



Opinion..... 1
 Director’s Update.....4
 Human Rights Defenders Profile5
 Council Wrap Up.....7
 Our Work to Support Human Rights
 Defenders..... 19
 Our Work to Strengthen Human Rights
 Systems 25
 Key Developments in the Promotion and
 Protection of Human Rights 34
 Opportunities for NGO Engagement 34
 New Resources 37
 Case Notes on Decisions from International
 Human Rights Bodies 39

Opinion

PROTECT WOMEN HUMAN RIGHTS DEFENDERS’ RIGHT TO PRIVACY

By Deborah Brown, Senior Project Coordinator, and Jac Sm Kee, Women’s Rights Programme Manager, Association for Progressive Communications

(Geneva, 1 April 2015) – In recent years, revelations of mass governmental surveillance have propelled the right to privacy into the public eye and discourse. However, equal attention needs to be given to surveillance practices by individuals against each other, as well as by the private sector and non-state actors. Mass surveillance is a grievous human rights violation, and public outrage is well deserved. But threats that at-risk users and

marginalised groups experience are equally important. Human rights defenders and women human rights defenders (WHRDs), sexual rights activists, political opposition, religious and ethnic minorities, and independent journalists, in particular, are regularly subjected to surveillance and have their privacy rights persistently violated.

Importance of privacy online to women and women human rights defenders

Privacy helps to establish boundaries that limit who has access to our bodies, gives space to express ourselves, experiment without judgment, and think freely without discrimination. To put it simply, privacy allows us to imagine what we could be, and a world that is better than this one. It is also an important right in the exercise of autonomy and self-determination. This is particularly true for women and WHRDs, who rely on privacy online to assert their rights in the face of significant power imbalances, face online aggression, and to gain access to critical information, including those related to health and safety.

The Association for Progressive Communications’ (APC) work with WHRDs and survivors of harassment, in particular in the online environment, has demonstrated how important privacy online is to physical integrity offline. In particular, women are targeted because of the existing discrimination they face. Blackmail, extortion, persistent harassment and humiliation are all tactics used to silence women and WHRDs.

Exposure of personal information such as name and geographical location ('doxing') poses an immediate offline risk to physical safety and employment to women in particular, and human rights defenders generally.

APC's research conducted in Bosnia and Herzegovina, Colombia, the Democratic Republic of Congo (DRC), Kenya, Mexico, Pakistan and the Philippines¹ has found that online anonymity, for example, can be a powerful tool for combating online harassment and technology-related violence against women. In particular, our research substantiated that online anonymity enables the targets of hate speech and violence online to engage with their aggressors and encourages counter-speech from broader communities. Since legal remedies often fail to recognise tech-related VAW, or incidents are not taken seriously by police, courts and other administrative systems, survivors use technology to face and monitor their aggressors, and rely on online anonymity in order to do so securely. As a result, WHRDs are learning to privatise their online presence in order to campaign without fear for themselves and their loved ones.

To give just one example, Antonia and other employees of the Colombian feminist organisation Mujeres Insumisas have faced constant and increasing threats admonishing them to stop working for women's rights - some identified as being authored by paramilitary groups. As a result, the organisation designed and implemented self-protection privacy measures, including recommendations for database handling, movement to and from the office, managing location information for the team, and maintaining confidentiality on social networks.²

It is important to note that restrictions in legislation and regulation that are put in place for the expressed purpose of preventing online harassment often harm underprivileged groups while not effectively limiting their use by criminals who often have better access and training on using such tools. In states that crackdown on civil society, activists and minorities these regulations often take the form of disproportionate measures and are used as tools to punish or limit civil participation, circumvent due process, and frequently put the privacy of the majority at risk, through data retention for example.

Expectation of the new Special Rapporteur on the right to privacy

We welcome the Human Rights Council's establishment of a new special procedure on the right to privacy as a necessary step to fill a significant gap in the conceptual and practical understanding of the right to privacy. We encourage the new special rapporteur to address the specific challenges that WHRDs and other at-risk communities face with respect to privacy, in particular the specific threats that individuals and communities face as a result of surveillance and the effective remedies to individuals whose rights to privacy have been violated. It is important for the new special rapporteur to integrate a gender perspective throughout the work of the mandate, and to reaffirm commitments to non-discrimination as a crosscutting principle in international human rights law. The new special rapporteur should look to UNGA resolution on Protecting Women Human Rights Defenders (resolution 68/181) for guidance in this respect.³

¹ APC, (2015), Case studies on women's experiences of technology-related VAW and their access to justice, see www.apc.org/en/pubs/cases-women%E2%80%99s-experiences-technology-related-vaw-a

² www.genderit.org/sites/default/upload/case_studies_col1_1.pdf

³ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/181

CHINA TIGHTENS ITS STRANGLEHOLD ON CIVIL SOCIETY SPACE, TARGETING THE ‘MESSENGERS OF HUMAN RIGHTS’

By Renee Xia, International Director of the Network of Chinese Human Rights Defenders

(Geneva, 25 March 2015) – While China promoted the ‘Chinese dream’ on the world stage at the 28th session of the Human Rights Council, the government’s persecution of human rights defenders in 2014 was as severe as it has been since the mid-1990s.

2014, the second year under Xi Jinping’s rule, was even more draconian than the first. We saw Xi’s strongman campaign to purge the value of democracy and human rights, and implement restrictive policies against dissent, especially organised dissent.

The Network of Chinese Human Rights Defenders’ 2014 Annual Report on the Situation of Human Rights Defenders in China, [Silencing the Messenger](#), documents the Chinese Government’s aggressive assaults on fundamental freedoms as it tightens its stranglehold on the rapidly shrinking civil society space, targeting human rights defenders, ‘the messengers of human rights’.

We urge the Human Rights Council to investigate the Chinese Government’s systematic and gross violations of human rights under Xi Jinping’s rule.

Silencing the Messenger identified alarming statistics, for example in 2014 there were as many cases of arbitrary detention of human rights defenders as in the previous two years combined. This figure includes more than 200 defenders who were detained over two successive crackdowns around ‘politically sensitive’ periods. There were also more human rights lawyers criminally detained in 2014 than in any year since the early 2000s, with the detention of at least nine human rights lawyers. This figure included lawyers representing detained human rights lawyers.

There was also a disturbing rise in criminal and administrative detention of human rights defenders, as well as reprisals suffered by activists accessing United Nations human rights instruments. A clear example of this was the arrest of nine women human rights defenders, five of which remain in criminal detention, on 6 and 7 March 2015 to prevent a planned anti-sexual harassment campaign for International Women’s Day.

The government’s attempts to obstruct civil society from requesting the Human Rights Council to enquire into the death of activist Cao Shunli in police custody, who was previously intercepted en route to Geneva to participate in the Universal Periodic Review of China – are another clear reminder of the stark reality faced by defenders and civil society. In addition to this, authorities prevented several activists from travelling to attend treaty body reviews in 2014 by intimidating or seizing their passports. Ironically, China’s effort to restrict the voice of human rights defenders also demonstrates the importance and impact of civil society engagement at the United Nations.

