/ See UN Security Council Report, *Report of the Secretary-General on the situation in Somalia*, UN Document S/2010/447, September 9, 2010.

7/ See UN Security Council Report, *Report of the Secretary General on the situation in Somalia*, UN Document S/2010/675, December 30, 2010.

8/ See UNHCR, *UNHCR 2011 country operations profile - Somalia*.

9/ See NUSOJ Annual Report 2010.

forced to implement orders of Islamic groups such as not playing music or broadcasting *BBC* news and broadcast their propaganda. While those which did not comply with the orders were ransacked, the TFG threatened to close down the ones which were complying considering that they were cooperating with the insurgents<sup>10</sup>.

### **Threats and intimidation against human rights defenders in southern and central Somalia**

In 2010, humanitarian staff continued to work in a very difficult environment in southern and central Somalia as, in addition to the ongoing armed fighting, they faced restrictions in their movements and activities as well as targeted attacks, particularly in areas controlled by Al-Shabab. As a result, humanitarian organisations had to pull out or to limit their activities in those regions. For instance, in January 2010, the World Food Program (WFP) was forced to suspend the delivery of food assistance in southern Somalia due to increased targeting of its staff and non governmental partners, and unacceptable demands by Islamic militia groups. Indeed, in December 2009, Al-Shabab requested, among other demands, the banning of women from working for the United Nations and the payment of 30,000 US dollars (about 20,742 euros) every six months for the security of United Nations staff. After the United Nations rejections of these conditions, Al-Shabab issued a directive banning, from January 2010, food coming from abroad<sup>11</sup>. In addition, since January 2010, approximately one hundred UN staff members have been relocated from duty stations in southern and central Somalia<sup>12</sup>. Organisations that continued to work there faced different types of assaults. For instance, in July 2010, the compound of WFP and the houses of six of its national staff in Wajid were seized by Al-Shabab, which also attempted to loot non-food items from the WFP compound in Buuale<sup>13</sup>. Furthermore, several international NGOs operating in areas under control of Al-Shabab had to suspend their operation upon order of the militia. For instance, in August 2010, World Vision International (WVI), the Adventist Development and Relief Agency (ADRA) and Diakonia were accused by Al-Shabab of propagating Christianity in Somalia and consequently forced to stop their operations<sup>14</sup>.

10/ See Reporters Without Border (RSF), NUSOJ and CPJ.

11/ See Human Rights Council Report, *Report of the independent expert on the situation of human rights in Somalia, Shamsul Bari*, UN Document A/HRC/13/65, March 23, 2010.

12/ See UN Security Council Report, *Report of the Secretary-General on the situation in Somalia*, UN Document S/2010/234, May 11, 2010.

13/ See UN Security Council Report, *Report of the Secretary-General on the situation in Somalia*, UN Document S/2010/447, September 9, 2010.

14/ See ADRA and World Vision Press Releases, August 9, 2010 and OCHA, Somalia Humanitarian Overview Vol. 4 Issue 2, February 2011.



On September 15, 2010, Mercy Corps, Med-Air and Horn Relief were ordered to close by Al-Shabab Banadir administration, who accused them of having too close ties with the United States<sup>15</sup>.

Similarly, the few human rights defenders who continued to operate in southern and central Somalia were in an increasingly difficult situation, their movements being restricting due to the ongoing fighting and the few still operating in militia's controlled area being targeted by all actors involved in the conflict<sup>16</sup>. For instance, on April 16, 2010, Mr. **Alin Hilowle Hassan**, the Director of the Isha Human Rights Organisation, based in Baidoa, was arrested at his house in Baidoa and taken to a local police station by Al-Shabab militiamen. His computer equipment was taken. He was transferred to Mogadishu and then back in Baidoa and reportedly tortured in detention. He managed to escape in October 2010. Al-Shabab had accused the Isha Human Rights Organisation of spying for foreign powers before his arrest and had already seized equipment from their offices in Baidoa<sup>17</sup>.

### Severe attacks on journalists reporting on human rights violations

Journalists reporting on human rights violations also remained on the front line as they were subjected to a number of attacks that clearly aimed at preventing them from reporting on human rights violations. For instance, on July 1, 2010, Mr. **Mustafa Haji Abdinur**, an *Agence France-Presse* correspondent, and Mr. **Yusuf Jama Abdullahi**, an independent cameraman, were arrested while they were covering shooting between Al-Shabab militia and the TFG forces. They were detained for several hours by the Somali security forces in Mogadishu and forced to erase their photos including those they took of a journalist who was wounded during the clashes<sup>18</sup>. On February 21, 2010, Mr. **Ali Yussuf Adan**, a correspondent of *Radio Somaliweyn*, was arrested by Al-Shabab militiamen in Walnlaweyn district, Lower Shabelle region. He was released on March 2, 2010. A day before his arrest, he had reported about the alleged killing by Al-Shabab of a man for being late at a Saturday prayer<sup>19</sup>. In June 2010, Mr. **Mohammed Ibrahim**, a *New York Times* correspondent in Somalia and Programme Coordinator at NUSOJ, received threats from government security forces following the publication of an article he wrote about the recruitment and

15/ See OCHA, *Protection Cluster Update*, September 17, 2010.

16/ See General Assembly, *Report of the Independent Expert on the Situation of Human Rights in Somalia*, Shamsul Bari, UN Document A/HRC/15/48, September 16, 2010.

17/ See East and Horn of Africa Human Rights Defenders Project (EHAHRDP) and Amnesty International Press Release, April 19, 2010.

18/ See RSF and Committee to Protect Journalists (CPJ).

19/ See NUSOJ Annual Report 2010.

use of children by government forces. He fled the country after attempted arrest by the security forces. However, Mr. Ibrahim returned to Somalia in September 2010 after obtaining guarantee by the Government<sup>20</sup>. In Puntland, Mr. **Mohamed Yasin Isak**, a *Voice of America* correspondent, was arrested at his house in Galkayo by the Puntland Intelligent Services (PIS) on December 21, 2009. He was held in detention at the PIS in the port city of Bossasso until December 22 and then transferred to the PIS headquarters in Galkayo. He was released on January 7, 2010. No charges was pressed against him. Before his arrest, Mr. Mohamed Yasin Isak had reported on the crackdown by the Government against the IDPs from southern Somalia<sup>21</sup>.

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20/ See International Press Institute and CPJ.

21/ Mr. Mohamed Yasin Isak had already been shot at by a policeman in November 2009 and briefly detained in August 2009 after reporting on allegations that the son of a former Governor was involved in a killing. See *Voice of America* Press Release, January 7, 2010 and NUSOJ.

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# SUDAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010-2011, in the run-up to the referendum on Southern Sudan independence, repression intensified against all dissenting voices, largely conducted by the National Intelligence and Security Services (NISS). As in previous years, crackdown on human rights activists aimed at preventing any independent reporting on the human rights situation in Darfur continued, and humanitarian workers working in that region were subjected to further attacks and restrictions on freedom of movement. Journalists reporting on human rights violations also faced censorship and harassment. Human rights defenders promoting fair, transparent and free electoral processes and a number of women's rights defenders were also targeted.

## Political context

Although crucial steps for the implementation of the 2005 Comprehensive Peace Agreement (CPA)<sup>1</sup> were undertaken in 2010 and 2011 with the organisation of the first multi-party general elections since 24 years in 2010<sup>2</sup> and the referendum on the independence of Southern Sudan in January 2011, President Omar Al Beshir – who is currently subject to two arrest warrants by the International Criminal Court (ICC) for “war crimes”, “crimes against humanity” and “genocide” committed in Darfur<sup>3</sup> – was re-elected on April 26, 2010 in a process marred by widespread irregularities and human rights violations both in the north and in the south<sup>4</sup>. On the same day, Mr. Salva Kir was confirmed as President of the Government of Southern Sudan.

In addition, in the run up to the referendum on Southern Sudan independence, repression intensified against all dissenting voices, largely conducted by the National Intelligence and Security Services (NISS),

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1/ The CPA brought an end to twenty years of civil war between the Sudanese Government and the Sudan People's Liberation Army (SPLA).

2/ Elections were held on the same day for the President of the Republic of Sudan, the President of the Government of Southern Sudan, the Governors of the 25 States, the Members of the National Legislative Assembly, the Members of the Southern Sudan Legislative Assembly and Members of State Legislative Assemblies.

3/ On July 12, 2010, the ICC Pre Trial Chamber issued a second arrest warrant for Mr. Omar Al Beshir on charges of “genocide” committed in Darfur.

4/ See African Centre for Justice and Peace Studies (ACJPS) Report, *Sifting through Shattered Hopes: Assessing the Electoral Process in Sudan*, May 2010. In addition there was little competition, since a few days before the elections several opposition political parties withdrew from the presidential elections including the Sudan Peoples' Liberation Movement (SPLM), Umma Party, and the Sudan Communist Party.

which retain the power of arrest and detention under the 2010 National Security Act. In May 2010, the NISS resumed pre-print censorship, a practice that President Al Beshir had lifted through decree in September 2009<sup>5</sup>. Repression culminated when, following popular revolts in Tunisia and Egypt, youth activists started organising peaceful protests across Northern Sudan calling for President Al Beshir to abdicate power and for the National Congress Party (NCP) to rescind austerity measures imposed to combat the economic effects of southern secession<sup>6</sup>. National security forces used pipes, tear gas and sticks against protesters in Khartoum, Omdurman, El Obeid, Wad Medani and Kosti. More than one hundred people were arrested on the first day of protest on January 30, 2011 and several were severely injured. Many of the detainees were tortured and released at different dates afterwards. More were arrested on the following days, including journalists and human rights defenders, before being subsequently released<sup>7</sup>. In addition, gender-based violence was used as a new tool to repress women demonstrators as several cases of protesters being raped were reported<sup>8</sup>.

From January 9 to 15, 2011, the referendum on the independence of Southern Sudan took place in a mostly peaceful environment and on February 7, 2011, the Electoral Commission announced that 98.83% of the voters had backed independence<sup>9</sup>. However, unresolved issues such as border demarcation, resource-sharing, citizenship and particularly the future status of Abyei area<sup>10</sup> could still “derail Sudan’s north-south peace process” as stated by the United Nations (UN) Expert on Human Rights in Sudan following the violent clashes that erupted there after the referendum<sup>11</sup>. Stability in Southern Sudan was also jeopardised by recurrent clashes in Jonglei between the Sudan People’s Liberation Army (SPLA) and a rebel group led by George Athor Den, a former SPLA member, which led in February 2011 to the displacement of 20,000 people and the killing of over 200 people, mostly civilians<sup>12</sup>.

