

# TOGO

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE  
128 TH SESSION (2 MARCH - 27 MARCH 2020)

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# 1. INTRODUCTION

The human rights situation in Togo has sharply deteriorated over the last three years. The prospects of incumbent president Faure Gnassingbé running for a fourth term and the contested 2019 constitutional review process<sup>1</sup> has fuelled political and social tensions. Mass protests organised by pro-democracy movements and trade unions have been violently dispersed. Opposition leaders, civil society leaders, human rights defenders and activists were arrested. Laws were revised to further curtail peaceful dissent.

This submission is prepared in advance of the United Nations (UN) Human Rights Committee's (hereinafter, "the Committee") review of the fifth periodic report of Togo at its 128<sup>th</sup> Session in March 2020. It provides an overview of Amnesty International's main concerns under the International Covenant on Civil and Political Rights (hereinafter, "the Covenant").<sup>2</sup> These include concerns related to the human rights implementation and prevention architecture, persons deprived of liberty, excessive use of force, and impunity, torture and other ill-treatment, rights to freedom of expression, peaceful and association. Amnesty International is appalled by Togo's failure to implement a number of the recommendations raised by the Committee in 2011.

## 2. THE NATIONAL HUMAN RIGHTS FRAMEWORK (ARTICLE 2)

### 2.1 INTERNATIONAL AND REGIONAL HUMAN RIGHTS INSTRUMENTS

Amnesty International welcomes the ratification by Togo of the International Convention for the Protection of All Persons from Enforced Disappearance in July 2014, the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty in July 2015 and the Arms Trade Treaty in October 2015.

However, Togo has failed to ratify other important international and regional human rights instruments.

#### RECOMMENDATIONS

Amnesty International makes the following recommendations to Togo:

- Ratify the Rome Statute of the International Criminal Court; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights establishing a complaints mechanism;
- Pursuant to Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, make a declaration that would allow direct access for individuals and NGOs to the African Court on Human and Peoples' Rights.

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<sup>1</sup> On 8 May 2019, the National Assembly adopted a law revising the Constitution to prohibit the death penalty and life imprisonment. It allows incumbent President Faure Gnassingbé, in office since 2005, to run for an additional two terms of five years each, including the 2020 election. It shields former presidents from arrest, detention, and prosecution for actions taken while in office.

<sup>2</sup> This submission is not an exhaustive account of Amnesty International's concerns

## 2.2 LEGISLATIVE REFORMS

In its 2011 Concluding Observations, the Committee called on Togo to amend its legislation, particularly the criminal code and the criminal procedure code, to bring them into line with the Covenant.<sup>3</sup> Togo revised its criminal code in 2015 and 2016 and some of the revisions addressed human rights issues.<sup>4</sup> For instance, it criminalised torture, female genital mutilation and marital rape.

However, as detailed in the sections below, the revisions raised other concerns, particularly with regards to the rights to freedom of expression, peaceful assembly, and equality and non-discrimination. Togo failed to revise its criminal procedure code to build in fair trial standards and legal safeguards against torture and other ill-treatments. It has adopted legislation which do not meet international human rights standards, including the 2019 law on national security<sup>5</sup>, the 2019 law on assemblies<sup>6</sup> and the 2018 law on cybersecurity.<sup>7</sup>

### RECOMMENDATIONS

Amnesty International makes the following recommendations to Togo:

- Amend its legislation, particularly the criminal code, the criminal procedure code, the 2019 law on national security, the 2019 law on assemblies and the 2018 law on cybersecurity, to bring it into line with the Covenant, including regarding freedom of expression, freedom of peaceful assembly, right to fair trial, right to life, right to physical integrity and right to be free from discrimination;
- Refrain from passing legislation, such as the 2016 bill on association, which is not in line with the Covenant.

## 2.3 NATIONAL HUMAN RIGHTS COMMISSION

In 2011, the Committee encouraged Togo to take measure to support the National Human Rights Commission and enable it to bring cases before the courts.<sup>8</sup>

In 2012, the government edited the report prepared by the National Human Rights Commission following its investigation into torture claims made by Kpatcha Gnassingbé and his co-detainees, watering down its findings. The president of the Commission left the country fearing for his safety. The government still refuses to acknowledge its responsibility in interfering with the work of the Commission and the threats against the President of the Commission have not been investigated.<sup>9</sup>

In March 2016, the National Assembly passed a law enabling the President to appoint members of the National Human Rights Commission without parliamentary oversight which was not enacted over concerns it would undermine the independence of the Commission. A new law passed in 2018, following a constitutional court ruling, clarified that members of the institution would be elected by the National Assembly, after a call for candidates.<sup>10</sup> Reports produced by the National Human Rights Commission on human rights violations are confidential, unless the Commission decides otherwise.<sup>11</sup> The Commission may report matters to the judicial authority,<sup>12</sup> but it is unclear whether it would have the mandate to bring these cases to court formally.

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<sup>3</sup> Human Rights Committee, Concluding Observations – Togo, CCPR/C/TGO/CO/4, 18 April 2011, para. 6

<sup>4</sup> Loi N° 2015-010 du 24 novembre 2015 portant nouveau Code pénal  
Loi N° 2016-027 du 11 Octobre 2016 portant modification du Code pénal

<sup>5</sup> Loi N° 2019-009 du 12 aout 2019 portant sécurité intérieure

<sup>6</sup> Loi N°2019-010 du 12 aout 2019 portant modification de la loi N°2011-010 du 16 mai 2011 fixant les conditions d'exercice de la liberté de réunion et de manifestation pacifiques publiques

<sup>7</sup> Loi N° 2018 - 026 du 07 décembre 2018 portant sur la cybersécurité et la lutte contre la cybercriminalité

<sup>8</sup> Human Rights Committee, Concluding Observations – Togo, CCPR/C/TGO/CO/4, 18 April 2011, para. 8

<sup>9</sup> Fifth periodic report submitted by Togo under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2017, CCPR/C/TGO/5, 17 January 2019, para. 94

<sup>10</sup> Loi organique N°2018-006 du 20 juin 06 2019 relative à la composition, à l'organisation et au fonctionnement de la Commission Nationale des Droits de l'Homme (CNDH), article 7

<sup>11</sup> Loi organique N°2018-006 du 20 juin 06 2019 relative à la composition, à l'organisation et au fonctionnement de la Commission Nationale des Droits de l'Homme (CNDH), article 45

<sup>12</sup> Loi organique N°2018-006 du 20 juin 06 2019 relative à la composition, à l'organisation et au fonctionnement de la Commission Nationale des Droits de l'Homme (CNDH), article 40

The Constitutional revision of 2019 enables the President of the National Human Rights Commission to seize the Constitutional court to assess the constitutionality of laws passed by parliament (Article 104).

