STEADFAST IN PROTEST

OBSERVATORY FOR THE PROTECTION
OF HUMAN RIGHTS DEFENDERS

FIDH / OMCT

STEADFAST IN PROTEST

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* EGYPT, Cairo : Egyptian protestors demonstrate raising their shoes in front of the Egyptian national TV building, which was secured by the Egyptian Army, in central Cairo on February 11, 2011.

FOREWORD

Sidi Bouzid, December 17, 2010: In a desperate move, Mohamed Bouazizi, a young unemployed Tunisian, set himself fire. On January 4, he succumbed to his injuries, and the next day, several thousand people attended his funeral; this was the beginning of a large peaceful protest movement, a movement of hope for change that, against all odds, would lead to the overthrow of corrupt and liberticidal dictatorships in Tunisia and Egypt.

"Get out!" Zine el-Abidine Ben Ali, Hosni Mubarak, Muammar Gaddafi, Ali Abdullah Saleh, Bashar al-Assad ... : This huge popular uprising in the name of dignity, freedom and justice has spread throughout the Arab world - in Libya, Yemen, Bahrain, Syria ... And beyond, as the wind of freedom blew over the capitals of the world, in Paris, London, Rome and Berlin but also in Tehran, Istanbul, Amman and Baku, where demonstrations of solidarity took place. In China, peaceful marches were held, also known as "Jasmine gatherings", a tribute to the Tunisian revolution.

Everywhere, **respect for human rights** was at the heart of the peoples' claims. It is not the predicted "clash of civilizations" that we have seen. Far from it! These movements did not feed on identity or on religious or cultural politics, but were rather founded on the principles enshrined in the Universal Declaration of Human Rights: social justice, fundamental freedoms - expression, association and peaceful assembly - the right to dignity... It was for this reason alone, and using new information technology, a real revolutionary weapon in the hands of a new generation of "outraged" citizens that the message could resonate across borders. Could anyone give a more beautiful lesson of u**niversality**, at a time when cultural particularities are used as pretexts to justify human rights violations, especially against the most vulnerable populations?

These groups thus reversed established convictions. No. Repression does not guarantee a regime's stability.

It is the universality of these claims that has, very quickly, raised fears of **contagion** among all authoritarian regimes, regardless of continent. Many have taken immediate action: in Zimbabwe, on February 19, 2011, 46 people were arrested and charged with treason for viewing, at a meeting,

a video of protests in Egypt and Tunisia. In China, "Jasmine gatherings" sufficiently scared the Government for a massive deployment of security forces; the Chinese authorities went so far as to censor the word "jasmine" on the Internet.

Moreover, fierce repression continues in all Arab countries that have not ousted their tyrants: in Libya, a merciless war is being waged against its people. Yemen is living under the threat of civil war. In Bahrain, opponents of the regime are tortured and sentenced to long sentences after unfair trials. In Syria, President Bashar al-Assad, to quell any claim against him, massacres his people behind closed doors.

Human rights defenders, who were the primary target of the crackdown, were at the vanguard of this tremendous outpouring of freedom. These women and men who, before the events that rocked their countries, were already working tirelessly to uphold fundamental rights. Men and women who, despite censorship, death threats, and imprisonment, have challenged Governments, denounced violations wherever they were committed and carried messages of **indignation** from their populations. Citizen engagement in the current movements shows that the struggle of defenders is universal and the Universal Declaration of Human Rights, a timeless instrument. This commitment calls on us to redouble our efforts to hear and relay the voice of civil society.

In light of the incomplete transitions of countries of the former Soviet Union, where human rights defenders remain threatened today, our support for these women and men must be strong and constant. To preserve the work of defenders we must honour them and, in turn, become indignant on their behalf against all forms of repression aimed at silencing them. The book is an essential tool for defending, protecting and continuing the fight for universal human rights.

Daw Aung San Suu Kyi
Burmese opposition politician and Nobel Peace Prize

Stéphane Hessel
former French diplomat who participated in the drafting of the Universal Declaration of Human Rights and wrote in 2010 the best-selling manifesto "Time for outrage!"

