Dear Defenders,

The theme for the 6th edition of The Rapporteur’s Newsletter will give an opportunity to remember Voltaire who, fighting for freedom of expression, said: «I may be against your ideas, but I will fight for you to express them ....»

The fight for freedom of expression, “the right to speak” is as old as the day. Is it for nothing? This shows without doubt the strength of verbs, the power of words. In any case, freedom of expression is a right guaranteed by the African Charter on Human and Peoples’ Rights.

Article 9 of the Charter reads:
1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

The African Commission has undertaken to exercise freedom of expression and information through a special mechanism on freedom of expression and information since December 2004.

Freedom of expression is one of the great ideals for which human rights defenders in general and journalists in particular are struggling for, sometimes risking their lives.

Once more, The Rapporteur’s Newsletter attempts to raise awareness about another challenge, violations of freedom of association of women human rights defenders, and the role of human rights defenders and peacekeeping. With this, we have much food for thought.

Enjoy your reading.

Adv Reine Alapini-Gansou

In December 2005, Mrs Reine Alapini-Gansou, a lawyer from Benin, was appointed Special Rapporteur for Human Rights Defenders at the African Commission on Human and Peoples’ Rights (ACHPR).

In 1998, the United Nations General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally-recognised Human Rights and Fundamental Freedoms (the Declaration on human rights defenders). In August 2000, Ms Hina Jilani, from Pakistan, was appointed the first Special Representative of the Secretary-General on the situation of human rights defenders.

With regards to Africa, the Grand Bay (1999) and Kigali (2003) Declarations reaffirmed the commitment of the African Union to take measures for the implementation of the UN Declaration on Human Rights Defenders and to recognise the important part played by human rights defenders in the promotion and protection of democracy and human rights. In June 2004, Ms Jainaba Jahn was nominated first Special Rapporteur on human rights defenders in Africa. In December 2005, Ms Reine Alapini-Gansou was appointed as the new Special Rapporteur on human rights defenders in Africa.

The mandate of the ACHPR Special Rapporteur can be summarised as follows:

• To seek out, receive, examine and act upon information concerning the situation of human rights defenders in Africa;
• To present a report, at each ordinary session of the African Commission on Human and Peoples’ Rights (ACHPR), on the situation of human rights defenders in Africa;
• To establish cooperation and dialogue with member States, national human rights institutions, intergovernmental organisations, international and regional mechanisms, human rights defenders and other partners;
• To formulate and recommend strategies to further the protection of human rights defenders and ensure follow-up on these recommendations;
• To promote and raise awareness of the implementation of the UN Declaration on Human Rights Defenders in Africa.

The Special Rapporteur’s key mission is to ensure the protection of human rights defenders in Africa. Her primary role is to protect defenders themselves, the organisations that they work for, and their right to protect and promote human rights. Her responsibilities are numerous. She is mandated to receive information about violations against human rights defenders. She publishes urgent appeals and press releases on cases brought to her. She conducts official missions to evaluate the situation of human rights defenders in a particular country. She makes recommendations on how States can implement the UN Declaration on human rights defenders and takes part in meetings and conferences on issues relating to the defence of human rights.
FLASH

Dear defenders,

you have been waiting for it, here it is : the Special Rapporteur on human rights defenders in Africa website is finally on line.

For up-dated information on the mandate, its activities, its plan of action or the HRD forum, do not hesitate to check www.srhrda.org

ZOOM  Threats against HUMAN RIGHTS DEFENDERS IN THE GAMBIA:

What is the future of human rights in Africa?

The end of September 2009 was particularly restless for human rights defenders in Africa; whether it was in the Gambia where the President of the Republic, Mr Yayha Jammeh, allegedly threatened human rights defenders in a public speech delivered on Monday 21 September 2009, or the violent repression of a peaceful civil society meeting in Guinea on 28 September 2009, the security of human rights defenders in Africa has suffered a loss.

A number of reactions have been recorded from all over the world, at the regional and international levels. An example of this is the joint press release of the UN and the AU Special Rapporteurs on Human Rights Defenders. The African Commission on Human and Peoples’ Rights has adopted a resolution on the deteriorating human rights situation in the Gambia during its 7th extraordinary session held in Dakar from 5 to 11 October 2009.

To better understand the context of this resolution, the following article focuses on the situation in The Gambia.

NB :

Articles published do not express official points of view of the African Commission on Human and Peoples’ Rights or the point of view of its mandate on human rights defenders.

FREEDOM OF EXPRESSION IN THE GAMBIA

By Fabakary B. Ceesay, Senior Reporter of Foroyaa Newspaper and the Communication and Public Relations officer of the Network of Human Right Journalists (NHRJ)

Freedom of expression is the core of all freedoms. When rights are violated, one must be able to articulate one’s grievances. One must be heard by a competent authority endowed with power to hear those grievances and award redress. Authorities must be able to exercise their powers with independence and impartiality and pronounce a judgment which will be respected by all stakeholders. All these processes hinge on freedom of expression. If legislatures are not free to speak their mind before punishment, ifaggrieved citizens do not have freedom to express themselves before courts, if judges or adjudicating authorities do not have the power to pronounce judgments which will be respected, then human right defenders cannot be protected in Africa.

Human rights defenders can only be protected if security and the rule of law prevail, if law enforcement officers abide by the dictates of law and due process, if the media is free to report what is occurring, if citizens can criticize and scrutinize their leaders and if judges and magistrates hear cases and award aggrieved parties their rights without fear, favour, or ill will.

The Gambian Constitution has a full chapter dealing with fundamental rights and freedoms and it states categorically under section 17 that:

«...the fundamental human rights and freedoms enshrined in this chapter shall be respected and upheld by all organs of the executive, its agencies, legislature and shall be entrenchable by the courts».

Yet, looking at the situation in the Gambia, one wonders if freedom of expression and freedom after expression really exists, especially when we talk about the media. This article provides an overview of the media in the Gambia and a catalogue of attacks on the Gambian media.

1. **2008-2009 Overview of the media in The Gambia**

The year 2008-2009 for instance witnessed the emergence of new media outlets in the Gambia but under a restrictive environment created by the Government. Threats, intimidation, arrests and other means of subjugation of the media continue to be the order of the day and also oppressive media laws continue to be upheld in courts.

Despite government hostilities, the print media (newspapers) continues to hit the streets as new media houses begin to operate. The Voice, Daily News, Business and Sport Digest and the state-owned newspaper, Gambia Information are also widely available. The Foroyaa Newspaper, now regarded as the most independent papers, but critical of the system, faces serious challenges in publishing coverage of human rights, political and social matters within the country. The Point Newspaper is also mostly seen as quite critical and therefore also faces challenges.