## RECOMMENDATIONS

Amnesty International makes the following recommendations to Togo:

- Adopt measures to guarantee and ensure appropriate financial resources, independence, impartiality and effective action of the National Human Rights Commission and ensure it can bring cases before courts;
- Promptly, thoroughly and impartially investigate allegations of falsification of the report of the National Human Rights Commission in 2012, including in relation to the specific case of Kpatcha Gnassingbé and his co-detainees, and bring anyone suspected to be responsible to justice as well as take appropriate measures to guarantee non-recurrence;
- Promptly, thoroughly and impartially investigate the threats made against the President of the National Human Rights Commission in 2012 and bring anyone suspected to be responsible to justice in a fair trial;
- Ensure the findings of the National Human Rights Commission are made available to the public.

# 3. THE FIGHT AGAINST IMPUNITY AND PAST HUMAN RIGHTS VIOLATIONS (ARTICLES 2, 6 AND 7)

In 2011, The Committee called on Togo to “conduct Independent and impartial investigations in order to shed light on the human rights violations committed in 2005 and prosecute those responsible”<sup>13</sup>. The Togolese authorities continued to fail to take steps to identify those suspected of responsibility for human rights violations and abuses, including the deaths of nearly 500 people during the violence surrounding the 2005 presidential election. Of the 72 complaints filed by victims’ families in Atakpamé, Amlamé and Lomé courts, none are known to have been fully investigated. No one has been brought to justice for the shooting and deaths of Rachad Maman, 14, and Joseph Zoumekey, 13, during separate protests in 2017, despite the complaints filed by the families.

In 2015 and 2016, the authorities told Amnesty International that disciplinary measures are taken against members of the security forces who commit human rights violations and abuses. However, the lack of transparency of these alleged disciplinary processes makes it impossible to determine who has been sanctioned, on what grounds, and whether the sanction was commensurate with the seriousness of the offence committed. In practice, the disciplinary process constitutes an obstacle to justice as the decision to open a judicial process depends on the conclusion of the disciplinary council.

In June 2015, a police officer was found guilty of manslaughter and sentenced to a 36-month’s imprisonment with a 10 months’ suspended sentence. The Court ordered the government to pay the family of the victim CFA 10 million (approximately EUR 15244) as compensation. However, the decision failed to establish full accountability at all relevant levels. The Court granted the accused extenuating circumstances as the security forces were facing “furious protestors”, without any indication that the conditions to use firearms were met. Furthermore, it failed to hold the superior officers and the command hierarchy accountable for breaches of national and international standards on the use of force, despite acknowledging that the police used assault rifles, shot live ammunition and threw rocks at protesters in an operation to maintain public order.

In July 2013, the Economic Community of West African States (ECOWAS) Community Court of Justice in a case ruled that the Togolese government was responsible for acts of torture inflicted on Kpatcha Gnassingbé

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<sup>13</sup> Human Rights Committee, Concluding Observations – Togo, CCPR/C/TGO/CO/4, 18 April 2011, paras. 9 - 10

and his co-detainees and ordered reparations for the victims.<sup>14</sup> In November 2014, the UN Working Group on Arbitrary Detention (WGAD) concluded that their detention was arbitrary and requested their immediate release.<sup>15</sup> The seven men received some financial compensation, but three of them, Kpatcha Gnassingbé, Atti Abi and Dontema Kokou remained in arbitrary detention. To date, no one has been held accountable for the torture. Kpatcha Gnassingbé, the half-brother of President Faure Gnassingbé, and six other men were convicted in 2011 of crimes against the state and rebellion in an unfair trial. The court relied on confessions extracted under torture to convict them.

## RECOMMENDATIONS

Amnesty International makes the following recommendations to Togo:

- Promptly, thoroughly and impartially investigate all allegations of human rights violations and abuses and bring suspected perpetrators to justice in fair trials, independently of disciplinary sanctions or disciplinary processes, in particular with regard to the violations that occurred during the 2005 election and during protests;
- Put in place measures to ensure and safeguard the independence and integrity of the judiciary, particularly in relation to the security forces, in line with the UN Basic Principles on the Independence of the Judiciary and other relevant international and regional standards;
- Fully and effectively implement the decisions of the ECOWAS Community Court of Justice and WGAD by releasing Kpatcha Gnassingbé, Atti Abi and Dontema Kokou and providing them with full reparation for the harm suffered.

# 4. RIGHT TO LIBERTY AND HUMANE TREATMENT IN DETENTION (ARTICLES 9 AND 10)

In 2011, the Committee recommended that Togo takes measures “to restore the rights of detainees to liberty or to conditions respectful of human dignity when in detention”.<sup>16</sup>

The revised Criminal Code<sup>17</sup> adopted in November 2015 introduced provisions to substitute detention with non-custodial measures such as community service, which if effectively implemented, have the potential to address the ongoing issue of severe congestion of prisons in Togo. According to the Legal Aid Act of May 2013,<sup>18</sup> financial assistance may be provided, under certain conditions, for detainees who are unable to afford the services of a lawyer.

However, these provisions are rarely implemented and prisons in Togo remain overcrowded, with harsh conditions and high rates of pretrial detention. According to the prison administration statistics for December 2019, 5,352 people were detained in Togo’s prisons, despite a total prison capacity of only 2,881 detainees.<sup>19</sup> 62% were in pre-trial detention. Detainees often have no access to a lawyer.

During prison visits, detainees told Amnesty International that they did not have access to adequate medical care and were given only one meal a day. At least 267 people died in detention between 2012 and 2019 mostly from preventable or curable diseases, including malaria and intestinal infections.<sup>20</sup>

At the Lomé civil prison, several people in detention declared that they frequently paid more than 16.000 FCFA (25 EUR) to have a spot to sleep; otherwise they are forced to spend the night sitting between each other’s legs due to overcrowding.