TIME FOR AN EFFECTIVE PROTECTION OF HUMAN RIGHTS DEFENDERS

The Arab Spring has marked like no other event the period covered by this Annual Report of the Observatory for the Protection of Human Rights Defenders. As Stéphane Hessel and Aung San Suu Kyi set out in the foreword to this report: "(…) *everywhere, the respect for human rights was at the heart of peoples' claims*, (…) *these movements did not feed on identity, religious or cultural politics, but were rather founded on the principles enshrined in the Universal Declaration of Human Rights* (…)".

It would be false to suggest that the peaceful revolutions in *Egypt* and *Tunisia* were the sole making of a handful of human rights defenders. This would also do injustice to the breath and diversity of those who carried the call for freedom and social justice to the streets. Human rights defenders have, however, for long documented the underlying human rights violations and social injustices, thus vindicating aspirations that now came to the fore in North Africa and the Middle East. They suffered threats, harassments and other interferences in return, as illustrated by countless appeals issued by the Observatory over the years. In the Middle East and North Africa – as in other parts of the world – the international community and influential States have too readily (implicitly) accepted forms of repression in exchange for an illusory promise of security and stability. In this frame, little space has been left for freedoms, human rights and their defenders. The expression of the universality of human rights seemingly came sudden and unexpected for many observers and touched regimes with an entrenched system of repression. This – no doubt – is a sign of hope and aspiration to all those upholding dignity and fundamental rights under difficult conditions in authoritarian societies. These developments affect also the way human rights are perceived and shape international relations, diplomacy and the global discourse on human rights and the protection of human rights defenders far beyond the realm of the region.

However, despite all optimism, there have been dramatic backlashes as Governments are wary about challenges to their power and have in many instances sought to nip in the bud any quelling of dissent. This applies also to the appraised role of social networks as Governments were keen to respond by seeking to limit access to social networks, closing or limiting Internet connections, and harassing and prosecuting bloggers and others who have successfully used open media. Moreover, we should not underestimate the challenge still ahead in *Egypt* or *Tunisia* that have yet to fully dismantle the apparatus of repression, ensure accountability for human rights violations committed today and in the past and create an enabling legal and policy framework for civil society and human rights defenders.

Above all, however, the focus on North Africa and the Middle East must not distract our attention from the many dire situations in which human rights defenders operate, such as in Eastern Europe and Central Asia, as well as in Latin America, Asia and Africa. In a good number of countries we have witnessed no wind of change, but a great deal of continuity or even an exacerbation of threats and assaults on human rights defenders, such as *Belarus* or *Kyrgyzstan*, to mention only two examples. The 509 interventions on individual cases issued by the Observatory from January 2010 to April 2011 covering 66 countries provide compelling evidence on continuous urgency of the situation of human rights defenders around the globe. Instead of being recognised as vital actors of change and as guarantors for a free society, Governments continued to follow a "control approach" to civil society and to human rights defenders impeding or even criminalising their legitimate work. This – it appears – remained in many parts of the world the 'Leitmotiv' for the period covered in this report.

The criminalisation and repression of human rights defenders and social protest

The interferences and attempts to criminalise and repress human rights defenders and social protest in many parts of the world were one of the most prominent features of the attempt to control civil society. In Latin America, Africa or many Asian countries, human rights defenders have been attacked, harassed – including at a judicial level – or otherwise threatened, often in a climate of impunity. This has affected in particular those who defend vulnerable or marginalised communities, such as indigenous peoples in their defence of land rights or natural resources. For example, in Latin America, indigenous, afro-descendant and peasant leaders continued to be the constant victims of attacks, particularly when they protested peacefully against a number of projects to exploit natural resources in their territories. On repeated occasions statutory offences were arbitrarily applied in order to criminalise these protests and detain peaceful protesters,

as it occurred in *Guatemala, Ecuador* or *Peru*. In a similar vein, environmental and land rights activists as well as defenders denouncing forced evictions routinely faced violence and arrests in a number of Asian States, such as in *Cambodia*, *India* or *Malaysia*, and authorities frequently used judicial proceedings or the threat thereof to restrict their activities and to intimidate them. It is often those defending economic, social and cultural rights who face not only powerful political interests but also private and economic actors resulting into threats, interferences and attacks emanated from both State and private actors or a combination of the two.