The pro-government newspaper, the Daily Observer, is said to be owned by President Jammeh himself, but is published behind the name of Amadou Samba, a business man, and continues to serve as a government propaganda mouth piece. This newspaper is also instrumental in trying to separate and destabilize the independent media. They carry frequent editorial and other attacks against independent media houses and have been known to describe the Gambia Press Union (GPU) as the ‘Gambia Political Union’, labelling them as elements of the political opposition. The Daily Observer has gone as far as to encourage the formation of an alternative media union called the Gambia Media Association (GMA).

Thirteen electronic media houses currently operate. The state owns the Gambia Radio and Television Service (GRTS), six commercial FM radio stations and four community based FM radio station. The GRTS is seen as president Jammeh’s mouthpiece media outlet. Most of these programmes and news broadcasts are geared towards the promotion of Jammeh’s political gains. Most community and other FM radio stations only provide coverage of commercial and entertainment related news. They restrain themselves from broadcasting on matters related to politics and human rights. Citizen FM Radio which served as an alternative means of information for the 65% of the population of the country’s illiterate, and the Banjul-based Senegalese SUD FM Radio were closed down without any court orders.

The Gambian Press Union, or GPU, is the umbrella body for Gambian journalists, but there also exist other affiliated journalist associations such as the Network of Human Rights Journalists (NHRJ), the Gambia Sports Journalists Association, Association of the Health Journalists (AOHJ), the Young Journalists Association of the Gambia (YJAG) and Young People in the Media (YPIM). There is no media regulatory body in the Gambia. The GPU serves as a vehicle for maintaining professional and ethical standards within the media fraternity and also resolves disputes among media practitioners.

In 2004, the government of the Gambia tried to set up a national media commission through an act of parliament which was seriously contested by the GPU with the support of international and regional media, and human rights organisations. Such a regulatory authority has not yet materialised, but to date the GPU has also been unable to create a self-regulatory body. In the Gambia, there is also no specialized journalist training institution to date.

Although private institutions and tertiary schools are now offering journalism training courses, it is at a higher cost.

2. **Catalogue of attacks on the Gambian media from 2000 to September 2009**

A- **MURDER**

(1) 10 April 2000, Omar Barrow of SUD FM, a privately owned radio station was shot dead in broad day light by security forces during a student demonstration in which 13 students were killed.

(2) 16 December 2004, Deyda Hydara, former managing editor and owner of Point newspaper and treasurer of West African Journalist Association (WAJA). He was shot dead at close range within the environment of the police garage and the headquarters of police intervention unit at Kanifing, 12 kilometres from the capital, Banjul. He was driving two of his colleagues’ home after work. The colleagues were flow to Dakar for medical treatment for gun shot wounds.
B- ARSON ATTACKS

(1) 8 August 2001, Radio 1 FM was subjected to arson attack in the course of which the proprietor, George Christenson, sustained injuries and burns on several part of his body.

(2) 17 October 2003, the offices of the Independent newspaper were set on fire at about 3am.

(3) 13 April 2004, the printing machine of the Independent newspaper was completely burnt and became dysfunctional. Six men in military gears assaulted the staff and forced their way into the printing room and poured petrol on the machine and set it ablaze.

(4) 15 August 2004, Ebrima Sillah, a BBC reporter’s sitting room was set on fire as he was sleeping in the bedroom. He escaped unhurt through the back window. Prior to the attack he received email threat from the “green boys,” government militants.

C- ARRESTS AND DETENTION

(1) 19 September 2003, Abdoulie Sey, Editor-in-chief of Independent newspaper was arrested by three plain clothes security agents with numberless car. He was released four days later.

(2) 27 March 2006, Musa Saidykhan, the editor-in-chief of the Independent newspaper was arrested by security agents after publishing two critical articles of the president about the alleged 21 March 2006 coup plot. He was released after 3 weeks.

(3) 28 March 2006, Madi M.K Ceesay, manager of the Independent newspaper and president of the GPU, was also arrested by security agents upon arrival at work. He was also released after 3 weeks in detention without charged.

(4) 10 April 2006, Lamin M; Fatty, a reporter of Independent newspaper was picked up by security agents at his home. He was held up to 63 days in detention. Upon release he was charged with false publication and broadcasting. He was convicted on June 2, 2007 to a fine of 50,000 Dalasi (US Dollar 1,800) or in default to serve one year imprisonment. The money was paid by the GPU.

(5) 25 April 2006, Juldeh Sowe, a receptionist of the Independent newspaper was arrested when he reported to work. He was released on the same day.

(6) 7 July 2006, Chief Ebrima Manneh, news editor of the Daily Observer newspaper was arrested by plain clothes security agents. He is still being held in communicado at an unknown location.

(7) 24 May 2006, the following journalists were arrested after the freedom on-line newspaper saga: Musa Sherrif, Pa Modou Faal, Lamin Cham, and Malick Mboob. Others were released few days latter but Mboob remains in communicado for almost six months.

(8) 7 September 2006, Dodou Sanneh, the GRTS reporter, covering the political campaign of an opposition party was arrested and detained up to 13 September.

(9) 28 March 2007, Fatou Jaw Manneh, a former reporter with Daily Observer was arrested upon her arrival from the U.S.A. She was detained for 6 days before being charged with four different charges of sedition. Her trial has been dragging from one court to another until on the 18 of August 2008, when she was convicted to a fine of 250,000 Dalasi in default to serve four years imprisonment with hard labour. Apparently the money was paid by the GPU and her family.

(10) 18 May 2007, Fabakary B. Ceesay, a Senior Reporter of Foroyaa Newspaper and the communication and public relations officer of the Network of Human Right Journalists, was arrested by riot police during a brawl involving the police and parting students. He was detained for two hours at a Police Intervention Unit camp at Kanifing.

(11) 8 September 2007, Malick Jones, a news broadcaster and producer at the GRTS and Mam Sait Ceesay, a Press Officer at State House were arrested and later charged for allegedly giving state information to a foreign journalist. They were later detained for almost two weeks before being released on bail. Jones was later interdicted at his work place while Ceesay got fired. Ceesay was singly charged with two counts of false publication. On Monday 19 July 2008, he was acquitted and discharged by the court.
(12) 6 October 2007, Yaya Dampha, a senior reporter of Foroyaa newspaper, was arrested by police at Basse about 400 kilometres from the capital, Banjul. Dampha was arrested along side two Amnesty International personnel. They were brought to Banjul and released unconditionally on the 12 of October. Dampha was helping the Amnesty officials in locating some of the state detainees in the countryside.

(13) 4 April 2008, Malick Jones, the interdicted producer at the GRTS, was arrested by two plain clothes secret agents. He was released on Saturday the 5 April only to be re-arrested on Sunday,6 April, and released on bail on 7 April. He was later charged for common assault and breach of peace but never appeared in court on the charges.