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<sup>14</sup> ECOWAS Court Decision N°: ECW/CCJ/JUD/06/13 of 3 July 2013

<sup>15</sup> Working Group on Arbitrary Detention, Opinion N°45/2014, A/HRC.WGAD/2014/45, 11 February 2015

<sup>16</sup> Human Rights Committee, Concluding Observations – Togo, CCPR/C/TGO/CO/4, 18 April 2011, para. 18

<sup>17</sup> Loi N° 2015-010 du 24 novembre 2015 portant nouveau Code pénal

<sup>18</sup> Loi N°2013-010 portant aide juridictionnelle au Togo

<sup>19</sup> Togo has 12 prisons and one juvenile brigade

<sup>20</sup> Prison administration statistics from December 2019

Female prisoners are not guarded by female prison officers at all times, although female guards perform certain functions, such as body searches.<sup>21</sup>

Despite the recommendation of the Committee,<sup>22</sup> the Criminal Procedure Code was not revised to bring it in line with international human rights standards.

## **RECOMMENDATIONS**

Amnesty International makes the following recommendations to Togo:

- Develop and implement effective strategy to reduce prison overcrowding, including by substituting detention with non-custodial measures;
- Ensure that all persons deprived of liberty are held in humane conditions, including by ensuring that all detainees have access to sufficient food, drinkable water, adequate sanitary facilities and medical treatment in line with the UN Basic Principles for the Treatment of Prisoners, the Standard Minimum Rules for the Treatment of Prisoners and the Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders;
- Amend the Criminal Procedure Code to bring it in line with international human rights standards, particularly with a view to building in legal safeguards such as upholding the right to legal counsel as soon as the person is deprived of liberty, substituting pre-trial detentions with noncustodial measures unless strictly necessary and ensuring detainees have access to mechanisms for reporting violations of which they are victims, in particular arbitrary detention or deplorable conditions of detention;
- Promptly, thoroughly, independently and impartially investigate all deaths in custody, in line with the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and other relevant international and regional standards and bring those suspected of responsibility for the deaths, to justice in a fair trial.

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<sup>21</sup> Amnesty International, Togo: Human Rights - A long way to go: Amnesty International Submission to the UN Universal Periodic Review, October - November 2016 (Index: AFR 57/3852/2016), p. 4

<sup>22</sup> Human Rights Committee, Concluding Observations – Togo, CCPR/C/TGO/CO/4, 18 April 2011, para. 6



# 5. PROHIBITION OF TORTURE AND OF CRUEL, INHUMAN OR DEGRADING TREATMENT (ARTICLE 7)

Following the Committee's recommendations<sup>23</sup>, Togo adopted laws that define and criminalize torture and remove statutes of limitations to the crime of torture, in line with the Convention Against Torture.<sup>24</sup>

However, complicity in torture or attempts to commit torture is still not explicitly criminalized and there are no provisions on the criminal responsibility of superior officers who are aware of acts of torture and other ill-treatment committed by their subordinates. Togo has not revised its criminal procedure code to enshrine international standards of fairness applicable to arrest and detention, including being able to inform a family member or other person of their choice of their detention or arrest, having access to legal counsel from the moment of arrest, and being able to undergo an independent medical examination.

The 2018 law on the National Human Rights Commission (CNDH) establishes the National Mechanism for the Prevention of Torture within the Commission.<sup>25</sup> The National Mechanism for the Prevention of Torture has the mandate to carry out regular and unannounced visits to all places of deprivation of liberty.<sup>26</sup> However, the mechanism does not have its own staff or its own budget raising concerns about its ability to exercise its mandate in full independence.

Amnesty International continue to document cases of torture and other ill-treatment during arrests and or pre-trial detention to extract confessions.

- In May 2018, Moutou Agram, a detainee in Kpalimé civil prison, died after being subjected to ill-treatment by the prison guards, including beatings and stress positions. The eight guards involved were arrested and charged for committing acts of torture leading to death. They are still in detention. The victim's family has not received compensation to date.
- About 20 people, including the general secretary of Parti National Panafricain (Panafrican National Party, PNP), arrested on 19 and 20 August 2017 in the context of demonstrations were subjected to ill-treatment during their arrest and custody at the SRI (Intelligence and Investigation Services), including beatings. They reported the ill-treatment they were subjected to the court, but no investigation has been initiated into this allegation and no one held to account.<sup>27</sup>
- In June 2016, three police officers arrested Ibrahim Agriga at his home in Guerin Kouka. He was taken to a police station and beaten with batons on his buttocks and the soles of his feet to make him "confess" to a motorbike theft. He was released without charge after three days and later filed a complaint with the tribunal of Guerin Kouka. To date, no investigation was known to have been initiated.<sup>28</sup>
- Several men arrested during protests in Mango in November 2015 were subjected to ill-treatment, including beatings with belts, batons and rifle butts at the time of their arrest and during transfers to different detention centres, causing open wounds on their backs, legs and hands. They were asked to sign statements which they did not understand. No one has been held accountable for the ill-treatment they suffered.<sup>29</sup>

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<sup>23</sup> Human Rights Committee, Concluding Observations – Togo, CCPR/C/TGO/CO/4, 18 April 2011, para. 15

<sup>24</sup> Loi N° 2015-010 du 24 novembre 2015 portant nouveau Code pénal

Loi N° 2016-027 du 11 Octobre 2016 portant modification du Code pénal

<sup>25</sup> Loi organique N°2018-006 du 20 juin 06 2019 relative à la composition, à l'organisation et au fonctionnement de la Commission Nationale des Droits de l'Homme (CNDH), Article 3

<sup>26</sup> Loi organique N°2018-006 du 20 juin 06 2019 relative à la composition, à l'organisation et au fonctionnement de la Commission Nationale des Droits de l'Homme (CNDH), Article 6

<sup>27</sup> Amnesty International, Togo: Shadow report to the African Commission on Human and Peoples' Rights – 63<sup>rd</sup> Ordinary Session: 24 October – 13 November 2018 (AI Index: AFR 57/8202/2018), p. 15

<sup>28</sup> Amnesty International, Annual report 2016-17 (AI Index : POL 10/4800/2017).