We hope that the severity of the treatment of human rights defenders in 2014 will awaken the international community to the reality facing human rights defenders in China.

Democratic states play an integral role in promoting human rights, democracy and the rule of law in China. In this regard we urge states to publically condemn restrictions on, and push for proper investigation and accountability for, reprisals suffered by human rights defenders in China. The political cost of committing reprisals needs to increase if there is any chance of decreasing the intensity and incidence of reprisals in China.

Along with the escalation of assault on freedom of association and assembly, 2014 also saw the systematic deprivation of due process rights of detained human rights defenders, including lawyers being turned away, in some cases with violence, prolonged pre-trial detention and deprivation of medical treatment.

Intimidation and repression of ethnic minorities and religious freedom was also intensified with systematic oppression of Uyghurs and Tibetans under the guise of China's 'war against terror'. As well as more stringent state control over the media and more sophisticated surveillance on the internet, with tightened restrictions on online communications and the imprisonment of more journalists 2014 than in any other country.

In publishing 'Silencing the Messenger' we not only seek to highlight the extremely severe persecution and reprisals suffered by human rights defenders in China in 2014, but urge the Chinese government to:

- release all human rights defenders deprived of liberty for exercising their fundamental rights;
- protect citizens' rights to freedom of expression, assembly, and association;
- ensure legal protections for human rights lawyers and detainees;
- end impunity for officials who torture or mistreat human rights defenders in detention;
- ensure that civil society members can participate in United Nations human rights activities free of harassment and reprisals;
- end suppression and discriminatory policies against ethnic minorities; and
- ensure that all Chinese citizens can exercise freedom of religion.

If the Chinese Government does not respond adequately to these calls, we urge the international community to speak out about, and demand proper investigation and accountability for, reprisals suffered by human rights defenders in China.

Follow Renee Xia at @ReneeXiaCHRD and [Chinese Human Rights Defenders](#) at @CHRDnet

Director's Update

FORMER UN HIGH COMMISSIONER FOR HUMAN RIGHTS JOINS ISHR BOARD

(Geneva, 1 April 2015) –The International Service for Human Rights is delighted to announce the appointment of Navanethem Pillay to its governing Board.

Navi Pillay served as UN High Commissioner for Human Rights from 2008 to 2014, prior to which she was a judge of the International Criminal Court, judge and President of the International Criminal Tribunal for Rwanda, and judge of the South African High Court.

Ms Pillay has a distinguished track record as a human rights defender; acting as defense attorney for anti-apartheid activists and political prisoners, contributing to the drafting of South Africa's transformative Bill of Rights, and co-founding leading international women's rights organisation Equality Now.

She was the first South African to obtain a doctorate of law from Harvard University and played a

key role for civil society leading to the Vienna Declaration and Programme of Action in 1993.

In her capacity as UN High Commissioner for Human Rights, Ms Pillay was widely lauded for her work to support human rights defenders and protect civil society space, champion women's rights and combat discrimination on all grounds, and to pursue accountability for gross human rights violations.

'I am delighted to join the Board of ISHR, an organisation I have long admired for its work to build the capacity of human rights defenders and protect them from reprisals, and to enhance the accessibility and effectiveness of the UN human rights system,' said Ms Pillay.

'ISHR plays a vital role in ensuring that victims of human rights violations and their representatives have a seat and a voice at the highest human rights table and I look forward to assisting them to further develop this work,' Ms Pillay said.

'ISHR is privileged to welcome Navi Pillay, one of the world's foremost human rights lawyers, activists and defenders to its Board,' said Rosemary McCreery, Chair of the ISHR Board.

'Navi has worked both as a grassroots human rights defender, advocating for prisoner's rights and exposing torture in apartheid South Africa, and as the world's most senior human rights official, frequently briefing the UN Security Council, presidents and heads of state. Her experience and expertise will be invaluable in informing and strengthening ISHR's work to support defenders and to strengthen laws and mechanisms for their protection at the national, regional and international levels,' ISHR Director Phil Lynch said.

Ms Pillay's appointment to the Board is for a period of three years. The Board meets twice per year for two days each time.

In addition to Ms Pillay, ISHR's Board comprises: Rosemary McCreery (Board Chair and former UN Assistant Secretary-General), Chris Sidoti (Vice-Chair and international human rights expert), Pierre Avanzo (Treasurer and former Partner with McKinsey & Co), Reine Alapini-Gansou (African Commission Special Rapporteur on Human Rights Defenders), Maryam Al-Khawaja (Co-Director of the Gulf Center for Human Rights), Sir Nicolas Bratza (former President of the European Court of Human Rights), Gustavo Gallon (Director of the Colombian Commission of Jurists and UN Independent Expert on Haiti), Hina Jilani (former UN Special Representative on Human Rights Defenders and member of The Elders), Egbert Myjer (former judge of the European Court of Human Rights), Michael Posner (Professor and Co-Director of NYU Center for Business and Human Rights) and Jean-Daniel Vigny (international human rights expert for Swiss Ministry of Foreign Affairs).

Contact: Phil Lynch, Director, International Service for Human Rights, on p.lynch@ishr.ch or + 41 76 708 4738.

Human Rights Defenders Profile

JOSEPH BIKANDA, COORDINATOR OF PAN AFRICAN HUMAN RIGHTS DEFENDERS NETWORK

Joseph Bikanda is the Coordinator of the Pan African Human Rights Defenders Network (PAHRDN), a Network made up of 5 sub-regional networks of human rights defenders (HRDs), including the East and Horn of Africa, the Central, the West, the Southern and the North African HRDs Networks.

Joseph first became involved in human rights as a university student. A group of students, which included him, needed a voice to advocate on their behalf. Joseph became that voice. In doing so, Joseph learnt about human rights mechanisms existing at the time.

'I found myself surrounded by the human rights world and knew that it was the right place for me. Since then I have been working in human rights in various capacities.'

Joseph explained that PAHRDN's key focus is to strengthen the capacity and provide support to regional networks, civil society organisations and HRDs.

'You are always stronger working together in a network, and if each element of the network is more capable and works together - you are even stronger'

PAHRDN engages with the African Commission on Human and Peoples' Rights, the Human Rights Council and other international mechanisms of the United Nations. Joseph explains that PAHRDN is very supportive of joint actions between international and regional human rights mechanisms, such as the Addis Ababa Roadmap which has been committed to by the Special Procedures Mandate Holders of the UN Human Rights Council and the African Commission on Human and Peoples' Rights which seeks to enhance cooperation for the promotion and protection of all human rights of all.

'HRDs play a vital role in addressing discrimination and inequality, promoting the rule of law, and exposing and seeking accountability for human right violations. Regional and international human rights mechanisms support HRDs, but networks such as PAHRDN are essential to create local supporting mechanisms for HRDs'

Joseph explained that the processes associated with international and regional human rights mechanisms create limitations in the support they can provide HRDs. In this respect, PAHRDN has established local mechanisms to 'fill the gap as best we can'. These mechanisms include providing emergency support, lawyers, trial observation and practical support for HRDs.