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5/ See ACJPS.

6/ The protests were led by the “Youth of 30 January for Change Alliance”, a coalition of student movements such as Girifna, Nahoa Alshari and Aid ala Aid.

7/ An unknown number were charged by the police for “rioting” and released on bail, but the charges were still pending as of April 2011. See ACJPS.

8/ See No to Women Oppression Coalition Press Release, March 1, 2011 and ACJPS.

9/ See European Union Election Observation Mission Press Release, January 17, 2011.

10/ Abyei self-determination referendum to join either Northern or Southern Sudan was supposed to take place on January 9, 2011 but was postponed due to disagreement over voter eligibility.

11/ See UN News Service Statement, March 14, 2011. At least one hundred people were reportedly killed during violence at the beginning of March and up to 25,000 displaced. See Integrated Regional Information Networks (IRIN) Press Release, March 8, 2011.

12/ See Internal Displacement Monitoring Centre (IDMC) Statement, February 25, 2011.

While attention was focused on the referendum, the situation in Darfur was deteriorating, with intensified fighting between the Government and armed opposition movements, as well as among rebel factions. In September 2010, the Government, while highlighting its concern about the implications in Darfur of the referendum on the south independence and its new strategy on Darfur aiming at the return of internally displaced persons (IDPs) to their place of origin, launched large scale attacks in West Darfur<sup>13</sup>. The civilian population was increasingly victim of widespread human rights violations such as looting, destruction of property and villages, rape, arbitrary arrests, and killings and at the end of November 2010, 268,500 people were estimated to be newly displaced<sup>14</sup>.

### **Continued crackdown on human rights activists aimed at preventing any independent reporting on the human rights situation in Darfur**

In this context, and following several ICC decisions putting pressure on the Sudanese authorities regarding the situation in Darfur<sup>15</sup>, the Government took drastic measures to prevent any independent reporting on the region. Indeed, the attacks on human rights defenders aimed at paralysing the human rights movements in Darfur, which started in 2009 when the ICC began its proceedings against President Al Beshir, continued in 2010-2011. In particular, the Khartoum Centre for Human Rights and Environmental Development (KCHRED), the Amal Centre for the Rehabilitation of Victims of Torture and the Sudan Social Development Organisation (SUDO), NGOs that were dismantled by the authorities in 2009, could still not resume their activities in 2010-2011. On January 13, 2010, the Governor of Khartoum State rejected the appeal filed by KCHRED against its dismantlement, and KCHRED's appeal against this decision before the Administrative Court was still pending at the beginning of 2011. The Amal Centre did not file an appeal. On April 21, 2010, a Khartoum court reversed the 2009 Khartoum State's Humanitarian Aid Commissioner decision to cancel the registration and dissolve the SUDO. However, as of the end of April 2011, the Government was still refusing to return SUDO's assets, which meant it could not resume its activities. Moreover, on December 22, 2010, Dr. **Ibrahim Adam Mudawi**, former Chairperson of SUDO, was found guilty on appeal of "embezzlement"

13/ See ACJPS.

14/ See OCHA Press Release, November 2, 2010. For more details on the human rights violations committed in Darfur see ACJPS Report, *Rendered Invisible: Darfur Deteriorates as International Pressure Shifts to the Referendum Process*, February 2011.

15/ The Decision informing the UN Security Council about the lack of cooperation by the Republic of the Sudan issued in May 2010, the issuance of a second arrest warrant against the President Al Beshir in July 2010 as well as two decisions issued on August 27, 2010 informing the UN Security Council and the Assembly of the States Parties to the Rome Statute about President Al Beshir's visit in Chad and Kenya.

and sentenced to a one year suspended prison term and a fine of 3,000 Sudanese pounds (about 770 euros) by the judge who had acquitted him based on the same evidence in March 2009. Dr. Ibrahim Adam Mudawi was immediately taken to Kober prison, and transferred the following day to Soba prison. On January 25, 2011, the same court that sentenced him on December 22, 2010 upheld the conviction but decided that he should not serve his sentence. Neither Mr. Mudawi, who was consequently released, nor his lawyer were present at the hearing.

Furthermore, several human rights defenders working on Darfur were forced to flee the country after being arbitrarily arrested and receiving threatening messages. On January 16, 2010, Mr. **Abdel Amajeed Salih**, a human rights defender employed by the Khartoum office of the Darfur Transitional Authority, involved in the monitoring of human rights violations, was released after spending six months and fifteen days in Kober prison's political security section. During these six months of detention, Mr. Abdel Amajeed Salih was tortured. He was not charged with any crime. Upon release, the NISS ordered him to report weekly to their offices and he reported receiving threatening phone calls. On March 28, 2010, he was arrested again by NISS while working with the Carter Centre on elections observation and detained for several hours. He consequently fled the country in June 2010. On February 22, 2010, Mr. **Taj Albanan Taj Alasfya**, the Coordinator of the South Darfur section of the Justice Africa organisation<sup>16</sup>, was arrested at his office in the Imtedad area in Nyala by NISS agents and kept in detention until February 24, 2010. He was threatened with being re-arrested should he reveal the circumstances of his arrest and requested to cooperate with NISS on providing information on activities of NGOs in Nyala. He received several threatening messages after his release and finally fled the country at the end of September 2010<sup>17</sup>.

In an effort to completely stop any reporting on the region and the human rights violations taking place on a daily basis, in October and November 2010, the NISS conducted a crackdown on Darfurian human rights defenders and journalists. On October 30, 2010, Mr. **Abdelrahman Mohamed Al-Gasim**, the Legal Aid and Training Coordinator of the Darfur Bar Association, was the first one to be arrested in Suq al Arabia in Khartoum by NISS agents. The same day, the NISS conducted a raid

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16/ Justice Africa is an international NGO based in London and advocating for justice in Africa which runs a programme in Sudan and particularly about Darfur.

at the Human Rights and Advocacy Network for Democracy (HAND)<sup>18</sup>. They confiscated the organisation's equipment and arrested Messrs. **Abdelrahman Adam Abdelrahman** and **Dirar Adam Dirar**, respectively Deputy Director and Administrative Officer of HAND, as well as Ms. **Manal Mohamed Ahmed**, Ms. **Aisha Sardo Sharif**, Ms. **Aziza Ali Edris**, Ms. **Kuwather Abdelhag Mohamed**, and Messrs. **Abu Ghassim El Din**, **Zacharia Yacoub**, **Ibrahim Adam**, **Adam Alnour Aldam Momen Abdelrahman Adam** and **Khalid Ishag Mohamed Yosuf**, all members of the HAND network. On November 3, 2010, Mr. **Jaafar Alsabki Ibrahim**, a Darfuri journalist working for *Al Sabafa*, was arrested in a NISS raid on the newspaper's offices. All men were detained at Kober prison and the women at Omdurman women's prison. They were all released without charge on January 13 and 23, 2011, except for Messrs. Jaafar Alsabki Ibrahim and Abdelrahman Adam Abdelrahman, who remained in detention without charge as of the end of April 2011. The repression went so far as to harass individuals who had not yet published their writing, as happened to Ms. **Fatima Mohamed Alhassan**, a Darfurian employee of the Nyala tourism authority who was writing a book about accountability and justice in Darfur and was arrested by the Nyala's police in South Darfur on December 5, 2010. The police seized her notes including testimonies she had collected. On December 7, 2010, her relative and room-mate was also arrested. Both of them were taken to the central police station in Nyala and charged by the Military Intelligence of South Darfur of "undermining the constitutional system" and "waging war against the State", an offence that could be punished by the death penalty. On December 12, 2010, Ms. Fatima Mohamed Alhassan was interrogated by NISS for three hours before being returned to police custody. The following day, she was transferred to Nyala women's prison along with her relative. On January 25, 2011, the charges were modified to "participation in a terrorist or criminal organisation" pursuant to Article 65 of the Criminal Code and punishable by a sentence of a maximum of ten years<sup>19</sup>. Ms. Fatima Mohamed Alhassan and her relative were released on bail on January 16, 2011. As of April 2011, the case had not been referred to the court. In addition, as of April 2011, the case filed in 2009 by the NISS against Mr. **Abu Talib Hassan Emam**, a lawyer from El Geneina and a member of the Darfur Bar Association, under Article 53 of the Sudanese Criminal Act 1991 for "espionage against the country", was still pending without referral to the court.

18 / HAND is a coalition of nine grass roots Darfuri organisations that publicises monitoring reports about the situation of human rights in Darfur.

19 / See ACJPS.

## Ongoing attacks and restriction on freedom of movement of humanitarian workers in Darfur

The crackdown on human rights defenders was coupled with grave restrictions on humanitarian actions in the region. Humanitarian aid never fully recovered from the expulsion of thirteen international aid NGOs in March 2009 following an order of the Sudanese authorities as none of them were able to resume their activities. In addition, the Organisation of Voluntary and Humanitarian Act of 2006 remains in force and continued to be used to restrict the work of humanitarian groups. For instance, on January 22, 2010, the Humanitarian Act Commission revoked the licences of 26 relief groups<sup>20</sup> operating in Darfur while warning thirteen to conform to the law within thirty days<sup>21</sup>. In addition, in August 2010, two international staff members of the International Organisation for Migration (IOM) were ordered to leave the country by the authorities without explanation<sup>22</sup>. On February 22, 2011, the Governor of South Darfur ordered the NGO Doctors of the World France (*Médecins du monde* - MDM) to leave the country. As a result, the NGO stopped all its activities in Darfur<sup>23</sup>. Moreover, humanitarian staff who continued their activities in the region worked in a very difficult environment, facing attacks and abductions. African Union-United Nations Hybrid Operation in Darfur (UNAMID) staff members were particularly targeted. For instance “on October 7, 2010, the house of UNAMID staff was broken into. Three staff members were taken hostage, two of whom managed to escape within a few hours of being kidnapped. The other hostage was held for ninety days and finally released on January 5, 2011. On November 4, three aviation staff contracted by the World Food Programme, were kidnapped in Nyala, Southern Darfur. They escaped after 35 days in captivity”<sup>24</sup>. Humanitarians also faced increased restrictions to their freedom of movement and access to beneficiaries. For instance, in August 2010, after fighting started in Kalma IDPs camps, humanitarian workers were prevented from accessing the camp for two weeks<sup>25</sup>.