The interferences into the right to peaceful assembly in different regions of the world remained a particularly serious challenge throughout the year. Protest movements and assemblies in North Africa and the Middle East (*Bahrain*, *Egypt*, *Morocco and Western Sahara, Syria*, *Tunisia*, *Yemen*) and in *Iran* were violently repressed. In other countries, such as in some countries of Eastern Europe and Central Asia, demonstrations were prohibited or subject to arbitrary and disproportionate limitations with those participating being subsequently sanctioned by arrest and/or administrative detention. It also confirmed the experience of the Observatory that election periods constitute a heightened risk for human rights defenders. Elections can and have seen in some instances during the last year positive turning points for human rights and the ability of human rights defenders to operate freely, as it occurred in *Niger* during the transition period that followed the coup d'état in February 2010, and the elections held on January 31 and March 12, 2011, where 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 to human rights defenders was observed since then. There have, however, been new incidents in which election cycles triggered restrictive measures to control civil society and human rights defenders. Some States have tightened legislation ahead of elections and sought to control media access and reporting, as in *Burundi*, *Ethiopia* and *Rwanda*. Human rights defenders have been subjected to harassment and direct threats by the Government and/or political parties or fractions in the context of elections in Africa. For example, in the run-up and staging of elections, defenders who worked to promote transparent and fair ballots were often regarded as siding with the opposition and were subjected to threats or even arbitrary arrests and judicial harassment, as occurred in *Djibouti*, *Sudan* and *Uganda*. In countries like *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. In *Belarus*, too, human rights defenders were subjected to arrests and criminalisation following a dramatic clamp down in the backdrop of electoral protests. It is also in the

context of elections that human rights defenders are easily labelled as pro-western, foreign agents, anti-national or as being part of the opposition. This underlines the need for an early warning mechanism in the run-up to elections involving all political parties and ensuring that domestic and international election monitoring schemes effectively integrate a human rights defenders perspective prior, during and following the elections.

Legal frameworks mis-used against human rights defenders

The "control" approach manifests itself in the legal framework and judicial practice in all regions of the world covered by this report. While the notion of the rule of law entails the protection of rights through law ("rule of rights"), more often than not, the reality is far from this. The law is used by those in power to impede and control human rights defenders. It limits the scope of operation of human rights defenders and fails to offer its protective reach in cases of need. Worse than this, it is actively used and turned in many instances as a tool against human rights defenders.

Numerous examples in this report highlight attempts to adopt legislation that limits freedoms of association, assembly and expression, by placing illegitimate conditions or over-bureaucratising the exercise of those rights lending to arbitrary application. In such scenario, legislation carries a chilling shadow for the legitimate work of human rights defenders. Legislation regulating the registration of civil society organisations has also been approved in a sense that it imposes restrictions affecting its autonomy and independence, as it happened in *Ethiopia* and *Uganda*. In addition, the rules on registration for NGOs were sometimes used for purposes of judicial harassment, as in *The Gambia* and *Zimbabwe*, or to refuse or revoke the accreditation of organisations or unions considered as a nuisance, like in *Ethiopia* and *Sudan*. Furthermore, the assets of some organisations were frozen in order to paralyse their activities, as it occurred as well in *Ethiopia* and *Sudan*.

An aspect that has continued to pose concern throughout the year in this context is the increasing control of funding, including international, to civil society organisations. This is particularly problematic when domestic funding is not available because individuals or businesses would expose themselves to potential political or economic reprisals. The funding by international actors or bilateral development assistance for human rights groups is often a lifeline for civil society actors and the international community should have a keen interest to protect the funding of civil society organisations. The receipt of foreign funding by civil society organisations may be used by Governments to discredit and de-legitimise the work of human rights defenders, especially when they are actively

documenting human rights violations and calling for accountability, such as in *Belarus*. In *Israel*, too, new legislation has been introduced impeding the work of Israeli human rights organisations by targeting their foreign funding in relation to the documentation of human rights violations and violations of international humanitarian law.