'One of our key roles is to provide support for HRDs in emergency situations when they are being harassed, targeted or when their lives are in danger. We have also created urgent mechanisms which apply pressure to perpetrators of human rights abuses.'

Joseph commented on the essential role that HRDs played in initiating the development of the law for the protection of HRDs in Côte d'Ivoire. He shared his hope that each African country develops similar laws in the near future and, in particular, that each of those laws is effectively implemented.

'I hope to see HRDs develop further as key actors combatting corruption and promoting transparency. Involving HRDs in decisions ensures that the views of civil society are raised and considered.'

In his discussion with ISHR, Joseph identified that his primary objectives of attending the March session of the Human Rights Council were to raise awareness of - the horrific situation in Burundi, in particular the persecution of journalists and HRDs; the continued fighting in South Sudan and the abduction of children for combat; and the concerning counter terrorism laws in Cameroon and Ethiopia, which lack differentiation between defenders and terrorists.

'As well as interacting with the mechanisms of the Human Rights Council, attending its sessions enables us to strengthen African group networks, which is essential for our continued and collaborative work to protect HRDs.'

Follow Joseph Bikanda on Twitter at @Bikjo.

Council Wrap Up

HUMAN RIGHTS COUNCIL: 28TH SESSION ADOPTS 5 RESOLUTIONS OF SIGNIFICANCE TO HUMAN RIGHTS DEFENDERS

Resolution: Human Rights, Democracy and the Rule of Law

(Geneva, 2 April 2015) – The Council voted to adopt a resolution on '[Human rights, democracy and rule of law](#)' presented by Morocco, Norway, Peru, Republic of Korea, Romania, Tunisia. The resolution creates a 'Forum on human rights, democracy and the rule of law', which will take place in Geneva every two years starting in 2016, with the first Forum considering the topic of 'Widening the democratic space: the role of youth in public decision-making'.

China, in a rare show of hand, took the lead of a group of States to present a last-minute amendment seeking to restrict the participation of civil society without ECOSOC consultative status in the Forum, by giving a veto to States allowing them to block specific civil society groups. The so called '[no-objection procedure](#)', which allows any State to block any NGO on any grounds, has in the past been used to limit and [exclude some NGOs](#) from participating in UN processes. Despite these efforts by China (along with Cuba, Pakistan, Russia, Saudi Arabia and Venezuela), the Council rejected these restrictions by a [vote of 18 in favour, 23 against and 6 abstentions](#). Of particular note were the favourable (thus restrictive) votes of India, Indonesia and South Africa, while the abstentions by Brazil and Argentina were particularly regrettable given their vibrant civil society and rhetorical openness to NGO participation in the UN. Positively, several smaller States such as Botswana, Côte d'Ivoire, Sierra Leone and Paraguay remained principled in their support to civil society, despite having no-doubt been heavily lobbied by China on the issue.

The resolution itself was adopted by a [vote of 35 yes to 12 abstentions](#), but without negative vote.

Resolution: Guaranteeing a human rights perspective in the General Assembly debate on the world drug problem

(Geneva, 2 April 2015) – This [resolution](#), which was passed by the Council without a vote, guarantees that a human rights perspective will be contemplated at the UN General Assembly Special Session (UNGASS) on the World Drug Problem next April.

This perspective will be generated via two contributions mandated by this resolution: a study by the UN High Commissioner and a panel discussion at the Human Rights Council's 30th session, on which a summary report will be prepared.

The resolution states that the High Commissioner's study should be based on a consultation of all relevant stakeholders, include 'recommendations on respect for and the protection and promotion of human rights in the context of the world drug problem', and consider 'the needs of persons affected and persons in vulnerable situations'. It will be presented to the 30th session and form the basis for the Panel.

'Mandating both an objective report from the human rights specialists at the Office of the High Commissioner and a panel at the world's principle human rights body provides an important opportunity for inclusive and expert input on the human rights impact of drug trafficking and consumption, as well as global and local counter-narcotics strategies,' said ISHR's Ben Leather.

Mr Leather continued: 'ISHR receives regular reports regarding the devastating impact of drug trafficking and counter-narcotics operations on both human rights and human rights

defenders, [particularly in Latin America](#). Human rights defenders are documenting this impact and have clear proposals for how they can be kept safe in this context and how drugs policy can be adapted to put human rights protection at its forefront. It is crucial that they be consulted for the study, included in the panel and contemplated at UNGASS'.

This initiative was led by Colombia, Guatemala and Switzerland and the resolution had already accumulated over 47 co-sponsors when the Council approved it.

Resolution: Renewal of mandate of Special Rapporteur on the Islamic Republic of Iran

(Geneva, 2 April 2015) – In a [resolution](#) adopted by a vote of 20 in favour, 11 against and 16 abstentions, the Council extended the mandate of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran for a further period of one year. The Council also requested that the Special Rapporteur submit a report on the implementation of his mandate at its 31st session and to the General Assembly at its 70th session.

The Council called for the Iranian Government's full cooperation, including allowing the Special Rapporteur to visit Iran and providing all information necessary to ensure the fulfilment of the mandate.

In discussing its regrettable decision to abstain from voting, Brazil underlined the important work by the Special Rapporteur on raising concerns about discrimination against women, harassment of human rights defenders and the use of the death penalty in Iran.

ISHR welcomes the extension of the mandate to address the chronic situation of serious violations of human rights perpetrated by the authorities, particularly Iran's security, intelligence and judiciary authorities in Iran.

Resolution: Renewal of mandate of Special Rapporteur on Myanmar

(Geneva, 2 April 2015) – In a [resolution](#) adopted without a vote, the Council renewed the mandate of the Special Rapporteur on the situation of human rights in Myanmar for a further year.

ISHR welcomes the resolution's recognition of the challenges and human rights violations faced by human rights defenders, journalists, political activists and those working on land and environmental rights. However, the Council regrettably stopped short of condemning recent and ongoing crackdowns on peaceful protests and calling for accountability for human rights abuses perpetrated by business enterprises.

Resolution: Special Rapporteur on the right to privacy established

(Geneva, 2 April 2015) – ISHR welcomes the creation of a new [Special Rapporteur on the right to privacy](#), which marks a significant step forwards in addressing human rights violations related to surveillance and other privacy related abuses. Adopted without a vote, co-sponsors represented countries from all the regions of the world.

This mandate will engage in developing an analysis on the nature and scope of this right, systematic monitoring of abuses, gather information on national and international frameworks to protect the right to privacy, conduct country visits and make recommendations to States to strengthen protection of privacy rights. The mandate is particularly timely and urgent given the increase in the use of mass surveillance against human rights defenders and activists in order to criminalise their work.

APPOINTMENT AND RENEWAL OF MANDATES

(Geneva, 2 April 2015) – At the 28th session of the Human Rights Council two new mandates were established, two thematic mandates and five country-specific mandates were renewed, and four special procedure mandate holders were appointed.