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20/ The 26 NGOs are Prospect Sudan, Counterpart International, Feed the Children, Food for the Hungry, Safe Harbour, The Halo Trust, Right to Play, Air Serve, Mercy International, Global Peace Mission, Population Media Centre, Sudanese International Development & Relief Association, Royal Dutch Aid, Canadian Association for African Development, Stichting Projectkoppeling Eindhoven Gedaref (SPEG) - Holland, Norwegian League for the Disabled, African Association for Development, Health Assistance for Children, Nabata Charitable Foundation, Impact, Cins-Italy, Ulfa Aid, Joint Projects Organization, Arabic Centre for Immigrant Labours, Tomp/Germany and Human Relief and Peace.

21/ See ACJPS.

22/ See IOM Sudan Press Briefing Note, July 15, 2010.

23/ See MDM.

24/ See UN Security Council, *Report of the Secretary-General on the UNAMID*, UN Document S/2011/22, January 18, 2011.

25/ See ACJPS.



Humanitarian agencies as well as UNAMID were also constantly denied access since February 2010 to a certain portion of East Jebel Marra<sup>26</sup>.

### **Crackdown on human rights defenders promoting fair, transparent and free electoral processes**

In 2010-2011, the authorities systematically repressed any attempts by civil society to advocate in favour of democracy and transparent elections since the beginning of 2010. Members of “Girifna”<sup>27</sup>, a youth group created before the general elections to encourage civic participation as well as voter education and promotion of social change and democracy through peaceful actions, were particularly targeted. For instance, on March 6, 2010, police and NISS in Khartoum broke up a peaceful election campaign denouncing corruption held by Girifna at a bus stop in central Khartoum. Three students and members of Girifna, Messrs. **Taj Alsir Jafar Taj Isir**, **Abdallah Mahadi Badawi** and **Hisham Mohamed Alhaj Omer**, were taken to Khartoum Shimal police station, and the police filed a complaint against them for “public nuisance”. They were all released on bail the following day and at the end of April 2011, the complaint was still pending. In addition, on March 15, 2010, Mr. Abdallah Mahadi Badawi was abducted by two armed men in Khartoum and taken to a room in an unknown location, where he was severely beaten by thirteen men with sticks, hoses, and electric wires, and interrogated about Girifna’s activities and sources of funding. After being released, Mr. Abdallah Mahadi Badawi held a press conference on March 18 in Khartoum, during which he talked about his arrest and detention condition. He consequently received death threats by NISS and fled the country on April 31, 2010. On August 7, 2010, the police arrested Messrs. **Hassan Ishag**, **Azzi Eldine Al-Ansari** and **Hassan Mohamed**, three students members of the Girifna movement, in Khartoum while they were distributing the Girifna magazine. They were taken to police station five in Alhaj Yousif area. The police filed a complaint against them for “breach of public peace” and “calling for opposition to the public authority by violence or criminal force”. Late at night, NISS agents took the detainees from police custody to NISS offices, where they were questioned extensively about the movement and tortured. They were taken back to police and released on bail on August 9, 2010. As of the end of April 2011, the police complaint was still pending. On January 22, 2011, Mr. **Taj Alsir Jafar** was arrested again together with Messrs **Osman Al Jamery** and **Taj Al Sir Mahjoub** by the NISS in Khartoum Bahri after distributing the Girifna magazine. They were all released after a few days, without charge<sup>28</sup>.

26 / See Security Council, *Report of the Secretary-General on the UNAMID*, UN Document S/2011/22, January 18, 2011.

27 / “Girifna” literally means “we are fed up”.

28 / See ACJPS.

## Targeting of women's rights defenders

Women's rights activists initiatives in Sudan were also targeted. On December 14, 2010, a peaceful demonstration organised by the "No to Women's Oppression Coalition" in front of the Ministry of Justice in Khartoum, was dispersed by the police. The demonstration was to denounce the use of public order laws in Sudan and their discriminatory application towards women<sup>29</sup>, and call for amendments of such laws. Before the demonstration began, the NISS and police reportedly cordoned off the area and forcefully disbanded the group. Forty-three persons including members of NGOs, lawyers, members of Girifna and journalists were arrested and taken to Alshmali police station before being released on bail a few hours later. Another group of seven persons was taken by the police to Alemtidad police station in Khartoum and released on bail at the end of the day. All of them were charged with "publication of false news", "rioting" and "public nuisance" and were awaiting trials as of April 2011. In addition, the *BBC* Correspondent in Khartoum, Mr. **James Copnall**, was attacked by the NISS while he was covering the demonstration and his recording equipment was confiscated<sup>30</sup>. On the same day, Dr. **Abdelbasit Murgany**, Director of the Al Finar Psychosocial Support Centre, was arrested in Khartoum by the NISS after hosting a meeting of the "No to Women's Oppression Coalition" at the Centre in Khartoum. Mr. Abdelbasit Murgany was detained incommunicado and without charge until his release on December 20, 2010. Moreover, the case filed by the Public Order Police (POP) in Khartoum on July 20, 2009 against Ms. **Ammal Habani**, a journalist for *Ajras Al-Hureya* newspaper and a defender of women rights, for "defaming the POP" under Article 159 of the Criminal Code was still pending as of April 2011. She was charged following the publication on July 12, 2009 of an article she wrote in defence of Ms. Lubna Ahmad Hussein, who was condemned for wearing "indecent clothing" to forty lashes. The first court session was expected in mid-2011.

## Repression of doctors denouncing poor working conditions

In 2010, several doctors protesting over poor working conditions and difficulties to access medical treatment were subjected to judicial harassment. On June 1, 2010, Dr. **Walaa Alden Ibrahim** and Dr. **Alhadi Bakhiet**, leaders of the Sudanese Doctor's Strike Committee, were arrested by NISS agents immediately after announcing the Committee's decision to hold a strike. Both doctors were released later that day, but arrested again after they made public statements about the torture they sustained

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29/ For instance, Article 152 of the 1991 Criminal Code, which incriminates "obscene and indecent acts", is regularly used to sanction women's behaviour.

in detention. On the same day, in the evening, the Head of the Doctor's Strike Committee, Dr. **Ahmed Alabwabi**, was arrested at his house in Khartoum. On June 2, 2010, a demonstration organised by students of the Khartoum University's School of Medicine in solidarity with the detained doctors, was violently dispersed by the police with tear gas. As a result, twelve people were injured and six students were arrested, taken to Khartoum north police station and charged for "public nuisance". The students were released on bail in the evening, without charge. Three other doctors were arrested on the following days, Dr. **Mahmoud Khairallah**, Dr. **Abdelaziz Ali Jame**, Vice-President of the Strike Committee, and Dr. **Ahmed Abdulla Khalaf Allah**. All doctors were detained in Kober prison and released without charge on June 25, 2010 after an agreement was reached between the Doctors' Strike Committee, the Federal Ministry of Health, and the Sudanese Medical Society<sup>31</sup>.

### **Censorship and harassment of journalists reporting on human rights violations**

When the NISS resumed censorship in May 2010, the coverage of certain topics linked to human rights such as violations of civil liberties, the situation in Darfur and the ICC, was regularly censored. For instance, on May 26, 2010, the newspapers *Al Sudani*, *Al Sahafa* and *Ajras Alhurria* reported that the NISS had called their editors late in the evening and threatened them in order to prevent them from publishing articles related to, among other topics, the arrest of Mr. **Salih Mahmoud Osman**, a human rights lawyer, along with Ms. **Mariam Alsadig Almahadi**, an opposition politician and activist, and Mr. **Albukhari Abdalla**, an international lawyer, at the Khartoum airport to prevent them from attending the ICC Review Conference in Kampala, scheduled from May 31 to June 11, 2010. On June 3, 2010, due to the number of articles censored by the NISS, *Ajras Alhurria* newspaper could not be published. *Ajras Alhurria* resumed publication afterwards but was prohibited from publishing any news regarding the doctors' strike, the ICC, or the arrest and trial of journalists<sup>32</sup>. Journalists who reported on the rape of a demonstrator by NISS agents on February 13, 2011 faced judicial harassment upon NISS request. Ms. Ammal Habani and Mr. **Faisal Mohamed Salih**, a journalist for *Al-Akhbar* newspaper, were interrogated on March 13, 2011 by the Media and Publication Prosecutor and an investigation opened for "defamation" (Article 159) and "propagation of false news" (Article 66 of the

31/ See ACJPS. Doctors in all Sudan went on strike on June 2 to protest against the arrest and detention of their colleagues. The authorities allegedly promised to release the six detained doctors if they gave up the strike, which they did on June 24.

32/ See ACJPS.

Criminal Code). They were both released on bail on the same day and as of April 2011, the investigation was still continuing. In addition, Ms. Ammal Habani was dismissed from her work with *Ajras Al-Hureya* newspaper in March 2011 as a result of pressure by the NISS on the newspaper's owner.

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

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
13 human rights defenders, including Messrs. Abdelrahman Mohamed Al-Gasim, Dirar Adam Dirar Abdelrahman Adam Abdelrahman	Arbitrary detention / Ill-treatments	Urgent Appeal SDN 001/1110/ OBS 129	November 2, 2010
		Open Letter to the authorities	January 14, 2011
Dr. Abdul Basit Margani	Arrest / Incommunicado detention / Risk of torture	Urgent Appeal SDN 002/1210/ OBS 146	December 17, 2010
	Release	Open Letter to the authorities	January 14, 2011
Dr. Mudawi Ibrahim Adam	Ongoing arbitrary detention / Judicial harassment	Open Letter to the authorities	January 14, 2011
Messrs. Abdelazim Mohamed Ahmed and Ahmed Mahmoud Ahmed	Arbitrary detention / Acts of torture	Urgent Appeal SDN 001/0211/ OBS 020	February 15, 2011

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# TOGO

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010-2011, independent print media and private radio stations that denounced corruption and human rights violations were subjected to judicial pressure. In addition, several peaceful demonstrations organised by civil society were banned and repressed. However, at the end of April 2011, the National Assembly was about to adopt a draft law which was welcomed by civil society as a progress towards freedom of peaceful assembly.