The effect of repressive legislation is compounded by a lack of an independent and human rights protecting judiciary. In some countries, far from assuming its role as guarantor of rights, the judiciary has allowed itself to be compromised and turned into a weapon against human rights defenders. A telling example, but unfortunately many amongst others, has been the conviction of **Azimjan Askarov**, a *Kyrgyz* human rights defender known for having documented police ill-treatment of detainees and monitored the human rights situation in Jalal-Abad. He was sentenced in appeal to life imprisonment for having allegedly urged ethnic Uzbek to take as a hostage a district official and attacked police officers. In *China*, *Iran* and *Syria*, dozens of human rights defenders were serving long prison terms on vague charges related to the control of society and the safeguard of national security interests. In *Turkey*, some were prosecuted within the framework of anti-terrorist operations and subjected to prolonged pre-trial detention. The effect of such cases is also the discrediting of the human rights defenders accused of criminal offences, as well as the lasting damage to the confidence into the judiciary and its independence. Even in countries that are largely considered to be committed to the rule of law, such as in Western Europe, this report documents cases in which human rights defenders have been subjected to harassment and interferences, including through administrative or judicial proceedings. This has been especially the case in relation to those defending the rights and interests of migrants, asylum seekers or sexual minorities (*Belgium*, *Cyprus*, *France*, *Italy*, *Poland*, *Spain*).

Absence of accountability for attacks on human rights defenders

In 2010-2011, human rights defenders were killed, disappeared or subjected to assaults or threats (censorship by killing). Such killings and assaults were not limited to a particular continent or region. Those documenting serious human rights violations, abuses of law enforcement and security and intelligence services, continued to be at particular risk, as have been human rights defenders, journalists and environmental activists challenging corruption, powerful businesses and economic or environmental exploitation. In 2010-2011, the Observatory saw the assassination of leading human rights defenders in *Burundi*, *Colombia*, the *Democratic Republic of Congo (DRC)*, *Honduras, Mexico, the Philippines* and *Uganda* to mention only a few. These threats can emanate from State authorities or non-State actors often acting with collusion or in the knowledge of

the authorities. They call into question the obligation of states to prevent such attacks but also the responsibility to protect human rights of private actors. Another category of persons at particular risk are those representing minorities, including LGBTI defenders. January 2011 has seen the the killing of **David Kato**, an *Ugandan* LGBTI defender who was brutally beaten by an unknown man, at his home. It underlined the effect of marginalisation of human rights defenders making them more vulnerable to attacks.

These attacks were often embedded in a climate of impunity and are an expression of much needed systemic reforms to ensure full accountability of all elements of the security apparatus. The impact of attacks is exacerbated by the failure of authorities to adequately respond and denounce such violations and to ensure that those responsible, including those who may have planned or authorised such killings, are held investigated and brought to justice. Impunity for the killing of human rights defenders not only violates clear international human rights standards but it entrenches the traumatic sense of vulnerability of human rights defenders and civil society actors. Telling cases in the course of 2010-2011 include the killings of **Floribert Chebeya** and **Fidèle Bazana** in the *DRC*. While some accountability has been achieved, serious concern remains about the masterminds and the role of key suspects that have never been produced to court. In others, such as *Colombia*, *Mexico* or the *Russian Federation*, the authorities have been unwilling or incapable of ensuring accountability for the murder of leading human rights defenders.

Challenges to international protection

Human rights defenders are entitled to an effective protection and to a legal environment that enables them to operate freely without hindrance, harassment or threats. The evidence provided in the present report illustrate an urgent need for a stocktaking process to review laws, policies and practices that affect human rights defenders at the domestic, regional and universal level.