New Mandates

Two new mandates were established:

- Independent Expert on the enjoyment of human rights of persons with albinism.
- Special Rapporteur on the right to privacy.

Renewed mandates

Two thematic mandates were renewed:

- The mandate of the Special Rapporteur in the field of cultural rights was extended for three years.
- The mandate of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable [environment](#) was renewed for three years as a Special Rapporteur.

Five country-specific mandates were renewed:

- The mandate of the Special Rapporteur of the situation of human rights in the Democratic People's Republic of Korea was extended for a period of one year.
- The mandate of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran was extended for a period of one year.
- The mandate of the Independent Expert on the human rights situation in Mali was extended for a period of one year.
- The mandate of the Special Rapporteur on the situation of human rights in Myanmar was extended for a period of one year.
- The mandate of the Independent International Commission of Inquiry on the Syrian Arab Republic was extended for a period of one year.

New Mandate Holders

The President of the Human Rights Council's [list of candidates](#) was approved by the Council on 27 March 2015 with the appointment of the following special procedure mandate holders:

- Albert Kwokwo Barume (Democratic Republic of the Congo), as the African member of the Expert Mechanism on the Rights of Indigenous Peoples.
- Idriss Jazairy (Algeria), as the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights.
- Rhona Smith (United Kingdom), as the Special Rapporteur on the situation of human rights in Cambodia.

- Dante Pesce (Chile), as the Latin American and Caribbean Member of the Working Group on the issue of human rights and transnational corporations and other business enterprises.

HUMAN RIGHTS COUNCIL: DEFERRAL OF REPORTS SHOULD BE EXCEPTIONAL AND INVOLVE CIVIL SOCIETY CONSULTATION

(Geneva, 2 April 2015) – The 28th session of the Human Rights Council saw the deferral of three significant reports: the report of the Commission of Inquiry into the 2014 Gaza Conflict, the OHCHR report into alleged human rights violations in Sri Lanka, and the annual report of the Special Rapporteur on Counter-Terrorism.

In ISHR's view, the deferral of reports to the Human Rights Council should be exceptional and occur on a case-by-case basis after careful consultation with civil society and victims of violations.

The Commission of Inquiry on the 2014 Gaza Conflict had planned to present its report on the conflict, but on [9 March](#) requested an extension of its mandate until June 2015. COI Chair, Mary McGowan Davis, in her [oral update](#) on the conflict on 23 March, attributed the postponement to 'large amount[s] of information' received at the last minute, which gave rise to 'complex legal issues.' The COI considered that examining these complex issues 'should not be rushed under any circumstances.'

Similarly, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, recommended a deferral until September 2015 of the OHCHR report into alleged human rights violations during the conflict in Sri Lanka. He [explained](#) that it was a 'difficult decision', with strong arguments for and against, but that a 6 month extension would facilitate vital discussions with a new Sri Lankan government which the previous government had refused. The High Commissioner affirmed it was for 'one time only.'

The report of the Special Rapporteur on Counter-Terrorism, Ben Emmerson, was deferred following his request for an extension. Granting this request, the [President of the Council nevertheless wrote](#) 'As President of the Human Rights Council, I must urge you to honor your reporting obligations to the Council in order to allow for the implementation of the annual calendar of thematic resolutions, to strengthen transparency and predictability, as well as to ensure that there is no protection gap.'

'Deferrals must only occur on a case-by-case basis, such as in circumstances necessary to gather essential new information, or where expected cooperation with the State in question could materially alter the findings and recommendations of the report,' said Phil Lynch, Director of ISHR.

In ISHR's view, there must also be a strong consideration of the impact of a deferral on victims. Nadia Ben-Youssef, US Representative of the Adalah Legal Centre for Arab Minority Rights in Israel, and Janeen Rashmawi, Associate Fellow at the Cairo Institute for Human Rights Studies, both commented to ISHR that the deferral would be especially painful for victims who await accountability. Similar could be expected for Israeli victims of the Gaza conflict.

The High Commissioner echoed these sentiments with respect to Sri Lanka when he said that he wanted a report that will have the maximum impact in ensuring 'a genuine and credible process of accountability and reconciliation in which the rights of victims to truth, justice and reparations are finally respected.'

HUMAN RIGHTS COUNCIL: POSITIVE STEPS OFFSET BY FAILURE TO RESPOND TO GRAVE COUNTRY SITUATIONS OR SUFFICIENTLY PROTECT HUMAN RIGHTS DEFENDERS OR INSTITUTIONS

(Geneva, 27 March 2015) – Future sessions of the Human Rights Council must properly address grave situations of human rights violations, better protect human rights defenders and civil society space, prevent backsliding in the enjoyment of universal rights, and safeguard the independence and effectiveness of human rights institutions, ISHR said today in a closing statement to the 28th session of the Council in Geneva.

Speaking on behalf of a coalition of NGOs - including Human Rights Watch, FIDH, CIVICUS, FORUM-ASIA, the Cairo Institute for Human Rights Studies, Article 19 and the Human Rights House Foundation - ISHR said:

'We regret the failure to adopt a [resolution on Iraq](#) which would do justice to the situation, and ensure accountability for all human rights violations committed by all sides and provide for robust reporting by the Office of the High Commissioner for Human Rights. The resolution shows clearly the limits of a cooperative approach at the expense of addressing the human rights situation on the ground.

While we welcome the resolution renewing the mandate of the Special Rapporteur on Myanmar and its recognition of the [challenges faced by human rights defenders and others](#), it fails to condemn the recent crackdown on peacefully protesting students.

There are also important omissions. The Council did nothing to address the [suffocation of independent civil society in Egypt](#), nor the massive [crackdown on human rights defenders in Azerbaijan](#), and it didn't take a firm stand on human rights violations in Ukraine. On South Sudan, the Council failed to fill the breach left by regional processes, and States must now follow-up to the joint statement.

On the thematic front, we are dismayed by the [deeply flawed resolution on the 'impact of terrorism'](#), which fails to recognise the vital role of civil society in combating extremism and lacks adequate safeguards to ensure that national laws and measures do not violate human rights law or repress civil society.

The resolution on the composition of staff continues the incremental but sustained [attack on the independence of the Office](#), by giving credence to recommendations in a report that should have never been mandated, and [we regret its adoption](#).

Despite these shortcomings, we welcome the Council's advances in some areas. We welcome the creation of a new full scope [mandate on the right to privacy](#) and look forward to the appointment of a fully qualified and independent mandate holder. Likewise, we appreciate the renewal of mandates on food and cultural rights

We also welcome the adoption of the new resolution on drug policies and human rights, which calls for an independent report by the High Commissioner and a subsequent panel in September. Civil society looks forward to feeding into the process to ensure it provides a much-needed and specialist human rights contribution to UNGASS.