## Political context

On March 4, 2010, Mr. Faure Essozimna Gnassingbé, the son of former President Gnassingbé Eyadéma and candidate for the Rally of the Togolese People (*Rassemblement du peuple togolais* - RPT), the party that had been in power for over forty years, was re-elected as President of the Republic of Togo with 60.9% of the votes. The hope of a fair, credible and transparent election, on the contrary to the one of 2005 which was marred by massive fraud and bloody repression and which allegedly caused between 400 and 500 deaths<sup>1</sup>, did not fulfil. Without contesting the re-election of the outgoing President, international observers noted many irregularities before and during the vote<sup>2</sup>. The day after the ballot, Mr. Jean-Pierre Fabre, the principal opponent and candidate of the Union of Forces for Change (*Union des forces du changement* - UFC), contested the results and called upon the outgoing President to resign.

In this context of controversial political legitimacy, the exercise of the civil and political rights of opposition activists and civil society representatives critical of the Government was restricted. In particular, throughout the year, obstacles were put in the way of freedom of expression, peaceful assembly and association. As an example, demonstrations of the opposition were banned or severely repressed, making arisen a new wave of arrests and arbitrary detentions<sup>3</sup>. In addition, the tendency to repress the private press that had started in 2009, was reinforced and intensified throughout the

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1/ See Report by the United Nations Fact-Finding Mission to investigate the violence and allegations of human rights violations that took place in Togo before, during and after the presidential elections on April 24, 2005, August 29, 2005.

2/ See Preliminary Statement by the European Union Election Observation Mission to Togo, March 6, 2010.

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

post-election period, with judicial harassment of newspapers considered to be critical and acts of intimidation which affected several journalists. In August 2010, it was reported the existence of a list of names of journalists and presenters of some programmes dealing with political issues<sup>4</sup>. In parallel, several of the international media obtained a visa only on the same day as the presidential election, allowing only a partial coverage of the election process<sup>5</sup>.

Although it is appropriate to welcome the ratification by Togo on July 20, 2010, of the United Nations Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the signature on October 27, 2010, of the International Convention for the Protection of All Persons from Enforced Disappearances<sup>6</sup>, acts of torture and ill-treatment continued to be carried out with a complete impunity, especially in places of detention. On April 1, 2011, the UN Human Rights Committee expressed its own concerns regarding allegations of torture and ill-treatment in detention, especially in the premises of the National Intelligence Agency (*Agence nationale de renseignements* - ANR), by allegations of deaths resulting from ill-treatment in detention, by the lack of response from the State concerning the number of complaints submitted for torture, ill-treatment or death in detention and by the lack of follow-up to these complaints<sup>7</sup>.

### **Judicial harassment of the media and journalists who denounce corruption and human rights violations**

In 2010-2011, the Government of Togo clearly demonstrated its will to muzzle and punish the media considered as critical, through judicial pressure, particularly against media that denounced corruption and human rights violations. As an example, the daily newspapers *Freedom*, *L'Indépendant Express* and the weekly *La Lanterne*, three press

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4/ See LTDH and the Union of Independent Journalists of Togo (*Union des journalistes indépendants du Togo* - UJIT) Press Release, August 10, 2010.

5/ See Reporters Without Borders (RSF) Press Release, March 8, 2010.

6/ However, as of the end of April 2011, this Convention had not been ratified.

7/ See Human Rights Committee, *Concluding observations of the Human Rights Committee*, UN Document CCPR/C/TGO/CO/4, April 18, 2011 and Joint Open Letter to the authorities from Christian Action for the Abolition of Torture - Togo (*Action des chrétiens pour l'abolition de la torture-Togo* - ACAT-Togo), the Togolese Human Rights Association (*Association togolaise des droits de l'Homme* - ATDH), the Togolese Association for the Defence and Promotion of Human Rights (*Association togolaise pour la défense et la promotion des droits de l'Homme* - ATDPDH), the Collective of Associations Against Impunity in Togo (*Collectif des associations contre l'impunité au Togo* - CACIT), the Togolese Coalition of Human Rights Defenders (*Coalition togolaise des défenseurs des droits de l'Homme* - CTDDH), Amnesty International-Togo (AI-Togo), LTDH, Journalists for Human Rights (*Journalistes pour les droits de l'Homme* - JDHO) and New Human Rights (*Nouveaux droits de l'Homme* - NDH-Togo), May 13, 2011.

publications that denounce corruption within the State's leading bodies, faced legal proceedings in various cases in which the plaintiff was the President of the Republic. Complaints filed by the Head of State in August and September 2010 for "spreading false news", "defamation", "insults" and "attacks on honour", offences under the Press and Communication Code and the Criminal Code, targeted these three newspapers, which in July and August had published articles denouncing the State's poor governance, the influence of the executive government in the legal domain and the corruption of the administration. All these complaints were finally withdrawn by the Head of State and the cases were closed<sup>8</sup>. On November 19, 2010, *X-Solaire*<sup>9</sup>, *Metropolys* and *Providence*, three independent radio stations based in Lomé, and which especially deal with human rights, were shut down on the grounds that they did not possess association licences for the frequencies they were assigned to and for "equipment and premises that do not comply with standards in force". This decision was taken by the Director General of the Post and Telecommunications Regulatory Authority (*Autorité de réglementation des secteurs de postes et de télécommunications* - ART&P), and justified under the provisions of Law No. 98-005 of February 11, 1998 on telecommunications, after two check-up visits on November 8 and 18, 2010 carried out in collaboration with the High Authority of Audiovisual and Communication (*Haute autorité de l'audiovisuel et de la communication* - HAAC). Following their closure, the three radio stations took steps to obtain the required documents before the Ministry of Territorial Administration, Decentralisation and Local Communities, without success. As of the end of April 2011, the radios were still not allowed to broadcast and their studios remained sealed off<sup>10</sup>.

### Attacks on freedom of peaceful assembly

In 2010-2011, there were many obstacles to the freedom of peaceful assembly though guaranteed under Article 30 of the Constitution. As an example, on March 8, 2010, the Spokesperson of the Government noted during a press conference, that the ban on demonstrating during working days "because of the disturbance to traffic they cause on those working days" remained in force, referring to the Letter of February 6, 2007 No. 0087/MS/Cab from the Minister of Security. In addition, on March 2,

8/ See CACIT, LTDH and IFEX Press Release, September 3, 2010.

9/ An attempt to bring judicial proceedings against this radio was already made. On July 15, 2010, HAAC seized the Court of First Instance of Lomé to apply for a ban on two popular interactive programmes that were broadcast on *X-Solaire* and *Victoire FM* radio stations, on the grounds of inappropriate content. However, after the angry reaction of the civil society, HAAC did not take any further action.

10/ See LTDH, CACIT and the Letter from SOS Journalists in Danger (*SOS journalistes en danger*) addressed to the Director General of ART&P, January 9, 2011. It should be noted that under Articles 58, 60, 61 and 62 of the Organic Law relating to HAAC, only a legal ruling can close down a radio station.

2011, the Council of Ministers adopted a draft law setting out the conditions for the exercise of freedom of assembly and freedom to demonstrate on the public highway or in public places which amongst other things, provides that any demonstration or meeting is subject to prior declaration to the competent authorities who have the power to ban the event for reasons of public order. Furthermore, prison sentences and fines would apply in a case where violence, assaults, destruction or degradation of public property took place during the activity. Following protests by civil society organisations, the draft law was revised in April 2011 on the basis of the recommendations of an *ad hoc* committee in which civil society organisations took part. The latest draft, by which the exercise of the constitutional right to demonstrate freely on the public highway is subject only to the prior provision of information or declaration to the competent authority<sup>11</sup>, was welcomed by the civil society as a progress for freedom of peaceful assembly<sup>12</sup>.

In 2010, several demonstrations calling for the reinforcement of the rule of law and an improvement in living conditions, were banned and repressed by the government authorities. On June 22 and 23, 2010, members of the national police force brutally repressed spontaneous demonstrations where people living in some districts of Lomé were protesting against the increase of the cost of petrol products. One person was shot dead and several people were injured. Ninety-seven people were arrested before being released without charge on July 22, 2010 from the civil prison of Lomé<sup>13</sup>. In addition, on October 30, 2010, a peaceful protest march organised in front of the headquarters of the Network for the Development of the Masses Without Resources (*Réseau pour le développement des masses sans ressources* - ReDéMaRe)<sup>14</sup> by the Christian Action for the Abolition of Torture – Togo (*Action des chrétiens pour l'abolition de la torture* - ACAT-Togo), the Togolese Human Rights Association (*Association togolaise des droits de l'Homme* - ATDH), the Togolese Association for the Defence and Promotion of Human Rights (*Association togolaise pour la défense et la promotion des droits humains* - ATDPDH), the Collective of Associations Against Impunity in Togo (*Collectif des associations contre l'impunité au*

11/ The competent administrative authority may only postpone or ban a demonstration on the grounds of a justified decision demonstrating the existence of a risk of serious disturbance of public order.

12/ The draft was adopted by the National Assembly on May 13, 2011. See LTDH.

13/ On June 23, the Minister of Security and Civil Protection published a press release stating that the demonstrator who died after a shot was accidentally fired by an agent who was guarding a bank and who was trying to break up the crowd that was coming towards the bank. The Minister subsequently called on the organisers to be more responsible in raising their members' awareness. See LTDH.

14/ ReDéMaRe is an economic interest group created in 2008, based on a new financial system that brings together members rather than savers and which mission is to reduce poverty.