The international community has no doubt invested significantly into their normative protection framework and built mechanisms surrounding them. Equally, individual countries and organisations provide vital protection work, including physical protection or relocation. Those measures remain vital. But they need to be complemented with equal support and interest into the cause that human rights defenders protect. Moreover, those mechanisms continue to face challenges, notably attacks to the scope of their mandate, their functioning and the lack of implementation of their recommendations. There have been needed positive developments

internationally with the appointment of a UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, which will be, as this report shows, a crucial addition to the protection machinery for human rights defenders. Equally, an important step has been done with the adoption and entry into force of the UN Disappearances Convention and the resolution adopted in June 2011 by the UN Human Rights Council addressing violence and discrimination on the basis of sexual orientation and gender identity. At a regional level, the establishment of an Office of the Rapporteur on the Situation of Human Rights Defenders at the Inter-American Commission on Human Rights represents as well a step forward. However, more efforts are needed to implement international standards for the protection of human rights defenders. In reality, in many countries, international human rights law and its protection mechanisms do provide the last resort for human rights defenders. It is thus worrisome that there have been a number of reprisals against those cooperating with or implementing decisions and recommendations of international human rights bodies. Such reprisals have been observed in Latin American countries such as *Nicaragua* and *Venezuela* and also in Africa, for example, in relation to those organisations and individuals advocating or participating in the proceedings of the International Criminal Court (ICC) or collaborating with the International Criminal Tribunal for Rwanda (ICTR), as well as those who have provided information to the UN, as in *Kenya* and *Malawi*.

It is time to establish enabling domestic legal frameworks for human rights defenders, to undertake a systematic overhaul and repeal of legislation that unduly limits civil society and human rights defenders and, importantly, guarantee accountability for assaults on human rights defenders. More than that, however, it is vital to strengthen public repudiation of attacks on human rights defenders and move human rights defenders back into the centre of society. Threats to human rights defenders typically occur in environments in which they have been pushed to the margins of society, be it that they defend unpopular causes (such as those of LGBTI) or because they are labelled as unpatriotic, foreign spies, linked to terrorist or extremist groups or are simply labelled as naïve, elitist, and out of touch with reality. These threats usually do not come sudden but are the result of a series of measures that create an environment of risk. We all need to work to pull this environment back.

METHODOLOGY

The 2011 Annual Report of the Observatory for the Protection of Human Rights Defenders presents an analysis by region of the situation in which human rights defenders operated from January 2010 to April 2011. The analyses are followed by country fact-sheets, which provide for the political context that prevailed at the national level during that period, and the most prevalent forms of repression against defenders, which are duly illustrated by concrete cases. However, given the volume of information gathered for the "Western Europe" region, it was decided to treat cases of obstacles for defenders in a regional analysis rather than in separate fact-sheets, with the exception of Turkey.

The cases presented in the regional analyses and country fact-sheets reflect activities of alert, mobilisation and support carried out by the Observatory on the basis of information received from member organisations and partners of OMCT and FIDH[1]. We would like to take this opportunity to express our appreciation and heartfelt thanks for their collaboration and their vital contributions.

This Annual Report is not exhaustive insofar as it relies on information received and addressed by the Observatory in 2010-2011. In some States, systematic repression is such that it renders impossible any independent or organised activity of defence of human rights. In addition, some conflict situations also make it extremely difficult to isolate trends of repression that aim exclusively at human rights defenders. Situations that are not covered by country fact-sheets in this report are nevertheless referenced as much as possible in the regional analyses.

1/ See Annex 1, p. 588.

ACRONYMS MOST FREQUENTLY USED IN THE REPORT

ACHPR ..... African Commission of Human and Peoples' Rights
ASEAN ..... Association of Southeast Asian Nations
AU ..... African Union
ECtHR ..... European Court on Human Rights
EU ..... European Union
FIDH ..... International Federation for Human Rights
IACHR ..... Inter-American Commission on Human Rights
IACtHR ..... Inter-American Court on Human Rights
ICC ..... International Criminal Court
ILO ..... International Labour Organisation
HCR ..... United Nations High Commissioner for Refugees
LGBTI ..... Lesbians, Gays, Bisexuals, Transgenders and Intersex
NGOs ..... Non-Governmental Organisations
OAS ..... Organisation of American States
ODIHR ..... Office for Democratic Institutions and Human Rights
OHCHR ..... Office of the United Nations High Commissioner for Human Rights
OMCT ..... World Organisation Against Torture
OSCE ..... Organisation for Security and Cooperation in Europe
PACE ..... Parliamentary Assembly of the Council of Europe
UN ..... United Nations
UPR ..... Universal Periodic Review