(14) 12 March 2008, Ousman M.M. Jallow, a junior reporter with Foroyaa newspaper, was arrested by the police at Kerewan in the Northern part of the country, about 50 kilometres from Banjul, the capital. He was detained for a day and half before being granted bail for the sum of 100,000 Dalasi. His press materials were seized from him and continued to report to police on weekly basis. He never appeared in court and the charges were later dropped.

(15) 27 April 2008, Saikou Ceesay, a reporter and photographer of Foroyaa newspaper, was arrested by the municipal police when he took photos of the demolition of a market of women’s canteens. He was detained for one hour before being released. He was compelled to delete all the photos that he took.

(16) 12 June 2008, Dida Halake, the managing editor of the Daily Observer newspaper was arrested and detained for more than ten days. He was later charge with sedition but he was discharged after the case suffered adjournments without proceedings.

(17) 14 June 2008, Saikou Ceesay, a reporter with Foroyaa newspaper was arrested by the personnel of the Kotu police station and was subsequently detained till the following day. He was initially granted bail in the sum of 25,000 Dalasi. He was never charged.

(18) 17 July 2008, Abdulhamid Adiamoh was arrested and detained. He was charged on 21 July with publishing with seditious intentions. He was arraigned in court on 28 July 2008.

(19) 2 February 2009, Pap Saine, the managing editor and co-proprietor of the Point newspaper was arrested with senior reporter Modou Sanyang. They were held at the major crime unit at the police headquarters in Banjul for three hours before Sanyang was released without any charges. Saine remained in detention up to 10:00 pm, before being granted police bail of the sum of 50,000 Dalasi. He was charged with false publication. Again on 4 February, Saine was re-arrested and charged with making a false declaration to acquire Gambian citizenship and passport when he knew that he is not a Gambian.

(20) 8 June 2009, Abdul Hamid Adiamoh, the publisher and editor of the TODAY Newspaper was arrested and paraded on TV for publishing the sacking of some ministers, which the government denied. He was detained up to 16 June 2009. Charged of false publication, he was fined 50,000 Dalasi in default to serve 6 months imprisonment. He subsequently paid the fine.

(21) 15 June 2009, the following journalists were arrested in connection with the GPU reaction to the statement made by President Jammeh on the killing of veteran journalist Deyda Hydara: Sam Sarr, Abubcarr Saidy Khan, Pap Saine, Ebrima Sawaneh, Emil Touray, Sarata Jabbie Dibba and Pa Modou Faal. They were all detained for four days before being arraigned in court on 18 June, upon which they were remanded up to Monday 22, when they were granted bail. Saidy Khan was subsequently acquitted and discharged upon the no case submission. On 6 August, all the 6 journalists were convicted on all the six counts and sent to a mandatory jail term of 2 years.

(22) 18 June 2009, Editor Abba A.S. Gibba of the Point newspaper was arrested at his office. He was released on 19 June without any charge.

(23) 22 June 2009, journalist Augustine Kanjia, a reporter with the Point newspaper was arrested for allegedly taking pictures at the trial of the 6 convicted journalists. He was detained at Serrekunda police station till 25 June, when he was released on bail in the sum of 50,000 Dalasi, without any charge. On 16 August, upon reporting to the police as his bail condition requires him to do, he was told that he has no case but that his camera is seized by the police.
D- ASSAULTS

(1) 16 December 2005, Ramatoulie Charreh, a reporter with Daily Observer was ruffled by police until she fainted and was rushed to hospital. Her camera was seized from her. The incident happened when international delegates wanted to visit the spot where Editor Deyda Hydara was gunned down.

(2) 12 December 2006, Baron Eloagu of Daily Express newspaper was attacked and beaten. His attack followed the severely beating up of his colleague Abdougafar Olademinji.

(3) 18 May 2007, Fabakary B. Ceesay, a senior reporter of Foroyaa newspaper was assaulted and maltreated by more than seven riot police officers (PIU), during a brawl between students and police. He sustained a bruise on his ankle and his sun glasses were broken. His press materials were seized by a senior officer who threatens him by pointing a gun on his head and attempted to shave his long hair with a knife.

(4) 1 July 2008, Momodou Justice Darboe, an editor of the Point newspaper was physically assaulted by an unknown attacker with a knife. Prior to that, his neighbour told him that unknown people were frequently looking for him.

E. THREATS

(1) 13 January 2004, the Independent newspaper managing editor, Algie Yorro Jallow, received a threatening letter signed by the “green boys,” the ruling party’s thugs. They threatened to kill him and destroy his newspaper if he did not stop publishing reports on some ruling party stalwarts. “Leave Baba Jobe, this is a final warning to you”, they wrote to him.

(2) 2004, Demba A. Jawo, the then president of the GPU, received a letter threatening him not to be critical of the president. Part of the text reads: “Very soon we will teach your journalists a very good lesson; we know where you are staying in Kanifing Housing Estate. We are therefore warning you to calm down or we will tame you. I am sure you don’t want your bones and flesh to be thrown to dogs and vultures”.

(3) 7 July 2007, Momodou Lamin Jaiteh, a reporter for the Panaf News Agency, received a threatening phone call from an NIA agent for allegedly given information to his media.

(4) 10 March 2008, Yay Dampha, an exiled Foroyaa newspaper senior reporter was subject to an attempt by Gambian secret agents in Senegal to kidnap and bring him to the Gambia. Prior to his exile, Dampha was receiving frequent call threats from the state secret agents who also made frequent unexpected visits to his home.

(5) 24 March 2008, Buya Jammeh, a reporter with Daily Observer received a threatening call from the management after when he was elected as a co-opted member of the GPU. He was asked to quit the position or he would be fired.

(6) 20-21 May 2008, Fabakary B. Ceesay, a senior reporter with Foroyaa newspaper received two threatening phone calls from an unknown person believed to be a state security agent by using a unidentified number. Ceesay was warned to be cautious with his writing or face the consequences. He was told that they were monitoring his movements.

(7) 8 September 2008, Fabakary B. Ceesay of Foroyaa newspaper was called by the Inspector–General of police, Mr. Ensa Badjie, to either surrender himself to the police or face arrest and detention. The call was based on a story that Ceesay wrote concerning the continued detention of a suspect in police custody for over a month without charge or bail.

(8) 15 June 2009, Buya Jammeh, an executive member of GPU was visited by state agent at his house to arrest him in connection with the GPU reaction to President Jammeh. He went into hiding for a week to avoid arrest.

(9) 19 June 2009, Fabakary B. Ceesay and Baboucarr Senghore, senior journalist Point newspaper was called by the State security agents to surrender themselves or face the consequences of arrest. Both went into hiding for almost a week for fear of arrest and detention or prosecution. The state agent visited Ceesay’s home and his office to execute his arrest, but he was nowhere to be found.
F. CLOSURE OF MEDIA HOUSES

(1) The Executive has closed three media houses without securing a court order. In 1998, the National Intelligence Agency (NIA) personnel, forcibly closed Citizen FM, a privately owned broadcasting station and detained its proprietor, Baboucarr Gaye and his deputy, Ebrima Sillah. Gaye was later to pay 300 Dalasi (USD10); however, the court also ordered that the radio stations equipment be confiscated by the State. The judgment was however subsequently overturned when Gaye appealed to the high court. In 2001, the station was closed down following charges of tax evasion. Even after he paid all his arrears, the station still remains shut down without a court order.