Togo - CACIT), the Togolese Coalition of Human Rights Defenders (*Coalition togolaise des défenseurs des droits humains - CTDDH*) and the Togolese Human Rights League (*Ligue togolaise des droits de l'Homme - LTDH*), to demonstrate against the deterioration of the situation of human rights and fundamental freedoms in the country<sup>15</sup>, was brutally dispersed by the national security forces of the Togolese national police force, who used tear gas and beat up demonstrators, injuring many people. In accordance with the administrative provisions in force, on October 25, 2010, the organisers had notified the Ministers of Territorial Administration and Security, the competent authorities, about the event. However, when the demonstrators arrived at the rally location, they were surrounded by a large group of police agents. The organisers went up to the troop commander to request his supervision, but the latter informed him that the march had been banned and that he had been instructed to break it up. On November 5, 2010, a group of representatives of various organisations met Ms. Leonardina Rita de Souza, the Minister of Human Rights, Consolidation of Democracy and Civic Education, at her office. They presented their grievances and gave her a document gathering the demands that were at the time of the abortive march, so that she could pass them on to the highest authorities in the country. However, no favourable response was given to this initiative.

### Urgent Intervention issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
	Obstacles to freedom of peaceful assembly	Urgent Appeal TGO 001/1110/OBS 132	November 4, 2010

15/ In the light of the general and permanent ban on demonstrating on working days and in towns in the interior of the country, the regular repression of peaceful demonstrations, the cases of arrest and arbitrary detention, the interference of the executive power in judiciary functions, the persistence of impunity, the high cost of living in Togo and the revisionist statements of Mr. Abass Bonfoh, the President of the National Assembly. In fact, on September 16, 2010, in an interview with the fortnightly publication *Tribune d'Afrique*, the latter denied that deaths resulted from the events relating to the 2005 presidential election period and stated that he was unaware that a national fact-finding commission had acknowledged that there were hundreds of deaths.

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# UGANDA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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While freedoms of expression, association and peaceful assembly were severely challenged in Uganda in the run-up to the general elections that took place in February 2011, NGOs and journalists who tried to expose irregularities and allegations of corruption by Government as well as human rights violations by the security forces faced acts of intimidation and attacks. Several defenders were also targeted by the authorities to hinder the legitimate exercise of their human rights activities against the background of the fight against terrorism in East Africa. Finally, in a context of increasing stigmatisation and criminalisation of homosexuality and defenders of sexual rights, a defender of LGBTI rights was assassinated.

## Political context

Presidential, parliamentary as well as local<sup>1</sup> elections were held in February 2011. On February 18, 2011, President Museveni, candidate of the National Resistance Movement (NRM) who has been in power for 25 years, was re-elected with 68,38% of the votes. The NRM also won the majority of the parliamentary seats<sup>2</sup>. Presidential and parliamentary elections took place in a generally peaceful atmosphere but were marred by irregularities and widespread allegations of voters bribing, as well as some acts of violence and intimidation<sup>3</sup>. They were also held under high security forces presence and preceded by acts of intimidation of political opposition members and civil society.

In the run-up to the general elections, freedoms of expression, association and peaceful assembly were severely challenged. Following the terrorist attacks in Kampala on July 11, 2010, which killed more than seventy people and for which Al-Shabaab, an Islamic group based in Somalia, claimed responsibility<sup>4</sup>, terrorist security threat was sometimes

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1/ Ugandans were voting for Local Council Chairpersons, District Councillors and Mayors for municipalities.

2/ 279 seats out of a total of 375.

3/ See Citizen's Coalition for Electoral Democracy in Uganda Press Release, February 22, 2011. See also European Union Election Observation Mission to Uganda Preliminary Statement, February 20, 2011. Local elections held on February 23, 2011 were marred by irregularities and violence. As a result, the Electoral Commission suspended the polls for Kampala at mid-day. The local elections in Kampala took place again on March 14, 2011.

4/ Uganda has become a target because it supplies a large number of troops to the African Union Mission In Somalia (AMISOM).

used to justify curbs on those rights. The Government's will to restrict these fundamental freedoms was clearly reflected in the 2009 draft Public Order Management Bill, which was made public in September 2010 and seeks to re-introduce police permission for public meetings, grants the Inspector General of Police (IGP) and the Minister of Internal Affairs wide discretionary powers to regulate the conduct of public meetings but also to regulate the content of the discussion at such meetings<sup>5</sup>. In that context, several demonstrations aiming at protesting against the composition of the Electoral Commission were violently repressed, in particular after the general elections, when "walk to work" protests across the country to demonstrate against prices rise, were violently repressed by the police and the army, using tear gas and live ammunition<sup>6</sup>. The re-emergence of paramilitary groups known as the "kiboko squad" assaulting demonstrators was also worrying.

The working environment for journalists seriously deteriorated in 2010-2011, as illustrated by the killing of two of them. Intimidation and increased assaults and attacks by political actors and security forces, which remained most of the time unpunished, led some to practice self-censorship to avoid trouble. A March 2010 draft Amendment to the 2001 Press and Journalist Act further reveals the Government's will to restrict freedom of expression. According to this draft law, newspapers would need to register and obtain a licence annually from the Media Council, which would be empowered to prohibit newspapers from publishing material considered to be prejudicial to national security, economic progress and Uganda's relations with its neighbours. In the meantime, a number of criminal laws, including the Criminal Code Act and the Anti-Terrorist Act of 2002, were still used to silence journalists critical of the Government despite a positive step taken by the Constitutional Court on August 25, 2010, which declared the law as a violation of freedom of expression<sup>7</sup>.

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5/ As of the end of April 2011, the bill had not been tabled in Parliament. Similar provisions contained in the Police Act (known as "Chapter 303") were declared unconstitutional by the Constitutional Court in May 2008, although Section 35 of the Police Act, which gives the Interior Minister the power to prohibit a rally of more than 25 persons without a permit in a certain area, remained in place. However, the Ministry of Justice and Constitutional Affairs appealed the court's decision (as of April 2011 the appeal was still pending), and in the meantime security forces continued to use the Police Act to disrupt opposition party activities.

6/ At the end of April 2011, protests were still ongoing and at least eight people had been killed and 250 injured. In addition many protesters were arrested and some charged with "inciting violence" or "unlawful assembly" including the leader of the opposition Mr. Kizza Besigye who was arrested four times and successively released. Furthermore, the Uganda Communications Commission (UCC) reportedly tried to block websites such as *Facebook* and *Twitter* on April 14, 2011 and journalists coverage of the protests was restricted by different means.

7/ See Foundation for Human Rights Initiative (FHRI).

Impunity continued to be a crucial issue in the country. In particular, grave human rights violations committed during the unresolved long lasting conflict with the Lord's Resistance Army (LRA) remained unpunished<sup>8</sup>. Besides, arrest warrants against top five LRA leaders issued by the International Criminal Court (ICC) in 2005 on charges of "crimes against humanity" and "war crimes" remained unimplemented<sup>9</sup>. Allegations of involvement of security forces in serious human rights violations did not lead to any prosecution of security forces<sup>10</sup>. However, the adoption of the ICC Act allowing Ugandan courts to try crimes against humanity, war crimes and genocide defined under the Roma Statute in June 25, 2010, constituted a positive step.

Furthermore, homosexuality remained illegal in Uganda and can be sanctioned by up to fourteen years imprisonment. In addition, as of April 2011, an Anti-Homosexuality Bill that was proposed in October 2009 by a parliamentarian, member of President Yoweri Museveni's ruling party, was still pending before the Parliament. The Bill, which would be punishing homosexuality up to life detention and death penalty for persistent offenders, also contains provision punishing failure to report acts of homosexuality and prohibiting advocacy on sexual minority rights, thereby preventing human rights defenders to work on the issue.

### **Legal obstacles that might restrict human rights activities**

In 2010-2011, the Amendment to the NGO Registration Act, which was adopted by the Parliament in 2006, continued to have the potency to severely hinder human rights NGO activities and silence the most critical ones, as it could directly threaten NGO autonomy and independence. Yet, since 2006, the law could not be implemented pending the adoption of the NGO Registration Regulations, which were finally adopted on March 26, 2009, as well as pending the decision by the Constitutional Court following the petition filed in April 2009 by a group of NGOs led by the Human Right Network - Uganda (HURINET), challenging the constitutionality of the Act on the ground that it violates a number of rights enshrined in the Constitution such as the freedom of association. Hearings scheduled

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8/ If there was no LRA attack reported in the country since 2006, the final peace agreement was never signed by the leader of LRA Joseph Kony and the armed group is still operating in the DRC, South Sudan and the Central African Republic. The Ugandan army is still tracking the remaining LRA fighters in those countries. For a detailed analysis see International Crisis Group Report, *LRA: A Regional Strategy Beyond Killing Kony*, Africa Report No. 157, April 28, 2010.

9/ Yet, the War Crimes Division of Uganda High Court created in 2008 issued on July 17, 2009 an indictment against an LRA fighter, Mr. Thomas Kwoyelo, and the trial was expected to start in 2011.

10/ See Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary executions, Philip Alston, Addendum - Communications to and from Government*, UN Document A/HRC/14/24/Add.1, June 18, 2010.

were regularly postponed by the Constitutional Court and no decision had been issued as of the end of April 2011. Under the terms of this Law and the 2009 Regulations, NGOs have to obtain, annually, a renewal of their licences by a NGO registration board composed of a limited number of NGO representatives and different ministry representatives, including the Internal and External Security ones. Among many other restrictions to the activities of NGOs it contains, it would prevent NGOs from making direct contact with local people in rural areas without giving a seven-day written notice to the district authorities which would obviously affect human rights monitoring in the field. It also expands the powers of the board to regulate the dissolution of NGOs by adding grounds for which the Board could order dissolution. An attempt of the NGO Board to implement the Act by requiring NGOs to proceed with registration before August 30, 2010, was dismissed by the High Court, which on August 20, 2010 granted a temporary injunction against the NGO Board prohibiting it from implementing the Act pending decision of the Constitutional Court.

### **Intimidation and arrest of human rights defenders promoting free and fair elections and denouncing corruption**

NGOs faced acts of intimidation when trying to expose irregularities and allegations of corruption by Government during pre-election times. For instance, on November 23, 2010, Mr. Ofwono Opondo, the Deputy Spokesperson of President Museveni's ruling party, threatened the Democracy Monitoring Group (DEMgroup)<sup>11</sup> that he would use his influence to cancel the registration and accreditation of this group as an election observer following reports that some NRM candidates had not resigned from their posts in Government before contesting as prescribed by electoral laws<sup>12</sup>. On January 26, 2011, a coalition of NGOs led by the Ugandan National NGO Forum (UNNGOF)<sup>13</sup> launched a campaign called "Respect your Honour and Return our Money Campaign" aiming at denouncing allegations of corruption<sup>14</sup>. On February 5, 2011, the police

11/ DEMGroup is a consortium of four NGOs - the Uganda Joint Christian Council, Action for Development, Transparency International Uganda and the Centre for Democratic Governance - that have come together to contribute to a freer, fairer, transparent and credible elections landscape in Uganda. It notably monitored the 2011 elections.