<sup>29</sup> Amnesty International, Togo : Les forces de sécurité ont tiré à bout portant sur des manifestants non armés à Mango (Press release, 11 December 2015)

- Mohamed Loum was arrested in January 2013 in relation to the fires which destroyed the markets in Lomé and Kara and beaten and subjected to water-boarding while in the custody of the gendarmerie. He was also subjected to prolonged restraint in handcuffs, often lasting 24 hours, and denied food and water.<sup>30</sup>

In its state party report, Togo argues that “no complaints of torture have been recorded since the entry into force of the amended Criminal Code, which defines and punishes torture. Due to the principle of nonretroactivity of criminal law, it is not possible to list previous complaints that were categorized as intentional violence as complaints of torture.”<sup>31</sup> This line of reasoning is unacceptable as it ignores the cases of torture human rights organizations have been reporting for years and the constitutional provisions which give precedence to the Covenant (acceded to in 1984) and the Convention against torture (ratified in 1987) over domestic law.<sup>32</sup>

## RECOMMENDATIONS

Amnesty International makes the following recommendations to Togo:

- Amend the Criminal Code to explicitly provide for complicity in torture and attempts to commit torture and to ensure that superior officers are held criminally responsible when acts of torture are committed at their instigation or with their consent or acquiescence;
- Amend the Criminal Procedure Code to bring it in line with international human rights standards, particularly with a view to build in legal safeguards against torture, in particular to ensure detainees are able to inform a family member or other person of their choice of their detention or arrest, have access to legal counsel from the moment of arrest, and are able to undergo an independent medical examination;
- Ensure that the members of the National Human Rights Commission are fully independent, both from a personal and institutional standpoint, and provide the Commission with adequate and predictable financial, human and material resources to enable it fully to perform its duties as a national institution and as the national preventive mechanism in an independent, impartial and effective manner;
- Promptly, thoroughly and impartially investigate all allegations of torture and other ill-treatment and bring anyone suspected to be responsible to justice in fair trials;
- Ensure that all victims of torture have access to justice and effective remedies including measures of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

# 6. RIGHT TO FREEDOM OF EXPRESSION (ARTICLE 19)

In 2011, the Committee expressed concerns regarding “the unjustified restrictions on freedom of expression” and “threats made against certain journalists (...)”. It recommended that “any infringement on the freedom of thought and expression of journalists and human rights defenders or any attack on their integrity (to) be thoroughly investigated. Those who commit such acts must be prosecuted and subject to criminal penalties.”<sup>33</sup>

Yet, Togo adopted laws which further violated the right to freedom of expression and created a climate of self-censorship amongst journalists, human rights defenders and activists.

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<sup>30</sup> Amnesty International, Annual report 2014-15 (AI Index: POL 10/0001/2015/)

<sup>31</sup> Fifth periodic report submitted by Togo under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2017, CCPR/C/TGO/5, 17 January 2019, para.76

<sup>32</sup> Articles 50 and 140 of the Constitution

<sup>33</sup> Human Rights Committee, Concluding Observations – Togo, CCPR/C/TGO/CO/4, 18 April 2011, para. 20

- In August 2019, the National Assembly passed a law on national security which enables the Minister of Territorial Administration and, in some cases, local authorities to order house arrests, identity controls and interpellations of up to 24 hours, expulsions of foreign nationals, bans on assemblies, suspensions of associations, and closures of establishments including places of worship, hotels and “other meeting places”.<sup>34</sup> It also allows the Minister of Territorial Administration to order the removal of or blocking the access to online content and to shut down online communications.<sup>35</sup>
- In December 2018, the National Assembly passed a cybersecurity law that severely restricts the right to freedom of expression by introducing punishments up to three years imprisonment for false information, and up to two years imprisonment for attacks on public morality, as well as the production, dissemination or sharing of data that undermines “order, public security or human dignity”.<sup>36</sup> In addition, the law contains vague provisions on terrorism and treason, that carries penalties of up to 20 years, and could be easily used against whistleblowers and others reporting human rights violations and abuses. It also confers additional powers on the police, in particular in terms of surveillance of communications or IT equipment, without adequate safeguards including judicial control.
- The revised Criminal Code, passed in November 2015, increases punishment for defamation to four years’ imprisonment and fines up to CFA 4 million for repeated offences, while offending public officials carries penalties of up to 6 months’ imprisonment and fines of up to CFA 2 million. It creates a new and overly broad charge of publishing, broadcasting or reproducing “false news”, prescribing prison terms of up to five years. The revised Code criminalizes uttering seditious chants in public spaces or assemblies, with penalties of up to two months’ imprisonment and fines of up to CFA 1 million. It also creates terrorism related charges which are vaguely worded, including for financing terrorism, publishing messages inciting terrorism, and contributing to the commission of a terrorist act.
- In February 2013, the National Assembly passed a law granting the High Authority for Audio-visual and Communications discretionary powers to impose sanctions on the media without recourse to the courts, prompting protests by journalist associations.<sup>37</sup> Encouragingly, the Constitutional Court ruled in March 2013 that six of the articles of this law were unconstitutional.<sup>38</sup>

The authorities continued to repress dissent by shutting down internet services and attacking journalists, human rights defenders and political activists, particularly those perceived to undermine the interests of members of the government or the security forces.

- In 25 March 2019, the High Authority for Audiovisual and Communication (Haute Autorité de l’Audiovisuel et de la Communication, HAAC) withdrew the license of the newspaper La Nouvelle on the grounds that it published “unverified information”, incited ethnic and religious hatred, abused the privacy of citizens, as well as uttered slanders and insults.
- Internet was shut down for nine days in September 2017 amid opposition-led protests, disrupting the organization of peaceful protests and impeding the work of human rights defenders and journalists who were monitoring the protests.<sup>39</sup>
- In 6 February 2017, HAAC withdrew the frequency licenses of radio station CityFM and TV station La Chaîne du Futur for breaching licensing rules. The law establishing the HAAC does not provide any mechanism to appeal against such decisions before a court of law.<sup>40</sup>
- Zeus Aziadouvo, a journalist who produced a documentary on prison conditions in Lomé, and Luc Abaki, director of private TV station La Chaîne du Futur which broadcast the documentary, were repeatedly summoned for questioning and asked to reveal their sources, including at the

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<sup>34</sup> Loi N°2019-009 portant sécurité intérieure

<sup>35</sup> Loi N°2019-009 portant sécurité intérieure, article 50

<sup>36</sup> Loi N° 2018 - 026 du 07 décembre 2018 portant sur la cybersécurité et la lutte contre la cybercriminalité

<sup>37</sup> Loi organique adoptée le 19 février 2013, portant modification de la loi organique n° 2009-029 du 22 décembre 2009 relative à la Haute Autorité de l’Audiovisuel et de la Communication, ne sont pas conformes à la Constitution

<sup>38</sup> Cour Constitutionnelle, Décision N° C-003/13 du 20 mars 2013

<sup>39</sup> Amnesty International, Togo: Security forces beat, fire tear gas at peaceful demonstrators amid Internet shutdown (Press release, 8 September 2017)