Mr President, despite the mixed success of the session, let me end on a positive note of appreciation to you, and your Bureau, for the [increasingly strong steps](#) you've taken to safeguard civil society

space and address intimidation or reprisals against those cooperating with the Council, both on an individual and a systemic level.

We look forward to working closely with you over the coming months to strengthen the Council's capacity to prevent and ensure accountability for reprisals and all other violations of human rights.

Thank you.'

Contact: Michael Ineichen, Director of Human Rights Council Advocacy, ISHR on m.ineichen@ishr.ch or + 41 78 827 77 86

HUMAN RIGHTS COUNCIL EXAMINES COUNTRY SITUATIONS IN CENTRAL AFRICAN REPUBLIC, CÔTE D'IVOIRE, HAITI, MALI AND IRAQ

(Geneva, 27 March 2015) – Earlier this week, the UN Human Rights Council considered reports on the human rights situation in the Central African Republic, Côte d'Ivoire, Haiti, Mali and Iraq. Each of the reports referred to violations of human rights defenders and restrictions imposed on civil society space. The reports on the Central African Republic, Haiti, Mali and Iraq discussed general human rights violations by armed groups with total impunity, while the report on Côte d'Ivoire identified the need for the complete implementation of the law on the protection of human rights defenders. The presentation of each report was followed by an interactive dialogue. A brief summary of the report and the interactive dialogue is incorporated below.

Interactive Dialogue with the Independent Expert on the Central African Republic

Marie-Thérèse Keita Bocoum, the Independent Expert on the situation of human rights in the Central African Republic, presented an oral report to the Human Rights Council. Ms Keita Bocoum welcomed recent developments, such as the first arrests of perpetrators of alleged reprisals, as well as the announcement last month of plans for a Special Criminal Court, to be supervised by the ICC.

Ms Keita Bocoum stressed, however, the ongoing severity and prevalence of human rights abuses across the country. Armed groups, operating in a context of total impunity, continue to terrorise the population. Half a million people have been displaced as a result of rampant violence.

The Central African Republic responded that financial assistance promised by the international community had not been forthcoming, and this was undermining the improvement of the situation in Bangui.

In the subsequent interactive dialogue, delegations expressed grave concern regarding the safety of civilians and humanitarian workers in the Central African Republic. Ireland emphasised that 'tackling impunity plays a fundamental role in breaking the cycle of violence and restoring peace and security'. Several States, including members of the African Group, echoed this sentiment, welcoming the establishment of the hybrid Special Criminal Court, and urging that steps be taken to ensure its independence and impartiality.

Ms Keita-Bocoum concluded by calling on the transitional government to advance the process of democratisation and reconciliation, highlighting the upcoming 'Bangui Forum' in April as a key opportunity in this regard.

Interactive Dialogue with the Independent Expert on Côte d'Ivoire

Mohammed Ayat, the Independent Expert on capacity building and technical cooperation with Côte

d'Ivoire in the field of human rights, provided an oral update to the Human Rights Council. He welcomed the large-scale judicial reforms, including the adoption of a law designed to protect human rights defenders, which he described as an essential step towards breaking the cycle of impunity in the country. Côte d'Ivoire confirmed its commitment to developing a fully functioning independent judicial system.

In the subsequent interactive dialogue, speakers from Egypt and the European Union among others underlined the urgent need to include civil society groups in political dialogue in the context of forthcoming elections. Delegates from States and civil society alike emphasised the importance of combatting impunity for human rights violations, including sexual violence perpetrated during the post-electoral crisis.

In his [contribution to the interactive dialogue](#), ISHR's Head of African Advocacy Clement Voulé called on Mr Ayat to encourage the government to adopt an executive decree needed to implement the law on human rights defenders. 'Without such a decree', this initiative represents merely a 'hollow promise' Mr Voulé noted.

In his concluding remarks, the Independent Expert reiterated the need for the complete implementation of the law on human rights defenders and expressed his hope that civil society will be a full partner in the process. He affirmed that access to justice and protecting the rights of children and women must also be prioritised.

Interactive Dialogue with the Independent Expert on Haiti

In an oral report to the Human Rights Council Gustavo Gallón, the Independent Expert on the situation of human rights in Haiti (and an ISHR Board member), called for prioritisation of five major issues, namely; illiteracy, prolonged pre-trial detention, reparation to victims of human rights violations, absence of elections and the living conditions of internally displaced individuals. Mr Gallón recommended the establishment of a National Commission for Reparation as a necessary step towards providing accountability for the victims of human rights abuses committed by the previous regime.

The delegate from Haiti responded that 'drastic measures' to enable future elections were being taken, including the establishment of an electoral commission, and announced that the first elections would be held on 9 August 2015. The Haitian government also stated its commitment to fighting impunity.

In the ensuing discussion, speakers called on the international community to provide financial and technical support to Haiti, including assistance in ensuring the upcoming elections are free and fairly conducted. Several states, most vocally France and Canada, identified the fight against impunity as a key priority, and called on the Independent Expert to encourage greater judicial reform.

With regard to impunity, the Independent Expert concluded by acknowledging the responsibility of the international community to contribute and assist Haitian society in bringing perpetrators of past crimes to justice. Mr Gallón identified the need to raise awareness of historic abuses and address the younger generations' lack of knowledge of past crimes in Haiti as key elements of reconciliation.

Interactive Dialogue with the Independent Expert on Mali

The Independent Expert on the situation of human rights in Mali, Suliman Baldo, presented his [report](#) to the Human Rights Council on Wednesday this week. His report described a fragile

security situation in which armed extremist groups carry out violations on the right to life, abductions, cruel, inhuman or degrading treatment, and unlawful detention.

In the interactive dialogue that followed, Mr Baldo enjoyed the full support and cooperation of the Malian government. This was applauded by NGOs and member States. However, Member States expressed grave concerns about the ongoing rape of children and women by armed forces and rebel groups, perpetrated with impunity.

In his concluding remarks, Mr Baldo stated that the rights to freedom, expression and assembly were not critical concerns in Mali, but focused his concern on the ongoing violations against civilians in the context of conflict. Mr Baldo also stated, with most member States concurring, that Mali must consolidate the sovereignty of its government and institutions, especially in the north. Mr Baldo stressed that this was necessary to prevent the region deteriorating into a lawless zone where fractious militia, trans-boundary criminal gangs, and rebel and terrorist groups would likely take root.

Interactive Dialogue with the OHCHR on Iraq

Earlier this week the United Nations Deputy High Commissioner for Human Rights, Flavia Pansieri, [addressed](#) the human rights Council. As part of her address she presented a chilling joint OHCHR-UNAMI investigative mission report on the human rights situation in Iraq, in light of abuses committed by the so-called Islamic State in Iraq and the Levant (ISIL) and associated groups. The report documents frightening war crimes and crimes against humanity perpetrated by members of ISIL, and criticises the Iraqi Government for its failure to protect those under its jurisdiction, particularly from armed groups acting on its behalf.