12/ See Human Rights Network - Uganda (HURINET).

13/ The coalition is composed of UNNGOF, the Anti Corruption Coalition Uganda (ACCU), the Forum for Women in Democracy (FOWODE), the Ugandan Debt Network (UDN), Actionaid Uganda and Uganda Monitoring Platform.

14/ In January 2011, Parliament had approved the payment of 20 million Uganda shilling (about 5,800 euros), to each Member of Parliament as a supplementary budget allocation to facilitate their monitoring of Government programmes in their constituencies. The NGOs campaign questioned the appropriateness of such payment just a few weeks before the elections and called on Parliament Members to return the money and to voters not to vote for those who did not return it.

arrested an employee of UNNGOF, Mr. **Job Kiija**, and a volunteer for the coalition, Mr. **Dennis Muwonge**, while they were distributing leaflets against corruption and mismanagement. They were taken to Kampala central police station and ultimately released after being interrogated for four hours. The following day, nine other persons were arrested including Mr. **Andrew Dushime**, a member of UNNGOF, and volunteers who were distributing the statements as well as individuals carrying it. Messrs. **Patrick Nyakoojo**, **Joel Nyakahuma** and **Andrew Dushime** were detained at Wandegeya police station while Ms. **Esther Namubiru** and two others were detained at the Old Kampala police station. All were released without charge on the same day after a few hours, except three others, including Ms. **Betty Nakitende**, who were detained at Kasangati police station until the next day. Subsequently, the defenders sent a letter to the IGP informing him of their illegal arrests. Although a team of officers belonging to the Professional Standards Unit took the victims' testimonies, there was no development afterwards<sup>15</sup>. In Lira, in the northern part of Uganda, on February 8, 2011, Ms. **Eunice Apio**, the Executive Director of Facilitation for Peace and Development (FAPAD), was summoned for interrogation and intimidated by the Lira district police Commander and the Lira District Resident Commissioner, after a member of her organisation had read the coalition statement during a talk show on *Radio Rhino* on February 7<sup>16</sup>.

### **Multiplication of violent attacks against journalists reporting on human rights violations by security forces and electoral irregularities**

Journalists faced numerous violent attacks aiming at preventing them from documenting and reporting on violence and irregularities linked to elections as well as human rights violations by the security forces. For instance, on February 18, 2011, while he was covering the presidential and parliamentary polls in Mbale district in eastern Uganda, Mr. **Julius Odeke**, a journalist from the *Red Pepper* and the *Razor Newspaper*, was shot in the knee by the bodyguard of the Minister of the Presidency **Beatrice Wabudeya**, who was trying to confiscate Mr. Odeke's photos of electoral violence in the area<sup>17</sup>. On February 23, 2011, during election day at Kakeeka polling station in Rubaga division in Kampala, supporters of NRM ruling party candidate **Peter Ssematimba**, who were reportedly angry with the

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15/ See FHRI.

16/ She was not charged and did not file a complaint. In addition, the district police Commissioner reportedly threatened some Lira based journalists, including the moderator of the talk show, who for instance had to explain in writing to the police in which circumstances it was decided to read the Coalition statement during the show. See FHRI.

144 17/ As of the end of April 2011, the police investigation was still ongoing. See FHRI.

media coverage of the polls irregularities, attacked the journalists present at the polling station with sticks. Thus, Ms. **Lydia Nabazziwa**, a reporter from *Bukedde TV*, was injured at her ear, Mr. **Nixon Bbaale**, a cameraman for *Channel 44 TV*, was injured at his head, Mr. **Brian Nsimbe**, a reporter for *Channel 44 TV*, was injured at his arm, the equipment of Ms. **Florence Nabukeera**, a reporter with *Bukedde* newspaper, was stolen, Ms. **Christine Namatumbwe**, a reporter for *Metro FM*, had her radio recorder, mobile phone and hand bag stolen and Ms. **Jane Anyango**, a reporter with *UBC TV*, sustained blows at her face and leg. The six journalists filed a complaint and an investigation was ongoing with no results at the end of April 2011<sup>18</sup>. In April 2011, at least eight journalists were injured by security forces during a “walk to work” protest. For instance, Mr. **Ali Mabule**, a correspondent of the *New Vision* newspaper, was beaten by an Ugandan People’s Defence Forces (UPDF) soldier to prevent him from taking a photo of a soldier beating a protester in Masaka on April 14, 2011. Mr. **Norman Kabugu**, a journalist for *Kamunye* newspaper, was then beaten by an UPDF soldier as he was taking photos of his colleague being beaten. Messrs. **Ronald Muhinda**, a journalist with *Radio One*, **Stuart Yiga**, a reporter with the *Red Pepper* newspaper, and **Francis Mukasa**, a cameraman of *Wavah Broadcasting Service* (WBS) television, were assaulted by security forces as they were covering the April 14 protests in Kampala, including human rights violations that occurred in that context. Furthermore, journalists were denied access to places where the riots were taking place and to Kiasangati hospital where a demonstrator reportedly died following security forces beatings and inhalation of tear gas<sup>19</sup>.

### **Intimidation and criminalisation of human rights defenders known for denouncing Government abuses perpetrated in the name of the fight against terrorism in East Africa**

Against the background of the fight against terrorism, defenders were targeted by the authorities to hinder the legitimate exercise of their human rights activities. On September 15, 2010, Mr. **Mbugua Mureithi**, a Kenyan human rights lawyer, and Mr. **Al-Amin Kimathi**, Executive Coordinator of the Kenyan Muslim Human Rights Forum (MHRF), were arrested upon arrival in Uganda by Government agents, as they were coming to Kampala to observe the proceedings against Kenyan civilian suspects unlawfully transferred to Uganda on allegations of involvement in the

18/ See FHRI.

19/ See Human Rights Network for Journalists - Uganda Report, *Press Freedom Index Report*, April 2011.

July 11 terrorist bombings<sup>20</sup>. They were subsequently detained at the headquarters of the Ugandan police rapid response unit in Kireka, a suburb of Kampala. They were questioned about alleged contacts with Al-Shabaab operatives. After spending three days in detention without any access to a lawyer or a phone, Mr. Mureithi was finally released on September 18 and deported back to Kenya. Yet, Mr. Al-Amin Kimathi remained in detention with no access to a lawyer or a phone and his laptop was confiscated. On September 20, he was charged with “terrorism”, “attempted murder” and 89 counts of murder in relation to the July 11 bombings and remanded to Luzira maximum security prison. On November 30, 2010, his case was transferred to the Ugandan High Court for trial with sixteen other defendants in relation to the July bombings in Kampala. Mr. Kimathi’s application for release on bail was rejected on December 17, 2010 and no hearing had been scheduled as of April 2011. Furthermore, four Kenyan human rights activists coming to Kampala to meet with the Chief Justice of Uganda in order to discuss the case of Mr. Al-Amin Kimathi were arrested by immigration officers upon their arrival at Entebbe airport on April 13, 2011. Messrs. **Samuel Mohochi**, Trustee of the Kenya National Coalition of Human Rights Defenders and a member of OMCT General Assembly, Mr. **Hussain Khalid**, a member of Muslims for Human Rights (MUHURI), Mr. **Muhdhar Khitam**, Chairman of the Coast province branch of the Supreme Council of Kenya Muslims (SUPKEM), and Mr. **Hassan Omar Hassan**, member of the Kenya National Commission on Human Rights (KNCHR), were detained at the airport during six hours, before being deported back to Kenya. They were not interrogated, and no reasons for their detention were provided by the Ugandan authorities. No charges were brought against them but their passports were given back to them along with a notice from the Ugandan Government stating that they were “prohibited immigrants”.

### **Killing of a sexual rights defender in a context of stigmatisation and criminalisation of homosexuality**

In a context of increasing stigmatisation and criminalisation of homosexuality and defenders of sexual rights, a defender of LGBTI rights was assassinated. On January 26, 2011, Mr. **David Kato**, advocacy officer for the organisation Sexual Minorities Uganda (SMUG), was brutally beaten by an unknown man at his home, in the area of Mukono, near Kampala. He died on his way to Kawolo hospital. A suspect arrested a few days after

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20 / MHRF has been very active in denouncing past abuses by the Kenyan Government on terrorist suspects as well as the illegal transfer of several Kenyan suspects from Kenya to Uganda. On November 30, 2010, the High Court of Kenya considered that the suspects’ arrest, detention and transfer from Kenya to Uganda was illegal.



the murder, Mr. Sydney Nsubuga, was brought to the Magistrate Court on February 17, 2011. On March 17, 2011, the Magistrate Court charged Mr. Nsubuga with “murder”. The case was transferred to the High Court, which is competent for such a charge. Yet, no hearing had been scheduled as of the end of April 2011. Mr. David Kato had been receiving death threats following publication in the Ugandan newspaper *Rolling Stone* in October 2010 of pictures, names and addresses of several people it said were homosexuals. Mr. Kato’s picture appeared on the front page of the newspaper with the head line “Hang them!”. Together with three other people, Mr. Kato had filed a lawsuit against *Rolling Stone*. On December 30, 2010, a Judge in the High Court ordered the newspaper to stop publishing identities and addresses of people labelled homosexuals and ordered compensation on the grounds that the publications violated their right to privacy. Moreover, in December 2010, the Minister of Ethics and Integrity, Mr. Hon Nsaba Buturo, prevented the Uganda Human Rights Commission to broadcast a documentary about the work of human rights defenders supposed to be played at the National Theatre on December 13, 2010, for the commemoration of the December 10 World Human Rights Day. The Minister alleged, among other arguments, that the documentary was promoting homosexuality<sup>21</sup>.

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

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Mbugua Mureithi and Al-Amin Kimathi	Arbitrary detention / Release / Harassment and intimidation	Urgent Appeal UGA 001/0910/OBS 114	September 22, 2010
Mr. David Kato	Assassination	Joint Press Release	January 28, 2011
Messrs. Samuel Mohochi, Hussain Khalid, Muhdhar Khitamy and Hassan Omar Hassan	Arbitrary detention / Deportation	Urgent Appeal UGA 002/0411/OBS 062	April 14, 2011

21/ See Uganda Human Rights Commission Press Release, December 14, 2010.