<sup>40</sup> Amnesty International, Togo : Le retrait des fréquences de deux médias est une attaque contre la liberté d’expression (Press release, 6 February 2017)

headquarters of the Research and Investigation Services and at the High Authority for Audiovisual and Communications on 18 and 26 August 2015<sup>41</sup>

- In August 2013, the authorities shut down Radio Légende FM a month after the High Authority for Audiovisual and Communications suspended the radio station on the grounds that it broadcast false information in the context of the legislative elections<sup>42</sup>
- In October 2012, the security forces attacked Justin Anani, a journalist affiliated with the International Federation of Journalists, while he was covering a protest organized by the Collectif Sauvons le Togo (Save Togo, CST) movement, which was violently dispersed by law enforcement agents<sup>43</sup>

## RECOMMENDATIONS

Amnesty International makes the following recommendations to Togo:

- Amend laws which violate the right to freedom of expression, such as the Criminal Code, the law on cybersecurity, the law on national security, to bring them in line with international and regional human rights standards, including by decriminalizing defamation, offending public officials, publishing, broadcasting or reproducing “false news”, hurling seditious chants, and by providing clearer definitions of terrorism related charges;
- Refrain from Internet shutdowns and other disruptions to telecommunication services;
- Adopt and implement legislation to protect and facilitate the work of human rights defenders, activists, journalists and bloggers, including a freedom of information law and a law to provide legal recognition and protection to human rights defenders, in line with the UN General Assembly Declaration on the protection of HRDs;
- Ensure that everyone, including journalists, opposition leaders, real or perceived government opponents, and human rights defenders, are able to freely exercise their right to freedom of expression without fear of arrest, detention, intimidation, threats, harassment or attacks;
- Promptly, thoroughly and impartially investigate all allegations of arbitrary arrest and detention, intimidation, threats, harassment and attacks against human rights defenders, journalists and others expressing dissent, and bring anyone suspected to be responsible to justice in fair trials.

# 7. PROTECTION OF JOURNALISTS AND HUMAN RIGHTS DEFENDERS

In 2011, the Committee raised concerns “about the threats made against certain (...) human rights defenders”.<sup>44</sup> Unfortunately, human rights defenders, activists and journalists continue to face reprisals.

- In 15 October 2019, pro-democracy activists from Turn the Page Niger (Tournons la page Niger, TLP Niger) and TLP Côte d’Ivoire were denied access to Togo. They were due to attend a meeting to formalize two Togolese associations becoming members of the TLP Coalition. Two activists from Niger were blocked at the Bénin-Togo border, where police cited “reasons of state”. The Côte d’Ivoire activist was barred from checking-in at the Abidjan airport by the airline company, which produced a letter from Togolese authorities stating that he was not authorized to board the plane.
- In 19 January 2019, the Criminal Court of Lomé sentenced activist Folly Satchivi of the movement Under No Circumstances (En aucun cas) to 36 months in prison, with 12 months suspended, for “rebellion”, “apology of crimes and offences” and “aggravated public disorder”. He had been arrested on 22 August 2018 while attempting to hold a press conference on the crackdown on

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<sup>41</sup> Amnesty International, Annual report 2015-16 (AI Index: POL10/2552/2016)

<sup>42</sup> Amnesty International, Annual report 2014-15 (AI Index, POL10/0001/2015)

<sup>43</sup> Amnesty International, Annual report 2013 (AI Index, POL10/001/2013)

<sup>44</sup> Human Rights Committee, Concluding Observations – Togo CCPR/C/TGO/CO/4, par 20

protests. On 10 October 2019, the Court of Appeal reduced his sentence to 28 months in prison, with six months suspended. He was released on 16 October 2019 following a presidential pardon.

- On 12 December 2018, Assiba Johnson, President of the Group of Young Africans for Democracy and Development (Regroupement des jeunes africains pour la démocratie et le développement, REJADD) was sentenced to 18 months in prison, with six months suspended, for spreading false news and insulting public officials following the publication of a report on the repression of protests in 2017-2018. He was released on 5 April 2019 after serving his sentence.
- On 23 January 2018, Atikpo Bob, a leader of the Mouvement Nubueke (Nubueke Movement), a pro-democracy movement, was arrested by the Service de Recherche et d'Investigation (Research and Investigation Service, SRI) agents before being taken to the civilian prison in Lomé. He was interrogated without a lawyer and charged with publishing false news and defamation for sharing a photomontage of the Minister of Security and Civilian Protection on social media. On 2 March, he was sentenced to 12 months in prison, with 9 months suspended. He was released after serving his sentence. At least two other Nubueke members were detained over several months.<sup>45</sup>
- On 12 October 2017, four human rights defenders, representatives of the movement Africans Rising, were prevented from leaving the country. Their equipment, telephones and passports were seized during the arrest at their hotel. They were questioned for several hours, without access to a lawyer. The human rights defenders' possessions were not returned until 17 October 2017 and they were later informed that the unit questioned local CSOs about their meetings with the delegation.<sup>46</sup>
- In September 2013, Amah Olivier, President of Association des Victimes de la Torture au Togo (Association of Victims of Torture in Togo, ASVITTO), was arrested and charged with incitement to rebellion for speaking about the crackdown on demonstrations. He was released in February 2014 and fled the country fearing for his safety.<sup>47</sup>

## RECOMMENDATIONS

Amnesty International makes the following recommendations to Togo:

- Adopt and implement legislation to protect and facilitate the work of human rights defenders, activists, journalists and bloggers, including a freedom of information law and a law to provide legal recognition and protection to all human rights defenders;
- Promptly, thoroughly and impartially investigate all allegations of arbitrary arrest and detention, intimidation, threats, harassment and attacks against human rights defenders, activists, journalists and others expressing dissent, and bring anyone suspected to be responsible to justice in fair trials.