Member States were predominately supportive of Iraq in its fight against ISIL, and many echoed the report's vivid examples of depraved tactics used against vast cross-sections of the Iraqi population. Ms Pansieri saluted the courage of countless victims who testified about human rights abuses, despite great risk to their personal security. She also encouraged the Iraqi Government to consult widely with Iraqi society, by listening to their legitimate interests and grievances, when seeking to repair the damage resulting from the conflict. Ms Pansieri concluded by pronouncing that, critically, 'we must change the narrative which now sees violent extremism as the glamorous way to go.'

LATIN AMERICA: STRONG STEPS NEEDED TO PROTECT HUMAN RIGHTS DEFENDERS

(Geneva, 26 March 2015) – In a statement (available in [Spanish](#) and [English](#)) to the UN Human Rights Council, the International Service for Human Rights has responded to the High Commissioner's new reports on [Colombia](#) and [Guatemala](#) and called upon Latin American States to take five key steps towards the protection of human rights defenders across the continent.

Although both countries saw a welcome decrease in assassinations of human rights defenders in 2014, [Somos Defensores](#) recorded 626 aggressions against human rights defenders in Colombia last year, and [Udefegua](#) 799 attacks against activists in Guatemala, meaning that both reports inevitably addressed the issue of their security.

The report on Colombia had spoken of the important role of defenders in the peace process and ISHR representative Laia Evia underlined how 'the role of defenders in the hopefully soon post-conflict Colombia will be equally crucial and could imply continued and new risks, including stemming from the expansion of natural resource exploitation. The Office's local support for defenders will continue to be vital.' NGOs have commended the importance of the Office of the High

Commissioner (OHCHR) in Colombia in working for the recognition and protection of human rights defenders.

Delivering the ISHR statement, Ms Evia also commended the OHCHR's commitment to monitor criminal investigations into attacks on human rights defenders in Colombia and suggested the Office in Guatemala might do likewise. Impunity reigns in attacks against defenders in both countries. As the report on Colombia puts it 'Investigation and prosecution of perpetrators and dismantlement of the structures supporting crime against defenders are keys to preventing new threats and attacks'.

The report on Guatemala documented what ISHR had noted on a [recent visit](#) to the country: that those working on land rights and indigenous peoples' rights face elevated risks. The report also highlighted the additional threats to women defenders and journalists, noting with concern the criminalisation of these defenders, as well as the smear campaigns and harassment which have at times been levelled against international organisations and UN representatives.

Reflecting upon the statement ISHR's Advocacy and Communications Manager Ben Leather said 'the levels of risks facing activists working on land rights issues in both countries is quite simply shocking. The authorities must do more to recognise the legitimacy of these defenders, develop adequate protective measures for communities and collectives, as well as individuals and NGOs, and investigate these attacks. We hope that a strong OHCHR presence can be maintained in both countries in order to monitor this'.

Ms Evia explained that earlier this year ISHR visited [Colombia](#) and Guatemala to consult 75 defenders from 21 Latin American countries. On the back of the trends outlined by these defenders, and reflected in the OHCHR reports, ISHR used the statement to the Human Rights Council to recommend that Latin American States take the following priority steps to contribute to defender protection:

- Ensure that defenders working on business and human rights are recognised and consulted, rather than exposed to magnified risks from State and non-State actors.
- Guarantee that security strategies do not threaten defenders and that States accept human rights demands as positive contributions to combatting violence and crime.
- Tackle the additional risks faced by women and LGBTI defenders.
- End the stigmatisation of human rights defence.
- Develop, strengthen and implement human rights defender protection policies.

Though analysis was limited, both new OHCHR reports referred to the policies which ought to protect defenders. In Colombia, 3 of the 45 murdered defenders documented by the OHCHR in 2014 were under State protective measures at time of death. The impact of the Unit for Analysis of Attacks on Human Rights Defenders in Guatemala, meanwhile remains limited. *Somos Defensores* and *Udefegua* have both analysed the failings of each country's respective protection policies.

'On paper Latin America is the continent with the greatest State protection of human rights defenders,' said Mr Leather. 'Brazil, Colombia, Guatemala and Mexico have laws or policies, whilst Honduras is drafting legislation. Yet [Front Line](#) documented more murdered defenders in Latin America in 2014 than any other continent. These States must prioritise a strengthening of these

mechanisms, taking into account civil society input. Failing protection mechanisms for human rights defenders suggest failing to prioritise human rights’.

Este artículo se encuentra también en español [aquí](#).

For more information, contact Ben Leather on b.leather@ishr.ch

HUMAN RIGHTS COUNCIL: REJECT DRAFT COUNTER-TERRORISM RESOLUTION WHICH WOULD UNDERMINE CIVIL SOCIETY

(Geneva, 25 March 2015) – Member States of the UN Human Rights Council should reject or push for substantial amendment of a proposed counter-terrorism resolution that would undermine civil society and respect for human rights, a coalition of 18 leading human rights organisations said in an [open letter](#) today.

The draft resolution, entitled ‘[Effects of Terrorism on the Enjoyment of Human Rights](#)’ and presented jointly by Egypt, Jordan, Algeria, Morocco and Saudi Arabia, is significantly unbalanced, calling on States to strengthen national laws and measures to criminalise and to counter terrorism, without any recognition that such laws and measures must be in conformity with international human rights law.

According to the NGOs - which include Amnesty International, Human Rights Watch and the International Commission of Jurists, as well as ISHR - the draft text is also deficient in that it fails to call on States to ensure that laws and measures on counter-terrorism and national security do not hinder the work and safety of human rights defenders and other civil society actors. It also fails to call on States to ensure that such laws and measures clearly identify which offences qualify as terrorist acts by defining transparent and foreseeable criteria.

‘These weaknesses should be seen in the context of an increasing number of States from all regions using and misusing overbroad and vague legislative provisions to restrict and criminalise the exercise of the rights to freedom of expression, association and assembly, to target and endanger the work and safety of human rights defenders, and to inhibit the access of non-governmental organisations to foreign funds, all contrary to international human rights law,’ the NGOs said. ISHR has recently expressed concerns about proposed or enacted counter-terrorism laws that would undermine civil society in States including [Australia](#), [Canada](#), [Chile](#), [China](#) and [Egypt](#), among others.

The open letter also expresses grave concern that the draft resolution fails to recognise that support for a vibrant and pluralistic civil society, together with respect for the fundamental rights of freedom of expression, association and assembly, are essential to combat extremism, counter terrorism and provide protection, support and justice to victims. Quoting the UN High Commissioner for Human Rights in his opening address to the present session of the UN Human Rights Council, the letter says, ‘terrorist attacks cannot destroy the values on which our societies are grounded - but laws and policies can. Measures that build what has been termed the "national security state" - such as arbitrary or prolonged detention; torture and ill-treatment; massive surveillance that undermines the right to privacy; unfair trials; discriminatory policing; and the abusive use of legislation to curb legitimate rights to peaceful protest and to freedom of expression - are human rights violations. They generate legitimate resentment, harm social cohesion, and undermine the essential values of the international community.’