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# ZIMBABWE

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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In 2010-2011, impunity and lack of justice for past abuses remained of serious concern, the media remained gagged and journalists exposed to severe acts of reprisal. In that context, two years after the entry into force of a power-sharing Government (the Government of National Unity) between the former ruling party, President Mugabe's Zimbabwe African National Union – Patriotic Front (ZANU-PF), and the former opposition party, Prime Minister Tsvangirai's Movement for Democratic Change (MDC), human rights defenders involved in the reconciliation process continued to be harassed. In addition, several human rights defenders who organised or participated in peaceful protests on human right issues were arrested in a context where the notorious Public Order and Security Act (POSA) remained in force. Defenders of sexual minorities and journalists denouncing corruption also continued to be privileged targets of repression.

## Political context

Two years after the entry into force of a power-sharing Government (the Government of National Unity) between the former ruling party, President Mugabe's Zimbabwe African National Union – Patriotic Front (ZANU-PF), and the former opposition party, Prime Minister Tsvangirai's Movement for Democratic Change (MDC), political violence, lack of respect for the rule of law and human rights violations remained of serious concerns in Zimbabwe. MDC members and supporters, as well as journalists and human rights defenders, were intimidated and arrested as part of an increased harassment campaign against the Prime Minister's party, and by extension any dissenting voice, in the run-up to the possible presidential election in 2011.

Indeed, President Mugabe, who continued to show his willingness to exert close control over the country by unilaterally appointing several officials at key political and administrative positions including Ambassadors, Provincial Governors and Judges, pushed for the elections to be held in 2011, before a referendum on a new Constitution, arguing that the Government of National Unity was not working well<sup>1</sup>. On the other hand, MDC continuously disagreed to participate in elections until the reforms

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1/ However, according to the Global Political Agreement (GPA) signed in 2008, future elections should be organised after the establishment of a new Constitution, adopted by referendum, likely to guarantee the holding of free and fair elections.

stipulated in the GPA were in place<sup>2</sup>. On February 15, 2011, due to the absence of a favourable environment for elections, the European Union (EU) decided to extend sanctions for a another year<sup>3</sup>.

Impunity and lack of justice for past abuses also remained of serious concern. In particular, the authorities have failed to discipline, remove from their posts or charge with criminal offences leaders of the security forces who were involved in serious human rights violations during the 2008 elections as well as those who abducted and tortured over forty MDC officials and human rights defenders in November and December 2008, despite court rulings that recognised that acts of torture were committed, and despite the identification of some of the responsible by the victims.

Furthermore, the media remained gagged and journalists exposed to severe acts of reprisal. Although on May 26, 2010 the Zimbabwe Media Council (ZMC) – the new autonomous entity replacing the Media and Information Commission – announced its decision to issue for the first time licences to three independent dailies<sup>4</sup>, allowing them to restart publishing after a seven-year ban, privately-owned newspapers continued not to operate in a favourable climate. The legislation remained repressive allowing close surveillance of journalists and constant control of the media. The Government confirmed the unwillingness to reverse this tendency on October 22, 2010, through the proposal of a General Law Amendment Bill, which includes a clause allowing the authorities to block public access to official documents including judicial decisions, new legislation and public records<sup>5</sup>.

### **Harassment of human rights defenders involved in the reconciliation process**

In 2010-2011, human rights defenders involved in activities related to awareness raising on political violence and civic education were systematically harassed. For example, on February 16, 2010, Mr. **Okay Machisa**, Executive Director of the Zimbabwe Human Rights Association

2/ The detention of the co-Chairman of the Parliamentary Committee supervising the process of drafting a new Constitution, as well as a MDC parliamentarian, from February 15 to March 11, 2011 also set within this conflicting political framework.

3/ See European Union Council Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe, February 15, 2011.

4/ *The Daily News*, *NewsDay* and *The Daily Gazette*.

5/ This bill intends, among other issues, to subject such public information to copyright protection, which means that no one will be able to publish or disseminate an official document without permission from the Government. On March 15, 2011, the Parliament Legal Committee and the Minister of Justice reached a compromise over the Bill and the copyright clause will be withdrawn.

(ZimRights), an organisation that carries out intensive civic education in the communities and campaigns on the right of people to be involved in the drafting of the new Constitution, received by e-mail an anonymous message warning him to be careful with his work. On February 25, 2010, he received another threatening message suggesting him to stay out of the country. The same day, Messrs. **Nunurai Jena**, **Netsai Kaitano** and **Jabilusa Tshuma**, respectively Regional Chairperson for Mashonaland West, Regional Chairperson for Chitungwiza and Treasurer of ZimRights, also received different anonymous messages on their cell phones ordering them to put an end to their work on the Constitution making process and threatening them with death. Additionally, the message asked them about their motives to work within the association. On March 2, 2010, ZimRights filed a police report but no investigation was carried out and no protection measures granted. However, the threats stopped after the report was filed. In addition, on March 23, 2010, Mr. Okay Machisa, who was preparing in Harare a photo exhibition authorised by the Harare High Court as part of a programme to incite reflections on the 2008 political violence and scheduled for the following day, was arrested by a group of twenty officers of the Zimbabwe Republic Police (ZRP), who also removed, without any warrant, 65 pictures showing the use of violence to disperse demonstrations. Mr. Machisa was brought to the Harare central police station, until his release a few hours later following the intervention of the Zimbabwe Lawyers for Human Rights (ZLHR). The officer commanding Harare central district informed him that he had “not approved” the exhibition and gave Mr. Machisa seven days to provide “letters of consent from individuals and organisations” appearing in the photographs. He threatened to launch unspecified criminal charges against Mr. Machisa if he failed to provide those documents. On March 24, 2010, the police returned the photos to ZimRights following an order of the High Court issued on the same day. Again, on April 26, 2010, a group of police officers arrested Mr. **Joel Hita**, Ms. **Olivia Gumbo**, Ms. **Cynthia Manjoro** and Ms. **Lio Chamahwinya**, respectively Regional Chairperson in Masvingo, National Programme Manager and members of ZimRights, while they were preparing the launch of the same photo exhibition in Masvingo. Once more, the police confiscated all the pictures and took the defenders to the Masvingo police station. Everyone was released a few hours later, except Mr. Hita who was released on April 27, 2010. On April 28, he appeared before the Masvingo Magistrate Court on the charge of “holding a public meeting without notifying the authorities”. On August 5, 2010, the Attorney General’s office also decided to prosecute ZimRights itself as an organisation for the same charges within the same criminal case. At the end of April 2011, the trial was still ongoing and the next hearing was scheduled on July 18, 2011. On March 8, 2011, Messrs. **Bamusi**

**Kasembe**, Focal Point in the Maramba community for ZimRights, and his assistant known as **Tongai, Dzikamai Bere** from the Zimbabwe Human Rights NGO Forum (the Forum), **Admire Munava**, a ZimRights member, and nine other researchers were stopped in the Mashonaland east province by supposed ZANU-PF militants who were armed with stones, canes and logs, and questioned the group of human rights activists about their motives and threatened them that they will take action if they misbehave. The thirteen defenders, who were working on a research in Mashonaland east province on the national healing and reconciliation process and civic education, finally managed to escape from the scene using a different route. Similarly, Mr. **Abel Chikomo**, Executive Director of the Zimbabwe Human Rights NGO Forum (the Forum), was interrogated and asked to report to the police on several occasions in November 2010, February and March 2011 in relation to his activities, and in particular the Forum's public campaign against torture. On March 30, 2011, he was formally charged with "managing and controlling the operations of an illegal Private Voluntary Organisation (PVO)", under Section 6(3) as read with subsection 1 of the PVO Act. At the end of April 2011, Mr. Chikomo had not received any notification to appear before a court and remained free.

### **Obstacles to peaceful assembly**

In 2010-2011, several human rights defenders who organised or participated in peaceful protests on human right issues were arrested in a context where the notorious Public Order and Security Act (POSA), a widely used law to ban public meetings or rallies by those opposed to President Mugabe and his party, remained in force. In particular, demonstrations organised by Women of Zimbabwe Arise (WOZA) led to systematic arrests by the police. For example, on January 18, 2010, Ms. **Thabita Taona**, a WOZA member, was arrested by the riot police armed with baton sticks, while she was participating in one of three peaceful demonstrations organised in Harare by WOZA to protest about the state of education in Zimbabwe. Ms. Taona was detained until the next day at the Harare central police station for interrogation about other participants in the demonstration, before being released without charge or explanation<sup>6</sup>. Likewise, on April 15, 2010, 65 WOZA members were arrested by police officers from the Harare central police station while participating in a peaceful procession in Harare, outside the Zimbabwe Electricity Supply Authority (ZESA) headquarters, asking for a more efficient electricity service delivery and an appropriate and fair billing system. After four hours, 61 WOZA members were released without charge. However, the

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6/ See WOZA.