# 8. RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY (ARTICLE 21)

In 2011, the Committee called on Togo “to take steps to ensure that the new act ensuring the freedom to demonstrate is in conformity with the Covenant”.<sup>48</sup> The Committee was also “concerned about the restrictions that are imposed on the freedom to demonstrate peacefully and the varying degree of such freedom depending on whether the demonstrations are planned in Lomé or elsewhere in the country”.<sup>49</sup>

The law on assemblies adopted in May 2011 significantly improved the legal framework governing assemblies, including by setting a requirement of notification rather than authorization and by providing exceptions for spontaneous assemblies. Despite these positive amendments, it placed impermissible restrictions on the right to peaceful assembly, including by failing to clarify that the notification requirement

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<sup>45</sup> Amnesty International, Togo: the authorities must put an end to the judicial harassment of prodemocracy activists and human rights defenders (AI Index: AFR 57/7906/2018)

<sup>46</sup> Amnesty International, Togo: the authorities must put an end to the judicial harassment of prodemocracy activists and human rights defenders (AI Index: AFR 57/7906/2018)

<sup>47</sup> Amnesty International, Annual report 2014-15 (AI Index, POL10/0001/2015)

<sup>48</sup> Human Rights Committee, Concluding Observations – Togo CCPR/C/TGO/CO/4, par 20

<sup>49</sup> Human Rights Committee, Concluding Observations – Togo CCPR/C/TGO/CO/4, par 20

is subject to proportionality assessment; that it should only be required for large assemblies or those where a certain degree of disruption is anticipated, with a maximum recommended notice period requirement of, for example, 48 hours.<sup>50</sup> It also failed to clarify that when restrictions are necessary to protect public order, the authorities have a duty to consider the least restrictive measures available before prohibiting assemblies. The law further provided for a blanket ban on assemblies held before 6am and after 10pm.<sup>51</sup> In August 2019, the National Assembly passed amendments to the law on assembly which drastically curtailed the right to freedom of peaceful assembly. It stipulates that organizers of meetings and assemblies in private settings must inform local authorities in advance. It broadens the blanket ban on protests in certain areas and at certain times. The law allows local authorities to cap the number of assemblies per week in their area and to ban protests at the last minute.<sup>52</sup>

In March 2013, the government adopted a decree on maintaining and restoring public order which defines the legal framework regarding the use of force. While the decree clarifies that maintaining or restoring public order falls under civilian authority and that the use of force should be preceded by warnings,<sup>53</sup> the decree still falls short of international standards. For example, it does not contain a clear stipulation that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty and that the security forces pursuing a lawful law enforcement objective should use nonviolent means where at all possible. Rather it expressly provides that the security forces may use force and firearms for unlawful objectives, such as defending premises or goods.<sup>54</sup> It also fails to provide for reporting requirements when such force is used.

The revised Criminal Code, adopted in November 2015, further restricts the right to freedom of peaceful assembly. It criminalizes the participation and organization of assemblies which have not been subject to the necessary administrative formalities, regardless of the size of the assembly, with penalties ranging from a fine of CFA 50,000 (approximately EUR 76) to five years' imprisonment.<sup>55</sup> It also provides that the organizers and peaceful demonstrators are responsible for any violent or criminal behaviour by other protestors and liable for any corporal or material damage caused.<sup>56</sup> Under Togolese law, there is no independent oversight body mandated to investigate any use of force that results in injury or death. Arbitrary or abusive use of force by law enforcement officials is not punished as a criminal offence.

Peaceful assemblies organized by political parties, human rights defenders and activists are often banned and violently dispersed by the police, gendarmerie and the armed forces, leading to protestors being shot dead, including minors. Protest organizers often face reprisals and arbitrary arrests. Togo's efforts to justify its recourse to use of lethal force in its state party report, particularly with regards to protests in Gléi and Mango demonstrate the authorities' disregard for the rights to life and freedom of peaceful assembly.

- The Panafrican National Party (PNP) organized nationwide protests scheduled for 13 April 2019 to call for constitutional reforms. These protests were banned by the Ministry of Territorial Administration, except in Lomé, Afagnan and Sokodé, on the grounds that they would “undermine public order”. They were dispersed by security forces using tear gas and batons. Dozens of protesters and bystanders were injured. At least one man died during demonstrations in the northern town of Bafilo. There have been conflicting accounts on the circumstances of the death: some blamed security forces but the Minister of Security and Civilian Protection accused other demonstrators. Despite multiple requests, the death certificate and autopsy report were not shared with his family. At least 30 people were arrested during the 13 April 2019 protests and 19 were sentenced to 24 months imprisonment, with suspended sentences ranging from 12 to 24 months, for aggravated public disorder. Following the protests, at least three PNP leaders were also arrested, including the PNP treasurer Sébabé Guéffé Nouridine, the permanent secretary Kéziré Azizou and the special advisor Ouro-Djikpa Tchatikpi. Nouridine and Azizou were accused of rebellion, assault, and not respecting the ban and restrictions on protests' itineraries. On 7 May 2019, they were sentenced to 24 months in prison, with suspended sentences of 12 to 24 months, respectively. Tchatikpi was released on bail on 10 August 2019.
- In December 2018, protests were dispersed by security forces and the army in several cities across the country. Two people, including a 12-year-old child, were shot in Togblekopé. Two people were

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<sup>50</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, paras 28, 29 and 31

<sup>51</sup> Loi N°2011-010 du 16 mai 2011 fixant les conditions d'exercice de la liberté de réunion et de manifestation pacifiques publiques, article 17

<sup>52</sup> Loi N°2019-010 du 12 aout 2019 portant modification de la loi N°2011-010 du 16 mai 2011 fixant les conditions d'exercice de la liberté de réunion et de manifestation pacifiques publiques

<sup>53</sup> Décret N°2013 – 013 / PR du 6 mars 2013 portant réglementation du maintien et du rétablissement de l'ordre public, article 3

<sup>54</sup> Décret N°2013 – 013 / PR du 6 mars 2013 portant réglementation du maintien et du rétablissement de l'ordre public, article 32

<sup>55</sup> Loi N° 2015-010 du 24 novembre 2015 portant nouveau code pénal, articles 539, 540 and 541

<sup>56</sup> Loi N° 2015-010 du 24 novembre 2015 portant nouveau code pénal, article 542

also killed in Sokodè during these demonstrations, one of them was shot. Despite opening legal proceedings, no one has been brought to justice to date.