UN Special Rapporteur on Freedom of Association and Assembly, [Maina Kiai](#), expressed similar views recently when he said, ‘the rights to peaceful assembly and of association do not encourage extremism, chaos, or violence but are, in fact, the best antidotes we have against all of these ills’.

'We all have a shared interest in combating extremism, countering terrorism and promoting national security. These objectives are best met, however, not by enacting ever more restrictive, invasive and counter-productive counter-terrorism laws, but rather by supporting and strengthening human rights defenders and other civil society actors whose work is essential to promoting respect for human dignity and equality,' said ISHR Director Phil Lynch.

The open letter concludes with a call to all delegations not to support the draft text without very substantial and important amendments.

'States with a genuine commitment to respect for human rights and a safe and enabling environment for civil society, both of which are essential to countering terrorism, will reject this resolution in its present form,' Mr Lynch said.

Contact: Phil Lynch, Director, ISHR, on + 41 76 708 4738 or p.lynych@ishr.ch

CÔTE D'IVOIRE: ENSURE EFFECTIVE IMPLEMENTATION OF LAW FOR PROTECTION OF HUMAN RIGHTS DEFENDERS

(Geneva, 25 March 2015) – Côte d'Ivoire should ensure the effective implementation of a [law to protect human rights defenders](#), strengthen its national human rights institution and combat impunity, ISHR said in a [statement](#) delivered to the Human Rights Council under Item 10 yesterday, following the oral update of the Independent Expert on Côte d'Ivoire.

Congratulating Côte d'Ivoire on the human rights defender law, the first of its kind in Africa, ISHR called on the government to 'periodically review and strengthen the law in consultation with human rights defenders to close protection gaps and ensure the law is effective in promoting an enabling environment for human rights defenders and addressing systemic factors contributing to attacks against them.'

'The Independent Expert should encourage the government to adopt an executive decree required to implement this law. Without such a decree this initiative will remain but a hollow promise of protection for Ivorian defenders,' said Clément Voulé, ISHR's Head of ISHR's Africa Programme.

As elections approach, defenders will play an even more critical role in monitoring the human rights situation in Côte d'Ivoire. However, in doing so they are likely to become more vulnerable to attacks and harassment. 'The adoption of a decree would give defenders a much needed institutionalised framework for protection and set an example for countries throughout the continent and beyond,' added Mr Voulé.

Since the electoral crisis in 2010-11, human rights activists have advocated for justice for all victims of the conflict but 'the slow progress in bringing perpetrators on all sides to justice undermines victims' rights and the reconciliation process,' said Mr Voulé.

In its statement, ISHR invited the Independent Expert on Côte d'Ivoire to continue to work on the fight against impunity. ISHR also highlighted that the National Human Rights Commission lacks independence, which is required by the Paris Principles. In this regard ISHR recommended that the government of Côte d'Ivoire seek the advice of the Independent Expert, together with the Office of the High Commission for Human Rights and the International Coordinating Committee of National

Human Rights Institutions, on legislative and other measures to ensure the required independence of the National Human Rights Commission.

'An independent, effective and adequately resourced National Human Rights Commission – with a dedicated and full resourced human rights defenders focal point – is critical to the promotion of human rights and the protection of human rights defenders in Côte d'Ivoire' said Mr Voulé.

A video of the statement is available in [English](#) and [French](#).

For further information contact: Clément N Voulé at c.voule@ishr.ch.

HUMAN RIGHTS COUNCIL: REJECT ATTEMPTS TO LIMIT OFFICE OF THE HIGH COMMISSIONER

(Geneva, 23 March 2015) – States should resist Cuban-led attempts to micromanage and fetter the independence of the UN's top human rights official, a group of leading human rights NGOs said in [a statement](#) to the Human Rights Council today.

Delivered by [HRW](#), and supported by [ISHR](#), [Civicus](#), [FIDH](#), [FORUM ASIA](#), [OMCT](#) and [EIPR](#), the statement expressed concern about a resolution under consideration by the Council which proposes to take up recommendations in a recent report - the so-called '[JIU report](#)' - regarding the governance and operations of the UN Office of the High Commissioner for Human Rights. Among its contradictory recommendations, the report proposes a mechanism to enable States to 'direct and monitor' the work of [OHCHR](#) and the High Commissioner himself.

The statement highlighted that creation of the position of High Commissioner for Human Rights was one of the landmark achievements of the Vienna Declaration adopted by all States in 1994. For more than 20 years, successive High Commissioners have provided a strong and independent voice, committed to promoting and protecting human rights around the world, the statement said.

'Today, that independence is under threat. The draft resolution, inaccurately titled "Composition of staff of the Office of the UN High Commissioner for Human Rights" seeks to affirm and encourage follow-up to the report of the Joint Inspection Unit (JIU), which reviews the "Management and Administration" of the OHCHR,' said John Fisher of HRW delivering the statement.

'The independence of the High Commissioner for Human Rights and his office is axiomatic to his effectiveness. The High Commissioner must be free to speak without fear and without favour, unconstrained by the political agenda of any State or group of States,' said ISHR's Michael Ineichen. 'This report must not be permitted to be used as a subterfuge to constrain the High Commissioner and his office at a time when both their monitoring and reporting, and their advice and technical assistance, are needed perhaps more than ever before.'

'It is inconceivable that the Human Rights Council can address, or will be allowed to address, questions relating to management and administration of the Office,' the statement said, quoting the President of the Human Rights Council and the JIU report itself.

While recognising that the Council is often guided by political considerations, the statement highlighted that earlier in the session, numerous foreign ministers and high-ranking officials expressed concern at global human rights crises taking their toll in every region of the world. In the view of the sponsoring NGOs, this underscored the critical need for a High Commissioner who can stand

outside the politics of the Council and provide a principled independent voice to remind the world all of the human rights standards that the Council is sworn to uphold.

The statement finished by urging States to reject the damaging provisions in the proposed resolution, and defend the independence and effectiveness of the OHCHR.

See the full statement [here](#).

Contact: Michael Ineichen, Human Rights Council Advocacy Director, on m.ineichen@ishr.ch or + 41 78 827 77 86.

Our Work to Support Human Rights Defenders

KUWAIT: RELEASE NAWAF AL HENDAL AND RESPECT RIGHT TO FREEDOM OF EXPRESSION AND ASSEMBLY

(Update, 31 March 2015) – ISHR welcomes the release of Nawaf Al-Hendal but condemns the imposition of a travel ban against him and the reporting laying of charges of 'participating in an illegal protest'. ISHR is particularly concerned that these charges and restrictions are connected with Al-Hendal's advocacy at the Human Rights Council in Geneva and have the purpose or will have the effect of restricting his right to cooperate with international human rights mechanisms.

In this regard, ISHR notes that the rights to freedom of association and assembly, which include the right to spontaneous assembly and peaceful protest, are enshrined in Articles 21 and 22 of the International Covenant on Civil and Political Rights, to which Kuwait is a party, while the right to communicate and cooperate with international human rights mechanisms is recognised in the UN Declaration on Human Rights Defenders.