(2) September 2005, SUD FM, a privately owned Senegalese radio station operating from Banjul, was closed down by the Gambian authorities accusing it of “insulting a foreign head of state” referring to President Wade of Senegal. Again, the action was arbitrary as there was no court order. The station still remains closed.

(3) 27 March 2006, the Independent newspaper was closed six days after the March 21 alleged coup plot against the government. The paper was accused of publishing false information about the alleged coup plot. It still remains closed.

G- SACKINGS

(1) 19 September 2005, Ramtoulie Charreh of Daily Observer was subsequently sacked by the management after she was involved in a scuffle with the police on 16 December when an African journalist wanted to lay a wreath down at the site where editor Deyda Hydara was gunned down. She was accused of violating the management’s view that observer journalists should not attend the program.

(2) 13 September 2006, Dodou Sanneh, a reporter with the Gambia Radio and Television Services, was sacked from his post for allegedly over-reporting on the campaign of an opposition party.

(3) 25 March 2008, Buya Jammeh of the Daily Observer was unceremoniously sacked by the management upon his report to work and his refusal to quit the position as a GPU executive member.

H. EXILE

The following Gambian Journalists are currently in exile for fear of being prosecuted or put in definite incommunicado: Musa Saidykan, Sulayman Makalo, Yaya Dampah, Momodou Lamin Jaiteh, Omar Bah, Pa Ousman Darboe, Sheriff Bojang Jr, Ebrima Sillah, Alagie Yorro Jallow, Baba Galleh Jallow, Pa Nderry Mabi, Ebrima Sankareh, Mathew K. Jallow, Alieu Badara Sowe, Yankuba Janbamg, Lamin Cham, Lamin Fatty, Buya Jammeh, Bunja Touray, Momodou Justice Darboe, Buya Jammeh and Modou Nyang.

Conclusion

Altogether, looking at the pattern of attacks against the media, one can imagine that the situation is hopeless. However, human rights defenders from the Gambia and particularly journalists continue to hope for the best.
The right to freedom of expression is of invaluable importance to the work of human rights defenders in protecting and promoting human rights around the world. At a fundamental level, the freedom to express ideas as well as to seek and receive information is essential for human rights defenders to obtain information about human rights violations, to inform the public and the State about their occurrence, and most importantly to demand accountability and to express their criticism of unjust laws, policies or practices. From exposing violations to building public pressure upon governments to address them, freedom of expression, along with freedom of association and assembly, constitute the foundation for the work of human rights defenders.

International standards for protection of freedom of expression

The right to freedom of opinion, expression and information is well-established and protected at the international and regional levels both legally and institutionally. This right is enshrined in various international instruments, namely; the Universal Declaration of Human Rights (Article 19), the International Covenant on Civil and Political Rights (ICCPR, Article 19), the International Convention on the Elimination of all forms of Racial Discrimination (Article 5(d)(viii)), the Convention on the Rights of the Child (Article 13) and the Declaration on human rights defenders (Article 6). The main international human rights body within the United Nations system, the Human Rights Council (the Council), also provides through its system of special procedures for a Special Rapporteur on freedom of opinion and expression, which was established in 1993. Several regional instruments also protect the right to freedom of expression, such as the European Convention on Human Rights (ECHR; Article 10), the African Charter for Human and Peoples’ Rights (ACHPR; Article 9) and the American Convention on Human Rights (ACHR; Article 13). The Inter-American Commission on Human Rights (IACHR) also provides for a Special Rapporteur on freedom of expression, who drafted a Declaration of Principles on freedom of expression, which was adopted in 2000. Similarly, the African Commission on Human and Peoples’ Rights has also established a Special Rapporteur on freedom of expression in Africa.

State obligations to protect freedom of expression

Under international instruments, States are obligated both to take positive steps towards ensuring the protection of freedom of expression (including by protecting the right from interference by third parties) as well as to refrain from interfering with the free exercise of this right. As freedom of expression is one of the qualified rights contained in the ICCPR, this means that there may be certain instances when this right may be permissibly restricted under particular circumstances – such as when exercise of the right may impinge on the rights and reputations of others, or may pose a threat to national security, public order, public health or morals. In such cases,
any limitations must be necessary and proportional, and codified by law. Given that these circumstances are broadly defined, States have often used these grounds to restrict freedom of expression of human rights defenders. The Human Rights Committee has therefore explicitly stated that while a State party may impose certain restrictions on the exercise of the right to freedom of expression, these restrictions cannot ‘put in jeopardy the right itself’. Similarly, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has strongly stated that any restrictions on freedom of expression should only be applied in ‘cases of extreme danger for the democratic order and should have a well-defined time limit’.

**Challenges to freedom of expression of human rights defenders**

Human rights defenders face numerous challenges to their freedom of expression – through physical attacks, threats and intimidation in retaliation for exercising their freedom of expression, or to prevent defenders from speaking out against human rights abuses. The use of libel and defamation charges, vaguely worded legislation penalising ill-defined offences, counter-terrorism legislation and other legal means have also been used by States to restrict or control freedom of expression by defenders.

The Special Rapporteur on human rights defenders has repeatedly noted that human rights defenders are disproportionately targeted before, during or immediately after publicising human rights issues through reports, articles, petitions, letters, radio, public broadcasts or any other public campaigns. Journalists in particular have been kidnapped, threatened and killed, sometimes after the publication of material on violations of human rights. Additionally, the ACHPR has also ruled that the imprisonment of journalists not only violates their freedom of expression, but interferes with the right of the public to access information provided by journalists.

The HRC has expressed that any attacks, intimidation or violence against human rights defenders (including journalists) that is directed towards suppression of information about human rights violations, or issues in the interest of the broader public, constitute violations of freedom of expression. In 2005, the Committee added that

**Article 6 of the Declaration on human rights defenders states that:**

‘6. Everyone has the right, individually and in association with others:

(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.’

**What does the right to freedom of opinion, expression and information cover?**

**Under Article 19 of the ICCPR:**

- Freedom of opinion
- Freedom of expression
- Right to access information

**Under Article 6 of the Declaration on human rights defenders:**

- To know, seek, obtain, receive and hold information on human rights related issues
- To publish, impart or disseminate information and knowledge on human rights related issues
- To study, discuss, form and hold opinions on human rights related issues

States parties should adopt appropriate measures to prevent harassment or intimidation of journalists. The Committee has also observed in other cases that if harassment, intimidation or any violence against journalists occurs, the State party must take immediate steps to investigate, prosecute and punish the perpetrators and guarantee effective remedies to victims.