- Between August and December 2017, various political opposition groups held mass demonstrations in major cities, some of which were marred with sporadic violent clashes between opposition groups and supporters of the ruling party. Security forces, including the armed forces, consistently dispersed these demonstrations with tear gas, batons, water cannons and live ammunition. They raided houses and places of prayer, beating people, including those who had not participated in demonstrations. At least 10 people were killed, including two members of the armed forces and three children aged between 11 and 14. Hundreds were injured, including members of the security forces. More than 200 people were arrested, including the Secretary General of the opposition Pan African National Party (PNP). At least 60 people were sentenced to prison terms of up to 60 months on charges including rebellion, wilful destruction, assault, violence against state officials, aggravated disruption of the public order and aggravated theft.<sup>57</sup>
- In June 2017, security forces repressed demonstrations organized by a University of Lomé Student Union, which called for improved living conditions. Video recordings of this incident, verified by Amnesty International, showed security force members, armed with shotguns, beating students to the ground with batons. Some students threw rocks at security forces. At least 19 students were arrested, 10 of whom were released shortly after being brought before the prosecutor. On 19 June 2017, seven were released after the Tribunal of Lomé acquitted them of acts of rebellion and destruction of property. On 26 June 2017, Foly Satchivi, President of the Togolese League of Student Rights, and Marius Amagbégnon, received a 12-month suspended prison sentence for aggravated disturbance of public order as the court considered them to be the organizers of the demonstration.
- In 28 February 2017, security forces used live ammunition to disperse a spontaneous protest against oil price rises in the capital, Lomé, killing one person and wounding several others.<sup>58</sup>
- In November 2015, the security forces killed seven people and wounded at least 117 others, including pregnant women and children, in Mango in northern Togo, during demonstrations against plans to create a nature reserve in the area. A policeman was killed on 26 November in clashes with protesters who resorted to violence after the security forces opened fire on peaceful demonstrators. No members of the security forces have been held to account for the killing or wounding of the protesters, by-standers or their relatives. Several men arrested during protests in Mango in November 2015 were subjected to ill-treatment and asked to sign statements which they did not understand.<sup>59</sup> The information provided by Togo in its state party report is inaccurate and contradicts not only the facts Amnesty International established, but also the findings of the National Human Rights Commission.<sup>60</sup> Togo refers to a “traffic accident” which “led to loss of human life both among civilians and the military personnel on board the vehicle”.<sup>61</sup> In reality, the military vehicle that drove through the crowd and continued its route killed three civilians. The soldiers in the vehicle did not die nor were they injured. Togo argues that the military were deployed after protestors “seized weapons from a police station”. However, military armed forces were already deployed on the demonstration site, including inside the police station. Finally, Togo fails to demonstrate how the other four individuals who were killed by members of the security forces during the protest, including a 50-year-old man beaten to death, represented grave and immediate threats to life and how the security forces complied with the UN Basic Principles on the Use of Force and Firearms.
- On 20 August 2015, the security forces used tear gas to disperse a peaceful demonstration in Lomé of 100 people protesting against the rise of the cost of living. The gendarmerie arbitrarily arrested the three organizers, including Kao Atcholi, a human rights defender leading the Association of Victims of Torture in Togo (ASVITTO). They were detained for a day and then released without charge.<sup>62</sup>

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<sup>57</sup> Amnesty International, Togo: Les autorités doivent s’abstenir de tout recours injustifié ou excessif à la force lors des manifestations de l’opposition (Press release, 6 September 2017)

Amnesty International, Togo: Un enfant de neuf ans tué par balle lors des manifestations (Press release, 20 September 2017)

<sup>58</sup> Amnesty International, Togo: Un mort par balle et plusieurs blessés lors d’une manifestation dispersée par l’armée (Press release, 1 March 2017)

<sup>59</sup> Amnesty International, Togo: Les forces de sécurité ont tiré à bout portant sur des manifestants non armés à Mango (Press release, 11 December 2015). The torture and ill-treatment of the men arrested is mentioned above in the section on torture and other ill-treatment.

<sup>60</sup> Commission Nationale des Droits de l’Homme, *Rapport de la CNDH sur les événements survenus à Mango en Novembre 2015*, 23 décembre 2015

<sup>61</sup> Fifth periodic report submitted by Togo under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2017, CCPR/C/TGO/5, 17 January 2019, para. 81

<sup>62</sup> Amnesty International, Annual report 2015-16 (AI Index, POL 10/2552/2016)

- Gendarmes and the military fired live bullets at protesters on 25 March 2015 at a rally in the city of Gléji, 160km north of Lomé. At least 30 people, including a woman and a child, were wounded and at least one person died as a result the injuries he sustained. Gendarmes and soldiers charged at a crowd of 100 students, shooting live bullets and hitting them with batons. The students had gathered spontaneously to protest against exams being held despite the academic curriculum having been disrupted by protests throughout the year. No members of the security forces have been brought to court for wounding the protesters and by-standers.<sup>63</sup> In its state party report, Togo fails to demonstrate how the individuals wounded with live ammunition, represented grave and immediate threats to life and how the security forces complied with the UN Basic Principles on Use of Force and Firearms. It argues that “the military was required to protect private property against looting and vandalism”<sup>64</sup>, overlooking that “as a general rule, the military should not be used to police assemblies.”<sup>65</sup>

## RECOMMENDATIONS

Amnesty International makes the following recommendations to Togo:

- Prohibit the deployment of military forces in public order situations;
- Provide the security forces with sufficient resources to police large scale or hostile demonstrations and counter-demonstrations and effective training in the appropriate and differentiated use of force and weapons, including antiriot equipment;
- Amend laws regulating the use of force, particularly Decree N° 2013–013 on maintaining and restoring public order, to bring them in line with international standards, such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, including by revising the legal basis for the use of force and establishing clear rules for the use of force by the security forces in the context of policing demonstrations;
- Ensure arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence and clarify that orders may not serve as an acceptable defense;
- Amend laws which violate the right to freedom of peaceful assembly, such as the Criminal Code and Law N°2011–010 on freedom of assembly and public and peaceful demonstrations and its 2019 amendment, to bring them in line with international and regional human rights standards, including by clarifying that peaceful assemblies should not be banned unless less restrictive measures have proved inefficient, and removing provisions criminalizing the organization of and participation in peaceful demonstrations;
- Establish an independent oversight body with adequate human and financial resources and mandated to investigate serious incidents involving the use of force by the security forces, and establish individual and command responsibility, as well as institutional failures and deficiencies;
- Promptly, thoroughly and impartially investigate all allegations of excessive use of force and bring anyone suspected to be responsible to justice in fair trials, including superior officers if they have failed to prevent the arbitrary use of force when they had an opportunity to do so.