WOZA National Coordinator Ms. **Jennifer Williams** and three other members, Ms. **Magodonga Mahlangu**, Ms. **Clara Manjengwa** and Ms. **Celina Madukani**, spent five nights in police custody, subjected to bad conditions of detention, before being released without charge on April 20, 2010. On September 20, 2010, while commemorating the International Peace Day, 83 WOZA members who were participating in a peaceful protest on crime prevention safety were arrested and accused of “criminal nuisance”. On September 22, they were all granted bail without surety and remanded out of custody until October 6. Ms. Jennifer Williams, who attended the hearing, was arrested outside the courthouse when speaking with the group of released defenders. She was accused of “addressing a gathering” and pressured to sign a caution admitting to as such, before being released the same day. On January 3, 2011, the Harare Magistrate’s Court removed all 83 human rights defenders from further remand out of custody. At the end of April 2011, the trial was still ongoing<sup>7</sup>. WOZA members were not the only ones to face judicial harassment. On February 19, 2011, a few days after the Defence Minister Emmerson Munangagwa threatened to crack down on any dissent inspired by the North Africa street protests, 45 people including union leaders, students and human rights activists, were arrested by the police as they were attending a meeting to discuss the social protest movements in Egypt and Tunisia and their impact for these countries. All people were charged either with “treason”, which carries a penalty of life imprisonment or death, or with “attempting to overthrow the Government by unconstitutional means”, punishable by a penalty of up to twenty years in prison. On March 7, 2011, 39 activists were released after a magistrate court in Harare dismissed the charges against them. However, labour activists Messrs. **Munyaradzi Gwisai**, **Antonetar Choto**, **Tatenda Mombeyara**, **Edison Chakuma**, **Hopewell Gumbo** and **Welcome Zimuto** remained in custody until March 16, 2011, due to their link with the International Socialist Organisation, which convened the meeting, or because they intervened as speakers. They were released on a 2,000 US dollars (about 1,370 euros) bail each, with condition to report three times a week to the police by the High Court, and then relaxed in April to once a week<sup>8</sup>. On March 12, 2011, Mr. **MacDonald Lewanika**, Director of the Crisis in Zimbabwe Coalition (CZC), was arrested in Zengeza as he was on his way to a concert and brought to the police station where he was detained for several hours, before being released. On March 14, he was informed that he was charged with “behaving in a way

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7/ *Idem*.

8/ On March 20, the State dropped the charge of “treason” for the lesser charge of “attempting to subvert a constitutionally elected Government” punishable of up to twenty years imprisonment, and indicated that the trial would be held before a regional magistrate court on July 18, 2011. See *ZimRights*.

that can disrupt peace” under the Criminal Law Codification Act, after some t-shirts bearing the slogan “Abasha Posa” (“Down with POSA”) were found in his car. He was accused of attempting to turn a concert into a political gathering. The day after, four police officers from Harare central police station, in possession of a search warrant, visited his organisation’s offices in order to search any possible subversive material, such as t-shirts, documents and flyers. They confiscated several copies of CZC’s reports and manuals. As of the end of April 2011, the preliminary investigation was still ongoing and the material was not yet returned<sup>9</sup>.

### **Harassment against human rights defenders of sexual minorities**

During 2010-2011, human rights defenders working on sexual orientation were systematically persecuted and subjected to interrogations led by the Central Intelligence Organisation (CIO) of the ZRP. For example, on May 21, 2010, nine police officers from this division arrested Ms. **Ellen Chademana** and Mr. **Ignatius Muhambi**, respectively receptionist and accountant of the organisation Gays and Lesbians of Zimbabwe (GALZ), which defends the rights of sexual minorities in the country. The police entered GALZ offices in Harare, with a warrant to search for dangerous drugs and pornographic material. They confiscated computers, records and banners, and they claimed to have seized pornographic material as evidence for the case. On May 22, 2010, GALZ employees were denied access to their lawyers and, on May 24, 2010, they were formally accused of “possessing pornographic material” and “undermining the office of the President”. This second charge was reportedly added after the police noticed, in GALZ office, a plaque of former San Francisco Mayor Willie Lewis Brown in which he denounced the alleged President Robert Mugabe’s homophobia against gays and lesbians. On May 27, 2010, Ms. Ellen Chademana and Mr. Ignatius Muhambi were released on bail with the obligation to report at the police station every Monday and Friday, and to stay in Harare until their next hearing scheduled on June 10, 2010. The charges against Mr. Muhambi were dropped in July 2010, while Ms. Chademana was acquitted on December 16, 2010. Meanwhile, on May 26, 2010, the house of Mr. **Chesterfield Samba**, Director of GALZ, was searched by police officers, who confiscated his birth certificate, his passport picture, his magazines and personal business cards. Mr. Samba was not present during the raid, but the family members who were at home reported that the police asked Mr. Samba’s location and when he was expected to be back. Despite several requests, at the end of April 2011, the documents had still not been returned to Mr. Samba. In February 2011, Ms. Chademana

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9/ See CZC.

was followed on several occasions from her home by four unidentified men in a car.

### **Judicial harassment of a human rights defender who denounced human rights violations in the context of diamond mining**

In 2010, a human rights defender who denounced human rights violations in the context of diamond mining faced judicial harassment. On June 3, 2010, Mr. **Farai Maguwu**, Director of the Centre for Research and Development (CRD), an organisation that carries out research and advocacy work on human rights issues, particularly with respect to diamond mining and violations or abuses committed by State security forces, was arrested in Mutare on charges of “communicating and publishing falsehoods against the State with the intention to cause prejudice to the security or economic interests of the country”, subjected to a penalty of up to twenty years’ imprisonment pursuant to Section 31 of the Criminal Law (Codification and Reform) Act. Mr. Maguwu was accused of having handed over to the Kimberley Process Monitor<sup>10</sup> a CRD report on human rights violations in the diamond-mining area of Chiadzwa, Marange region in Mutare west during a meeting held on May 25, 2010<sup>11</sup>. He was released on July 12 by the Harare High Court, which granted him bail on condition that he pays a 1,500 US dollars (about 1,060 euros) bail deposit, daily reports to the Mutare central police station, resides in his home in Mutare and refrains from travelling more than 40 km away from Mutare, except for the purpose of court hearing in Harare. During his detention, Mr. Maguwu encountered several obstacles to obtain access to medical treatment and was subjected to ill-treatments. On August 6, 2010, bail conditions were eased. On October 21, 2010, charges were dropped by the Rotten Row Courts pursuant to instructions from the Attorney’s General office. Mr. Maguwu was then released from all bail conditions.

### **Harassment of journalists denouncing corruption**

Independent newspapers reporting on corruption cases regularly faced judicial harassment and intimidation along 2010–2011. For example, on November 17, 2010, Mr. **Nqobani Ndlovu**, reporter for the independent weekly *The Standard*, was arrested in Bulawayo. On November 14, 2010, the weekly had published an article signed by Mr. Ndlovu about the

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10/ The Kimberley Process (KP) is a joint Government, industry and civil society initiative to stem the flow of diamonds used by rebel movements to finance wars against legitimate Governments. On July 19, 2010, the KP agreed to renew Zimbabwe’s diamond-exporting licence. According to this agreement, the country was allowed to carry out two supervised exports of rough diamond from the Marange production.

11/ The report includes cases of unlawful arrests and detentions, torture and extrajudicial executions allegedly perpetrated by the police, the army and security agents, in connection with diamond mining,



recruiting by the police of war veterans loyal to the ZANU-PF to take over senior posts ahead of next presidential elections<sup>12</sup>. On November 19, a Bulawayo magistrate ordered his release on a bail of 100 US dollars (about 69 euros). Yet, the police asked the extension of his period of custody by seven days. On November 26, 2010, he was finally released from Khambi prison by Judge Nicholas Mathonsi, who rejected the police's new appeal. On November 30, 2010, Mr. **Nevanji Madanhire**, Editor of *The Standard*, was arrested by members of the law and order section of the Criminal Investigation Department at the Rhodesville police station in Harare. He was detained for 24 hours and then released on a bail of 100 US dollars. Harare Magistrate Don Ndirowei, who allowed his release on bail, also ordered an investigation into power abuses committed by the police forces that tended to make arbitrary arrests. Messrs. Ndllovu and Madanhire were charged with "publishing and communicating false statements prejudicial to the State" under Section 31 of the Criminal Law (Codification and Reform) Act, for having allegedly defamed the Police Chief General Augustine Chihuri and the police force in general. On February 28, 2011, Magistrate Don Ndirowei removed them from remand and granted the defendants' application for the case to be referred to the Supreme Court since they are contesting the constitutionality of the above-mentioned section of the Criminal Law (Codification and Reform) Act, which has been widely used to arrest media practitioners. He further ruled that the case would proceed by way of summons<sup>13</sup>.

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

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Okay Machisa	Threats	Urgent Appeal ZWE 001/0210/OBS 023	February 19, 2010
Messrs. Okay Machisa, Nunurai Jena, Netsai Kaitano and Jabilusa Tshuma	Death threats/Continued intimidation	Urgent Appeal ZWE 001/0210/OBS 023.1	March 2, 2010
Mr. Okay Machisa and Ms. Olivia Gumbo	Arbitrary arrest / Release / Confiscation of property / Threats and intimidation	Urgent Appeal ZWE 001/0210/OBS 023.2	March 24, 2010
Mr. Joel Hita, Ms. Lio Chamahwinya, Ms. Olivia Gumbo and Ms. Cynthia Manjoro	Arbitrary arrest / Confiscation of property / Judicial harassment	Urgent Appeal ZWE 001/0210/OBS 023.3	April 27, 2010

12/ In the article, he said the police had cancelled the annual promotion process and instead recruited war veterans and retired police officers, allegedly to help President Mugabe's party win elections in 2011.

13/ See ZimRights.

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
<b>Women of Zimbabwe Arise (WOZA) / Ms. Jennifer Williams, Ms. Magodonga Mahlangu, Ms. Clara Manjengwa and Ms. Celina Madukani</b>	Arbitrary arrest / Release/Harassment	Urgent Appeal ZWE 002/0410/OBS 050	April 23, 2010
<b>Ms. Ellen Chademana and Messrs. Ignatius Muhambi and Chesterfield Samba</b>	Arbitrary arrest / Release on bail / Judicial harassment / Confiscation of property	Urgent Appeal ZWE 003/0510/OBS 066	May 28, 2010
<b>Mr. Farai Maguwu</b>	Arbitrary detention / Judicial harassment / Ill-treatment	Urgent Appeal ZWE 004/0610/OBS 079	June 22, 2010
		Urgent Appeal ZWE 004/0610/OBS 079.1	July 5, 2010
	Release on bail / Judicial harassment	Urgent Appeal ZWE 004/0610/OBS 079.2	July 15, 2010
	Acquittal	Urgent Appeal ZWE 004/0610/OBS 079.3	October 28, 2010
<b>Mr. Abel Chikomo</b>	Intimidation / Harassment	Urgent Appeal ZWE 001/0311/OBS 035	March 15, 2011
	Judicial harassment	Urgent Appeal ZWE 001/0311/OBS 035.1	March 31, 2011
<b>13 human rights defenders, including Messrs. Bamusi Kasembe, Dzikamai Bere, Admire Munava and "Tongai"</b>	Acts of intimidation / Death threats	Urgent Appeal ZWE 002/0311/OBS 046	March 24, 2011