Freedom of expression and information has been hailed as a valuable indicator of the general situation
of human rights in a particular region or country. Conversely, in an environment where there is no freedom of expression, it is often also characterised by other violations of human rights and indeed, makes any assessment of the human rights situation far more difficult. In the context of the work of human rights defenders, freedom of expression is not only a right that defenders fight to protect, but it is a right that allows them to carry out their valuable work of protection and promotion of human rights.

The Democratic Republic of Congo: A country where defenders must defend themselves first

By Dismas Kitenge, President of Group Lotus (DRC) and Vice-President of FIDH

On July 28, 2009, my fellow Congolese could listen to the Radio and Television remarks made by Mr. Lambert Mende, Congolese Minister of Communication and Media at a press conference: International Organizations for the defense of Human Rights are «humanitarian terrorists» who «repeat lies» aiming at «destabilizing» the country, the «demoralizing» the government army and the «Balkanization» of the Democratic Republic of the Congo (DRC). No doubt that the invective also targeted local NGOs that cooperate with these organizations.

It is important to measure the consequences of such remarks from a member of the government in a country where some of our friends among whom Serge Maheshe and Didace Namujimbo, both journalists at Radio Okapi, were recently killed for exercising their right to access information in accordance with the UN Declaration on Human Rights Defenders adopted in 1998.

The existence of massive violations of provisions of the African Charter on Human and Peoples’ Rights in the DRC, however, is not debatable. These violations are also criticized by intergovernmental bodies, including the UN Security Council and African Union, regional and international human rights mechanisms such as the UN Human Rights Committee and the African Commission on Human and Peoples’ Rights. These violations are committed in a context of chronic security instability in the eastern Congo, including sexual violence, summary executions, conscription of child soldiers, looting of natural resources. The erosion of the rule of law resulting from decades of dictatorship and the recurrence of armed conflicts is also accompanied by restrictions on fundamental freedoms, arrests and arbitrary detentions and corruption throughout the territory.

Denouncing these violations is like trying to prevent their occurrence by placing first the authorities in front of their responsibility to ensure that they guarantee the implementation of the provisions of the Charter and punish perpetrators of violence. It is a way of participating in the consolidation of the rule of law for a lasting peace. However, some authorities do not seem to hear it this way and multiply the charges against those who dare to challenge violations of human rights committed by state agents. These diatribes are not without consequences. They lead some zealous people to blame defenders because of their activities with the supposed anointing of state authorities.

Threats, harassment, attempt to attack the physical and moral integrity of defenders, and unfair judicial procedures have multiplied in recent months. The attacks come from all political camps, including some elements of the army and isolated individuals, who rejected the objectivity of human rights defenders’ reports on human rights violations in DRC. On September 21, 2009, the County Court of Lubumbashi sentenced Mr. Golden Misabiko, President of the African Association for the Defense of Human Rights Section of Katanga (ASADHO / Katanga) to a one year sentence. His crime - he reported the illegal exploitation of the Shinkolobwe uranium mine and the lack of transparency concerning the contract between the French company Areva and the Congolese government. At the time of writing this article, the case is before the Court of Appeal.

On 16, 17, 18 and 21 September, Mr. Emmanuel Umpula, Executive Director of Action contre l’Impunité pour les Droits Humains (Action Against Impunity for Human Rights, ACIDH), Timothy Mbuya, Vice-President of ASADHO, Katanga and Gregory Mulamba of Centre des Droits de l’Homme
et du Droit Humanitaire (Center of Human Rights and Humanitarian Law, CDH) and Ms. Dominique Munongo of Centre de Développement pour la Femme (Development Centre for Women, CDF) received death threats.

On July 17, 2009, the husband of Ms. Carine Bapita, member of Femmes et Enfants pour les Droits de l’Homme (Women and Children for Human Rights, FEDHO) and Congolese lawyer representing victims before the International Criminal Court in the Hague in the Thomas Lubanga case, received two voicemails and a text message on his mobile phone which warned about the consequences that might occur due to his wife’s work and informed her that her house would be attacked.

A lawsuit is pending against Robert Ilunga, president of Amis de Nelson Mandela pour les droits de l’Homme (Friends of Nelson Mandela for Human Rights) because he denounced the difficult conditions of employees of the Société Générale Industrielle, corruption and traffic of influence of its leaders. The list is not exhaustive and I will spare readers from the many threats that concern me.

In this context, support from international non-governmental organizations is essential. The Observatory for the Protection of Defenders, a joint program of the International Federation of Human Rights (FIDH) and World Organization against Torture (OMCT), has been denouncing violations perpetrated against us and has called the authorities to respect the 1998 UN Declaration on human rights defenders. The Observatory’s interventions are multifaceted through the organization of fact-finding missions to document human rights violations against defenders, the dissemination of urgent appeals when a defender is in danger, multiple contacts with representatives of the Congolese authorities and the judiciary and police personnel, support for lawyers who defend our unjustly prosecuted friends, etc. This support prevents our isolation and our vulnerability and thus serves as our protection.

We also welcomed many times the interventions of the African Commission on Human and Peoples Rights and its Special Rapporteur on Human Rights Defenders in Africa aiming at protecting us and this, through their resolutions, press releases and communications with authorities. Shedding light on our situation, it is also promoting human rights in our country.

The Congolese authorities must address the concerns raised by the Special Rapporteur on human rights defenders and change their attitude vis-à-vis the work of local NGOs. The Congolese authorities must also enable the Special Rapporteur to visit the country, as expected since several months. Our sole objective is to ensure that the DRC meets its commitments regarding the protection of human rights to achieve a free and peaceful society, and not the contrary as some people say and think.

THE HUMAN RIGHTS DEFENDERS’ «FREEDOM AFTER EXPRESSION» IN QUESTION IN DRC!

By Prof. Yav Kathsung Joseph
(Abstract. For full version of the article, please write to joseyav@gmail.com or info@joseyav.com)

I. INTRODUCTION

The opinion will be recalled that the non-governmental human rights organisation Human Rights Watch (HRW) published a 96-page report titled “We will crush you” and subtitled “The restriction of political space in the Democratic Republic of Congo” in November 2008. According to that report, the new regime elected in the Democratic Republic of Congo (DRC) had deliberately violated human rights and fundamental freedoms, by killing or incarcerating political opponents during the years 2006, 2007 and 2008. The next day, reactions went in all directions, especially from the Government.

Indeed, on 1 December 2008, the President of the Republic met the offices of the National Assembly and the Senate. After the meeting, the then chairman of the National Assembly Vital Kamerhe had acknowledged receiving the report and oversaw the possibility of a parliamentary fact-finding mission. As to the spokesman of the
Government, the Minister Lambert Mende, he called these accusations «exaggerated and unfounded.» However, he asserted that the Congolese justice system was ready to condemn the perpetrators of such acts if evidence was established. A year later, what has been the outcome of this report? Has the situation improved in the meantime?