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<sup>63</sup> Amnesty International, Togo: Authorities must guarantee the right to demonstrate before the elections (Press release, 21 April 2015)

<sup>64</sup> Fifth periodic report submitted by Togo under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2017, CCPR/C/TGO/5, 17 January 2019, para. 191

<sup>65</sup> Human Rights Committee, Revised draft of general comment No. 37, adopted on First Reading during the 127th Session (14 October – 8 November 2019), para. 92

See also:

Human Rights Committee, Concluding observations on the fourth periodic report of the Bolivarian Republic of Venezuela, CCPR/C/VEN/CO/4, 14 August 2015, para. 14.f

African Commission on Human and Peoples’ Rights, Guidelines on policing assemblies in Africa, para. 3.2



# 9. NON-DISCRIMINATION (ARTICLES 2 AND 26)

Togo has failed to address the Committee concerns about the criminalization of sexual relations between consenting adults of the same sex.<sup>66</sup>

The revised Criminal Code of 2015 retains provisions which criminalize same-sex relationships and discriminate against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. It raises the applicable penalty for “unnatural acts between individuals of the same sex” up to three years’ imprisonment and/or a fine of up to CFA 3 million (approximately EUR 4573).<sup>67</sup>

The revised Criminal Code also criminalizes “incitement to gross indecency”, which, under the Code, includes sexual relations between consenting adults of the same sex, with a prison term of up to two years and/or a fine of up to CFA 2 million (approximately EUR 3,048).<sup>68</sup>

Amnesty International is concerned that these provisions stigmatize people because of their real or perceived sexual orientation or gender identity and expression and undermine their right to access to health, employment, housing, education and justice. They could also be used to target human rights defenders and activists who provide support to LGBTI individuals in Togo.

LGBTI people in Togo face harassment, intimidation and arbitrary detention by the security forces on the basis of their real or perceived sexual orientation or gender identity and expression.

- A gay man who was returning home from a party wearing female clothing was arrested by two police officers in 2014 and detained without charge for five days in a police station.<sup>69</sup>The police officers forced him to take off all his clothing, took videos and photographs and threatened to leak the images to the press if he did not comply with their instructions. He was told he was in detention to “teach him a lesson”. The police officers insulted him and repeatedly asked him to put on make-up and dance in his dress in front of other detainees and police officers. His family and a local human rights group were able to visit him on the third day of his detention, but he did not have access to a lawyer during his entire detention. He was released without charge after five days.
- Another gay man returning home in female clothing from a friend’s house in 2014 was stopped by two members of the security forces and asked to produce identification.<sup>70</sup> Concerned that he would be arrested on the basis of his sexual orientation if the security forces found out he was a man, he responded he did not have his identification paper with him. The two officers escorted him home on a motorbike and, on the way, one of them attempted to touch his chest and genitals. When they arrived at his family home, his family told the officers about his gender. The officers slapped him in the face and took photos as they asked him to undress in front of his relatives. They threatened the family that they would arrest him if they did not give them money. They took CFA 60,000 (approximately EUR 91), his handbag which contained his phone and left.

## RECOMMENDATIONS

Amnesty International makes the following recommendations to Togo:

- Publicly commit to respecting, protecting, promoting, and fulfilling human rights of everyone regardless of sexual orientation or gender identity and expression;
- Repeal the provisions of the Criminal Code which criminalize consensual same-sex sexual conduct and incitement to consensual same-sex sexual conduct;

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<sup>66</sup> Human Rights Committee, Concluding Observations – Togo, CCPR/C/TGO/CO/4, 18 April 2011, para. 14

<sup>67</sup> Loi N° 2015-010 du 24 novembre 2015 portant nouveau code pénal, articles 392-393. In the previous version of the Criminal Code, the penalty was maximum three years’ imprisonment and a fee of maximum CFA 500 000.

<sup>68</sup> Loi N° 2015-010 du 24 novembre 2015 portant nouveau code pénal, article 394

<sup>69</sup> The details of this case, including names, dates and places are withheld for security reasons

<sup>70</sup> The details of this case, including names, dates and places are withheld for security reasons

- Promptly, thoroughly and impartially investigate all allegations of attacks, harassment, intimidation, arbitrary arrest and detention of persons on the basis of their real or perceived sexual orientation or gender identity and expression and bring anyone suspected to be responsible to justice in fair trials.

## 10. RIGHT TO FREEDOM OF ASSOCIATION (ARTICLE 22)

The legal framework on association is set out in the 1901 law on contract of association.<sup>71</sup>

In April 2016, the Council of Ministers of Togo adopted a bill on the right to freedom of association which fails to meet international human rights standards. For instance, the bill provided for a mandatory prior authorization requirement for “foreign or international associations”. The bill also stated that associations must respect national laws and morals, which could be used to further discriminate against LGBTI people, as consensual same sex sexual relations are criminalized under the criminal code, contrary to Togo's international human rights obligations and commitments. The bill also provided that associations may be dissolved on the basis of a decision of the Council of Ministers or the Minister of Territorial Administration in the case of “foreign and international associations”, without any recourse to an independent and impartial determination by court of law after a fair hearing. The bill was withdrawn.

Togolese authorities have in certain instances failed to deliver registration certificates to organization that express dissent. Officers of the Ministry of Territorial Administration refused to issue registration certificates to a group of LGBTI activists claiming that the mandate of the organization as set out in the registration form “challenged cultural and social norms”.<sup>72</sup> Another organization which provides assistance to victims of torture, Association des Victimes de Torture du Togo (Association for Victims of Torture in Togo-ASVITTO), has been waiting for receipt of registration since 2012, hindering its ability to raise funds, particularly from international donors.

### RECOMMENDATIONS

Amnesty International makes the following recommendations to Togo:

- Refrain from passing restrictive legislation which may be used to further crack down on human rights defenders, activists and journalists for the exercise of their rights and activities, including the 2016 bill on associations;
- Guarantee full enjoyment of the right to freedom of association, including by issuing certificates of registration to all associations that have met the legal requirements in line with regional and international standards;
- Ensure LGBTI rights defenders are able to register their organizations without undue delays and benefit from the same rights and protection as other human rights defenders;
- Take immediate steps to put an end to unwarranted interference with the activities of associations.

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<sup>71</sup> Loi N°40-484 du 1er Juillet 1901 relative au contrat d'association

<sup>72</sup> The details of this case, including names, dates and places are withheld for security reasons

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## CONTACT US

 [info@amnesty.org](mailto:info@amnesty.org)

 +44 (0)20 7413 5500

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## SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

128<sup>TH</sup> SESSION, 2-27 MARCH 2020

Amnesty International submits the following briefing to the United Nations Human Rights Committee in advance of its consideration of fifth periodic report of Togo on its implementation of the International Covenant on Civil and Political Rights. This submission is not an exhaustive account of Amnesty International's concerns and relates primarily to questions on the fight against impunity and past human rights violations, excessive use of force, prohibition of torture and of cruel, inhuman or degrading treatment, rights to freedom of opinion and expression, peaceful assembly, association including protection of journalists and human rights defenders.

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