

# Publish What You Pay

30 January 2009

To: His Excellency El Hadj Omar BONGO ONDIMBA  
President of the Republic of Gabon  
c/o Embassy of Gabon, London

Cc:

H.E. Jean Eyeghe NDONG, Prime Minister  
H.E. Paul TOUNGUI, Minister of Foreign Affairs  
H.E. Ali BONGO ONDIMBA, Minister of Defense  
André MBA OBAME, Minister of Interior  
H.E. Jakaya KIKWETE, President of the African Union  
Czech Presidency of the Council of the European Union  
Mr Louis MICHEL, European Commissioner for Development and Humanitarian Aid  
Dr Peter Eigen, Chairman, EITI

Dear President Bongo,

The undersigned organizations which campaign for human rights and for transparent management and citizen oversight of public funds are writing to express our deep concern about the arrest and indictment of leading anti-corruption activists in Gabon.

We consider their arrest and prosecution to be politically motivated, and call for all charges against them to be dropped.

Marc Ona and Georges Mpagu, members of Publish What You Pay, the international campaign calling for transparency in the extractive industries, were arrested on 31 December 2008 along with three others: Grégory Ngbwa Mintsu, a public servant and civil plaintiff in a recent complaint calling for an investigation into large assets acquired in France by three African heads of state, including the President of Gabon; Gaston Asseko, a journalist with Radio Sainte-Marie; and Dieudonné Koungou, a journalist with Tendence Gabon.

The detainees were kept in unsanitary and inhumane conditions at police headquarters in Libreville and subsequently at the central prison, despite the fact that three of them (Mintsu, Asseko and Mpagu) required urgent medical care. On 7 January, all five detainees were charged with 'possession of a document for dissemination for the

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purpose of propaganda' and with 'oral or written propaganda for incitement of rebellion against the state'.

The charges against them referred to the publication in early December of a letter by the Free Actors of Gabonese Civil Society group criticizing Gabon's regime on a political blog. None of the men charged had signed the letter, which was sent to hundreds of people via the Internet. According to their legal counsel, they therefore cannot be held personally liable for the letter's possession or dissemination.

The men were finally provisionally released on 12 January, but the unfounded charges against them still stand.

In total, they spent 12 days in detention. Until 7 January they were held without access to a lawyer, which is against international human rights covenants signed by Gabon, and beyond the period legally permitted under Gabonese law. A French lawyer was prevented from travelling to Gabon to represent the detainees when his visa was revoked by the authorities, in violation of the Convention of Mutual Legal Assistance between France and Gabon.

There have been other violations of due process in this case. The men were arrested without a warrant, and their houses or offices were subject to searches without their consent, which is also illegal under Gabonese law.

The independence of the Public Prosecutor in charge of the case is also under question. It should also be noted that the Public Prosecutor responsible for their arrests stands accused of illegal enrichment in a legal complaint lodged on 10 October 2008 before the National Commission against Illegal Enrichment by civil society groups, including Ona and Mpaga's NGOs.

The detentions follow months of official intimidation against activists campaigning on anti-corruption and governance issues. In January 2008, the Interior Minister attempted to suspend 22 NGOs including Publish What You Pay and Brainforest, Gabon's leading environmental NGO. Brainforest is led by Ona, a highly respected civil society figure who is also the national coordinator of the PWYP chapter in Gabon.

Ona has a long and positive record of advocating for responsible management of oil and mining revenues in Gabon, and for environmental rights and the rights of disabled people. Since June, Ona has faced an illegal travel ban and in July 2008, along with other activists, he was interrogated by police after calling for the financial affairs of the country's Public Prosecutor to be investigated.

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Ona has also been an active member of a national committee that oversees the implementation of the Extractive Industries Transparency Initiative (EITI) in Gabon since February 2007. Gabon committed to open and peaceful dialogue with civil society when it joined EITI, a global initiative for more transparent management of oil, gas and mineral wealth, and has a deadline of 9 March 2010 to be independently validated as a fully EITI-compliant country. Civil society participation and public debate is a cornerstone of EITI, and government representatives sit alongside Ona on the oversight committee. The government of Gabon is also a member of the international Board of the EITI, along with representatives of other governments, companies and civil society.

The EITI Chairman, Peter Eigen, has expressed grave concern about the arrests, recalling that the free and active engagement of civil society is an indispensable precondition for credible and sustainable EITI implementation<sup>1</sup>.

For the reasons outlined above, we regard the judicial case against the five men to be a politically motivated attempt to silence civil society actors who speak up against the mismanagement of resource wealth in Gabon.

Furthermore, we consider the case to be an attack on the freedom of expression that is guaranteed under Gabonese national law and by the international human rights treaties and standards to which Gabon is party.<sup>2</sup>

Given the continued harassment that individuals such as Marc Ona face, we urge you to:

1. Take steps to ensure that due process of law is respected, particularly the rights of defense, and that any violations are investigated;
2. Urge the Gabonese authorities to drop the unfounded charges against these advocates;
3. Request that the Gabonese authorities take appropriate measures in accordance with their national and international human rights obligations to ensure that civil society activists in Gabon can carry out their work freely, without fear of repression, harassment or restrictions on their freedom of expression, association and movement.

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<sup>1</sup> See 'EITI Chairman expresses concern about arrests of Civil Society representatives in Gabon'  
<http://www.eitransparency.org/node/562>

<sup>2</sup> These include the African Charter on Human and Peoples' Rights (African Charter) and the International Covenant on Civil and Political Rights (ICCPR), as well as the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, commonly known as the United Nations (UN) Declaration on Human Rights Defenders.

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Thank you for your kind consideration.

Yours sincerely,

Publish What You Pay International  
Publish What You Pay Guinea  
Publish What You Pay Niger  
Publish What You Pay Cameroon  
Publish What You Pay Republic of Congo  
Publish What You Pay Canada  
Publish What You Pay Uganda  
Publish What You Pay Ghana  
Publish What You Pay Côte d'Ivoire  
Publish What You Pay Nigeria  
Publish What You Pay Mongolia  
Global Witness  
Oxfam America  
Intermón Oxfam  
Revenue Watch Institute  
Secours Catholique / Caritas France  
Sherpa  
SWISSAID  
Transparency International - Australia  
Transparency International - Ireland  
Carlos Monge, Civil Society Representative to the EITI Board  
Bennett Freeman, Civil Society Representative to the EITI Board  
Civil Society Liaison, EITI Nigeria  
Corruption and Governance Programme, Institute for Security Studies, South Africa  
Fundación Tierra, Bolivia  
EarthRights International, US  
Green Advocates, Liberia  
Grupo Propuesta Ciudadana, Peru  
Fundar Centro de Análisis e Investigación, Mexico  
National Advocacy Coalition on Extractives, Sierra Leone  
Citizens For Justice, Malawi  
Centre for Environmental Research & Development, Papua New Guinea  
Solidariedade para O Desenvolvimento Integrado, Angola  
Lalenok Ba Ema Hotu, Timor-Leste