The situation of human rights defenders and journalists as well as leaders of public opinion seems to suggest that the worst is still to come. Unfortunately, the latest daily news appears to confirm the diagnosis of the Human Rights Watch report.

II. AUTOPSY OF CONSTITUTIONAL AND LEGAL PROVISIONS TO ENSURE FREEDOM OF EXPRESSION

Freedom of expression encompasses freedom of speech, freedom of the press and all other rights attached thereto. Freedom of expression is one of the fundamental human rights as guaranteed by numerous international and regional legal instruments as well national constitutions. Most African governments have now ratified international and regional treaties under which they pledge to defend freedom of expression.

But it seems that this does not guarantee «freedom after expression»; it is therefore important to focus on aspects of protection after the speech or thought. Indeed, in many of our countries, we can express our opinions but what is not certain is to be free after.

The constitution of 18 February 2006 in force provides under Article 23 that everyone has the right to freedom of expression. This right includes freedom to express opinions or beliefs, including through speech, writing and image, subject to compliance with the law, public order and morality.

Freedom of expression is in Congolese law, the power given to «any person» or «everyone» to demonstrate, by word, writing or picture, thoughts, opinions and even his feelings in public or private.

This freedom includes several aspects. It may be the simple freedom of speech (the right to say what we want at home, at church, on the street, on radio, on television, to a public audience, etc.). It especially concerns the freedom of press (right to seek, process and disseminate any information). It can also be in relation to the freedom of an author to draw, paint or caricature with the intention of expressing an idea, thought, opinion or a feeling.3

Freedom of expression is not absolute. Its exercise is subject to restrictions and conditions generally accepted. Freedom of the press is especially well-codified. Moreover, the strengthening of the protection of human rights, including freedom of expression with its corollary of freedom of thought, is articulated in Article 61 which states that one cannot derogate even during states of emergency or siege, the rights constituting the core or inviolable human rights.

However, some argue that this guarantee of protection takes into account only some of these fundamental freedoms, which justifies in Ngondankoy’s point of view the institution of a special jurisdiction, like the Congolese human and peoples’ rights commission, of sad memory. This commission was empowered to investigate claims of human rights violations and to impose, if need be, specific legal sanctions worthy of an effective system of protection of human rights, including measures such as «recovery», «repair» and / or «fair satisfaction».

From the foregoing, our concerns about the respect and protection of human rights, mainly freedom of expression remain intact in the bleak view that shows the DRC in this area considering violations against journalists and human rights defenders that have been recently reported by human rights NGOs.

III. OBLIGATIONS OF THE DRC UNDER INTERNATIONAL LAW ON HUMAN RIGHTS

It should here be recalled that the DRC is a state party to several international and regional human rights instruments. The harassment human rights defenders are subjected to by security services and the justice system because of their work as enshrined in the UN Declaration on human rights defenders, and crimes committed by Congolese security forces (summary executions, arbitrary arrests, detentions without trial, torture and inhumane treatments), are violations of the obligations of the DRC under
international human rights law. They are violations of provisions of the International Covenant on Civil and Political Rights (ICCPR) that the DRC ratified in 1976, the African Charter on Human and Peoples’ Rights ratified in 1987; and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatments ratified in 1996. At the local level, such actions against human rights defenders also violate the fundamental rights enshrined in the constitution, which came into force on 18 February 2006.

IV. Conclusion

Altogether, even if it turns out that freedom of expression is not of absolute exercise, it is still shocking to note that freedom of expression has lost most of its substance in light of the increasing number of human rights violations in DRC. Human rights activists, journalists, and community leaders are deprived of the right to shed light on the general public about the management of public affairs. Hence, the proliferation of unfair trials becomes a strategy to keep them silent.

Therefore, it is more than urgent that the African Commission on Human and Peoples Rights and the African Court on Human and Peoples’ Rights work to deter our African states from violating human rights. Also, given the increasing number of cases of arrests, harassment and intimidation suffered by human rights defenders for expressing their opinions and thoughts, it is important to focus on “freedom after expression”.

FREEDOM OF EXPRESSION IN GHANA

By Anthonia Elorm Kornu
Secretary of Journalist for Human Rights Network (JHR) Ghana / Accounis Officer

The 1992 Constitution of the Republic of Ghana in its preamble, sets out the ideals and core values or beliefs of the people. Among these are the protection and preservation of fundamental human rights and freedoms of our nation. The fundamental human rights and freedoms are to be enjoyed by every man, woman or child in Ghana no matter the tribe to which he or she belongs, which place he or she comes from, what political party or religious group he or she belongs to, or the colour of his or her skin.

It is in line with the above introduction in the abridged edition of the constitution that the chapter Five, article 21, section 1, sub-section A and B spell out clearly that “All persons shall have the right to – freedom of speech and expression, which shall include freedom of the press and other media; freedom of thought, conscience and belief, which shall include academic freedom.”

Freedom has been defined as the power, rooted in reason and will, to act or not to act, to do this or that, and so to perform deliberate actions on one’s own responsibility. The right to the exercise of freedom is an inalienable requirement of the dignity of the human person. This right must be recognized and protected by civil authority within the limits of the common good and public order.

The history of Ghana since pre-independence era had shown that when a government or a group of people suppress the freedom of expression of people, the consequences are dear to pay. A clear case in point was the famous 1948 riot at Christianborg Castel, Osu, which was then the seat of the colonial government. Some ex-service men had been denied their right to decent accommodation and better remuneration due to them. After all attempts fell on deaf ears, they took to the street – another form of freedom of expression, which unfortunately resulted in the death of some of them.

Again, the post-independent Ghana had its own short-falls when it came to freedom of expression of its people. The result was the coup d’état which disrupted the smooth governance of the people and slackened the growth and development of the Ghanaian economy.

In addition to the above, when Ghana entered her new democratic dispensation in 1992, people’s freedom of expression continued to suffer set-backs. Some newspapers and radio stations were shut down and their premises and equipment vandalised. These events led to an increase in demonstrations to demand from the government their right to free speech and expression in whatever form as

Freedom of expression is one powerful tool which people use to demand public accountability and consolidate peaceful co-existence. The more people were allowed to air their views without any fear of being bundled into prison, the better it was for them to strengthen the democratic culture which Ghana has embraced as the best form of governance.

In fact, one can explicitly say without any shred of doubt that in today’s Ghana, freedom of expression has grown and gained solid root. It is significant to note that it has become part of the culture of the people, which would be very difficult for any individual, political party or for that matter, any government, to suppress. The efforts and contributions of individuals, human right activists, non-governmental organisations’ and most prominently the mass media need to be commended.

For example, the outstanding effort of one woman – an independent member of Parliament during the first parliament of the fourth republic, opened the window of freedom of expression for most people to talk about sensitive issues of the other side of the government of the day. This singular achievement on her part earned her the enviable title of “The voice of the voiceless”. This woman, the late Madam Hawa Yakubu though dead, will be remembered for championing this act of freedom of expression for the ordinary Ghanaian in her time.

Again, the advent of the numerous FM and TV stations plus their print media in strengthening the freedom of expression is worth mentioning. Most newspapers – pro- and anti- government ones could be found in every nook and cranny of the country. The mass media are performing their functions as the fourth estate of government, complementing the efforts of the executive arm of government, the legislature and the judiciary in promoting freedom of expression and thereby deepening the democratic culture that the people in my country have embraced.

One noteworthy phenomenon is the phone-in segment of programmes on FM and TV Stations. A higher number of people phone in to programmes to ask government officials questions, to participate in dialogues on issues, to educate and to inform people.

In a nutshell, this aspect of the programme by the media is the best form of freedom of expression and also serves as a clarion call to politicians not to take the public for granted.

Again, national institutions such as the Commission for Human Rights and Administrative Justice and the Serious Fraud Office have done remarkably well to allow people to pour out their grievances without any fear of intimidation or punishment from any quarters of the ruling government. Also some enactments of Parliament such as the “Whistle Blowers Act” have helped people to express their views freely on issues relating to bribery and corruption.

In addition, the multi-party system which is practiced in Ghana gives a multi-sectorial approach to the governance system. Inter political party debates and dialogue deepens efforts to resolve conflicts and allow people to vote on issues and express their concerns. It is therefore no surprise that Ghana is rated high by all the international communities in her achievements on peace, growth and development of democratic culture.

Freedom of expression in Ghana has become a right and it has made a lot of people heroes in combating all evils in the society. However, more needs to be done. The government has still not granted licence to religious bodies to open up their own FM and TV stations. Also inaccessibility to mobile and land phones in the hinterlands is cutting a lot of people off from expressing their views on issues relating to national development.

To consolidate peaceful co-existence, resolve conflicts, demand accountability by people in the realm of political and civil affairs, ensure transparency in elections and in all aspects of national programmes and policy implementations and above all to develop the rights of citizens, freedom of expression is indispensable.

It is my firm conviction that democratic tenets are the best ways to strengthen freedom of expression either by the individual citizen or the mass media. It is the hope of this writer that if the shining example of Ghana is followed by most of our sister African nations, there is the potential to improve governance and promote rule of law, and peaceful and accelerated development of the citizenry.
FREEDOM OF EXPRESSION IN AFRICA
AND THE PROTECTION OF HRDs

By the West Africa Human Rights Defenders Network
(WAHRDN)

Human Rights defenders (HRD) and freedom of expression are linked together: the former tries to enforce the latter. Although, in doing so, they also endanger the ability of the government to control everything. Or, as others might want to put it, they improve the situation of human rights. This article focuses on the situation of freedom of expression in West Africa through the current situation in the Gambia, Niger and Guinea-Conakry.

What is freedom of expression?

Freedom of expression is one of the most important aspects in the struggle to create democracy, greater knowledge of human rights among the people, and ensuring that no one has his rights interfered with. Stifling this freedom leads to a violation of all other freedoms, as without the freedom to receive and impart information, it is impossible to know your rights and thus be able to fight for them.

Freedom of expression is therefore one of the foremost tools in the hands of HRDs; and the tool most damaging to those who seek to set up authoritarian regimes; hence the scramble to control it by the latter.

The African Charter on Human and People’s Rights (the Charter) protects freedom of expression. It states that “every individual shall have the right to receive information” (art. 9-1) and that “every individual shall have the right to express and disseminate his opinions within the law” (art 9-2). Likewise, it also promises the right to free association (Art. 10) and the right to assemble freely (art. 11). Notwithstanding the impact of these articles in reality, one has to note that the difference between the Charter and reality is great. Part of the reason for this may be justified by the reservations to the right. For example, article 11 (free association) states that “the exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics

and rights and freedoms of others.” In other words, it follows the theories of John Stuart Mills⁴ who wrote that the only limits to freedom of expression should be when it affects others in a negative way. Again, the gap between the objectives of the Charter and its actual application has reached such an extent that there seems to be an overuse of the reservations by the governments.

Why freedom of expression is important to human rights defenders?

The 1998 UN Declaration on human rights defenders⁵ states: “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”.

Freedom of expression is one of the tools most used by HRDs to fulfil their duties. In fact, HRDs across the globe have been prevented from reaching out to the public through television, internet and other media, and being under constant scrutiny by the authorities. HRDs are also at risk of being abducted, detained, or even losing their lives fighting for what they believe in.

According to the Declaration on human rights defenders, it is the state which has primary responsibility for protecting HRDs, as they do to protect all their subjects,” however sadly, this is far from true. If freedom of expression was guaranteed effectively throughout Africa, HRDs would not need to fear arbitrary intervention from authorities, as silencing the thoughts and ideas is often the foremost aim of the offending authority.

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⁵ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.
⁶ Article 1 of the Declaration.
⁷ Article 12 as above.
Human rights defenders have a very complicated role. Not only is it important that they intervene when offences are committed, but a great part of the job also consists in prevention. In order to avoid further offences, the key role would be to educate, promote, and inform the people of their rights. Yet, how can you succeed without a strong protection of one of the most fundamental rights - the freedom of expression. On the grounds that there is no flexibility in advertising, one can wonder if the progress and the protection of human rights will ever evolve. The role of HRDs can only be achieved through an extensive use of freedom of expression. Thus, when this right is not guaranteed, the protection of human rights defenders themselves is at risk, the same as democracy and the rule of law.

Niger

In Niger, freedom of expression was completely curtailed until the 1990’s when the country’s first independent newspaper was launched, quickly followed by others. Although the legal framework regarding media freedom is still restrictive, there are now several independent newspapers, TV-channels and radio stations. Moreover, Art 23 of the Constitution of the Fifth republic of Niger states that “Each person shall have the right to freedom of thought, opinion, expression, conscience, religion, and worship…”

In September 2006, Oumarou Keita and Mamane Abou, journalist and editor of Le Républicain were sentenced to 18 months imprisonment and fined for spreading false news and defaming the state. They appealed this sentence but the appeal was denied, as was bail. Amnesty International called for their immediate release stating that the two were only imprisoned for exercising their right to freedom of speech.

Recently, Marou Amadou, HRD and President of the “du Front Uni pour la Sauvegarde des Acquis Démocratiques”, was arrested on 30 June 2009 for “inciting disobedience to security forces”, “plotting against authority of the state”, and demoralizing the armed forces, a charge which can lead to the death penalty. His arrest was due to the fact that he had on the previous day made a public statement asking the armed forces to respect the Constitution of Niger. Charges are still pending.

On 10 August 2009, Mr Amadou was arrested yet again, this time due to a claimed offence against state security, as he had made a public statement denouncing the corruption of the government, and the illegality of the recent constitutional referendum (also declared illegal by the Constitutional Court of Niger). He was detained for several days but later released. On 11 September 2009 he was arrested again, and he is currently being detained.

The Gambia

In Gambia, human rights organizations are urging for the move of the Headquarters of the African Commission on Human and Peoples Rights, situated in Banjul. This is due to recent statements of the country’s president, Yayha Jammeh, where he warned citizens not to associate with HRDs. His statement was aggressive and declared that he would in no way tolerate human rights destabilizing the country, and that thinking one was protected by human rights defenders was wrong. In fact, the President vowed to kill those trying to destabilize the country, i.e. HRDs.

This may have come about as a reaction to the recently formed Coalition for Human Rights in the Gambia, the aim of which is to promote human rights and to put pressure on the current government to guarantee that such rights are being upheld.

The constitution of the second republic of Gambia outlines freedom of expression to citizens and to the media, in Chapter IV (25) (a), and the freedom and independence of the press is specifically outlined in Chapter XIX. Despite this, no less than 6 journalists were convicted and imprisoned in August 2009 for defamation. The journalists were all sentenced to 2 years imprisonment, but were pardoned by the President shortly afterwards. The recent statements of the President however show that this is not likely to happen again, as he has warned journalist that they could still be prosecuted for being “disrespectful”.

21 September 2009
Guinea-Conakry

Recent events in Guinea show a terrifying threat to freedom of expression. On 28 September 2009, a pro-democracy demonstration in the capital’s football stadium to protest against the current leader, Captain Moussa Dadis Camara, lead to 57 protestors being brutally killed by the military guard. Witnesses also claim that the guards were raping women in the streets, and, although the official number of killed is 57, international organizations fear that the real number is closer to 157, with thousands injured. Guinea is also a country where HRDs, and especially journalists, have been arbitrarily harassed and detained, despite the fact that the Constitution of the republic of Guinea, just like that of Niger and the Republic of Gambia, guarantees freedom of expression. Unfortunately, one of the first steps taken by Camara when he seized power in December 2008 was to dissolve the Constitution.

One cannot overlook the importance of the recent government decision to suspend the use of text messages. It has been claimed to be due to security reasons, but again, it shows the weakness of freedom of expression in West African countries.

Conclusion:

Freedom of expression is a powerful tool for HRDs, but its exercise can also lead to many difficulties for defenders. The above situation highlights the inefficacy of written law when strong enforcement and monitoring mechanisms are lacking. However, the main problem is the absence of a strong engagement from States concerning their obligations vis-à-vis all human rights instruments that they have ratified. If no strong measures are taken, freedom of expression will become a myth in West Africa. Well, in all of Africa.

The laugh corner

While taking politicians to the Congress, a bus left the road and crashed against a tree in an old farm’s meadow. Having witnessed what happened, the farmer goes to the scene of the accident. He digs a hole and starts to bury the politicians.

A few days later, while driving, the local sheriff sees the crashed bus and asks the farmer where all the politicians are. The old farmer replies that he has buried them all. The sheriff then asks him: «Were they ALL dead?»

The old farmer replies: «Well, some of them were saying they were not dead, but you know how politicians lie.»

😊😊
Apart from the traditional communications sent about alleged violations of the rights of human rights defenders, the Special Rapporteur has undertaken many activities and travelled to many countries from May to November 2009.

Since the last session, the human rights’ situation has deteriorated considerably, notably in Niger, Democratic Republic of Congo, Guinea and The Gambia.

Flagrant and massive violations of freedom of expression have been observed in the Democratic Republic of Congo and in The Gambia. Freedom of association is at risk in Niger and Guinea.

The legal harassment, arbitrary arrests, threats and police attacks have been observed in Niger, Guinea, Democratic Republic of Congo and Tunisia, for example.

In Kenya, Libya and the Democratic Republic of Congo, cases of assassinations of human rights defenders have also been reported.

The mandate continues to maintain close cooperation with networks of human rights defenders and NGOs. It is in this context that the SR has attended a regional capacity building workshop for human rights defenders national coalitions of West Africa. This workshop was organised by the West Africa Human Rights Defenders Network. This workshop was held in Abidjan from 2 to 5 June 2009.

The SR also took part in a roundtable organized by the International Service for Human Rights in Geneva, Switzerland. This roundtable focused on human rights, sexual orientation and gender identity and was particularly aimed at providing a framework for consultation and dialogue on the issue of violations of human rights defenders who work on gays and lesbians issues.

On June 18, 2009, the SR has participated in a strategic meeting between the International Coalition of Women Defenders and the UN Special Rapporteur on Human Rights Defenders. The aim of the meeting was to address the specific violations of women defenders and to explore avenues for appropriate solutions.

On June 19, 2009, the RS attended the launching of the Annual Report of the Observatory for the Protection of Human Rights Defenders in Geneva. Five weeks later, on July 27, she attended a similar ceremony held this time on the African continent, specifically in Cairo.

From August 30 to September 5, 2009, the SR has participated in a capacity building workshop for human rights defenders. Organized in Kigali by the International Service for Human Rights, the workshop was primarily aimed at better equipping the defenders on the protection mechanisms at the African and the universal levels.

From 21 to 23 September 2009, the SR has participated in a training workshop on human rights and conflict management for human rights defenders in Africa. The main objective of the workshop organized by the Center for Conflict Resolution in Johannesburg was amongst others to analyze the participation of human rights defenders in conflict resolution processes in Africa.

On October 21, 2009, the SR has participated in a meeting with all the existing human rights defenders’ protection mechanisms in Washington. Initiated by the Observatory for the Protection of Human Rights Defenders, this meeting followed the Brussels’ meeting held in October 2008 and was intended to evaluate the effective protection of defenders by various mechanisms throughout the world.

On October 23, 2009, the RS took part in the 2009 edition of European Development Days at the invitation of the Swedish Foundation for Human Rights. The 2009 edition focused particularly on development, poverty, MDGs and the impact of climate change in the world and measures for comprehensive development to the benefit of the entire world population.
Communications sent between June 2009 and mid-October 2009

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COMMENTS

Dear human rights defenders,

This section is where you can leave messages and share your ideas and opinions. We are keen to be as accessible as possible and await therefore your own contributions to this newsletter. Do not hesitate to send emails to chafib@achpr.org.

OUR THANK TO...

I owe special thanks to the International Service for Human Rights (ISHR) for its support to The Rapporteur’s Newsletter, which is becoming an important communication tool between the Rapporteur and all actors concerned with the promotion and protection of the rights of human rights defenders.

I am also very grateful to all those defenders who contributed to this issue of The Rapporteur’s Newsletter.

I invite all defenders to see this newsletter as their own and to share with all others their experience in the defence of human rights.

Reine Alapini-Gansou

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