ISHR further notes that international human rights jurisprudence establishes that States which confiscate passports, issue travel bans or prevent human rights defenders or representatives of NGOs from attending international meetings may contravene the right to freedom of movement under Article 12 of the ICCPR (see Human Rights Committee, 'Concluding Observations: Morocco', UN doc. CCPR/CO/82/MAR, 1 December 2004, §18).

(Geneva, 25 March 2015) – Authorities in Kuwait should immediately and unconditionally release [Nawaf Al-Hendal](#) and all other persons detained in connection with a peaceful protest in Al-Erada Square in Kuwait City on 23 March 2015, the International Service for Human Rights said today.

Al-Hendal, who is the founder of Kuwait Watch and a well known human rights defender, was arrested and reportedly beaten on the night of 23 March while monitoring and documenting a peaceful demonstration calling for respect for the rights to freedom of expression and assembly, the release of prisoners of conscience, and judicial reform to uphold the rule of law.

Following his arrest, together with that of at least 17 protesters, Al-Hendal was taken to the Criminal Investigation Department building where it is understood he is still being detained. His most [recent tweets](#), sent prior to confiscation of his phone, indicate that he was beaten by special forces, who arrived suddenly to disperse the peaceful protest. [Amnesty International has issued an appeal](#) in which they express concern that Al-Hendal 'may be at risk of torture or other ill-treatment'.

There are additional concerns that Al-Hendal's arrest, arbitrary detention and alleged ill-treatment may be connected with this recent advocacy at the UN Human Rights Council in Geneva, where he delivered a [statement on 20 March 2015](#) (video at 47.58) condemning the arrest and imprisonment of human rights defenders and other civil society activists for 'undermining the emir'. In January 2015, an arrest warrant was issued against Al-Hendal while he was in Geneva to lobby in connection with the Universal Periodic Review of Kuwait, charging him with damaging foreign relations and using Twitter to insult late Saudi King Abdullah. The arrest warrant was subsequently following representations by the President of the UN Human Rights Council and others. At that time Nawaf told ISHR, 'I love my country and I love its people. It is for that reason that I am in Geneva to stand up for our fundamental rights and freedoms. We deserve and have a right to free speech, to gather peacefully, and to advocate for the human rights of others. Rather than seeking to prosecute me for my advocacy at the UPR, Kuwait should use the opportunity of the UPR to commit to substantially reforming the Public Gatherings Law, the Penal Code, national security legislation, press regulations, and lese-majeste and blasphemy laws, all of which are used and abused to criminalise free speech in my country.'

'Once more it appears that Nawaf Al-Hendal has been subject to arrest and arbitrary detention in connection with his advocacy at the UN and his commitment to exercise the rights to freedom of expression and peaceful assembly and to support others to do so,' said ISHR Director Phil Lynch.

'We urge Kuwaiti authorities to immediately and unconditionally release Nawaf Al-Hendal and all other persons detained in connection with the exercise of their rights to freedom of expression and protest, in line with Kuwait's obligations under the International Covenant on Civil and Political Rights,' Mr Lynch said.

'ISHR also calls on Kuwait to ensure a prompt, independent and thorough investigation into the alleged beating of Nawaf and some of the demonstrators, making public the findings, bringing perpetrators to account, and providing remedy to victims.'

'ISHR further calls on Kuwait to end intimidation and harassment of human rights defenders. Civil society actors must be free to undertake their vital and legitimate work - whether it involves the monitoring of protests in Kuwait or the delivery of statements at the Human Rights Council in Geneva - without restriction or reprisal and in line with the Declaration on Human Rights Defenders,' Mr Lynch said.

Contact: Phil Lynch, Director, ISHR, on + 41 76 708 4738 or p.lynch@ishr.ch

Background:

The prosecution of bloggers, opposition activists and human rights defenders under the pretext of 'undermining the status of the emir of Kuwait' is widespread in the country. Lese-majeste, national security and 'national unity' laws have recently been used to [prosecute activists](#) who are critical of the human rights records of heads of state with which Kuwait has diplomatic relations, including Saudi Arabia and Egypt.

Al-Hendal is well known in Kuwait for his work defending the rights of stateless persons and organising peaceful protests to highlight their plight. In Kuwait, public assemblies of more than twenty people are considered unlawful without a permit, which is frequently denied, and assemblies on the

rights of stateless persons have been met with excessive force.

Kuwait is a party to both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The Declaration on Human Rights Defenders, adopted by consensus by the UN General Assembly, also represents international law binding on Kuwait.

IACHR: SESSION CONCLUDES WITH DENUNCIATION OF REPRISALS AND CALL TO COMBAT IMPUNITY

(Washington DC, 30 March 2015) – The 154th regular session of the Inter-American Commission on Human Rights has closed with a categorical denunciation by Commissioners of reprisals against defenders who participated in hearings. The risks, threats and attacks faced by human rights defenders in national contexts was a topic of several hearings during the session, and reprisals against those attending the IACHR session served to throw these into sharp relief.

Venezuelan defenders participating in the Commission hearings have been [victim of reprisals](#) due to their cooperation with the mechanisms. [In their press statement at the conclusion of the session](#), the IACHR stated it was ‘absolutely unacceptable’ for a State to take steps to intimidate those that engage with the Inter-American human rights system. The Commission reminded States of their responsibilities to grant the necessary guarantees to those cooperating with the mechanisms and refrain from carrying out reprisals against them or their families.

‘Reprisals against Venezuelan activists engaging at this session of the Commission is a reminder of the unacceptable risks that defenders face, including whilst seeking accountability where national level systems fail,’ said ISHR’s Eleanor Openshaw. ‘The Commission has a good record of regularly reminding States of their obligations to ensure the safety of those engaging with IACHR, and denouncing reprisals where they occur. It is time for OAS States to step up their commitment to eradicate reprisals,’ she said.

The Commission’s call to better protect human rights defenders came as ISHR delivered a [statement to the UN Human Rights Council](#) in Geneva calling on Guatemala, Colombia and other Latin American States to ensure that mechanisms for the protection of defenders are established and effective.

In regard to the human rights situation in the region as a whole, the Commission noted progress made in regard to the respect of rights since the transition to democracy in many Latin American countries in the mid-1980s, whilst speaking of ‘the profound challenges’ to the ‘fulfillment of human rights in the democratic present’.

As part of those challenges the Commission highlighted threats, harassment and killings of human rights defenders and journalists, a high percentage of which go unpunished. The situation for human rights defenders, and the exercise of freedom of peaceful assembly and association, was a topic addressed in several hearings during the session. The situation of human rights defenders of the Shuar People in Ecuador, and the forced migration and persecution of LGBTI defenders in Central America were discussions held at the petition of NGOs.

A hearing focusing on ‘Social Protest and Human Rights in the Americas’, requested by a broad spectrum of civil society organisations from the region, prompted the Commission to conclude that ‘in many countries in the region there is a tendency to criminalize and suppress social protest’. In addition, the Commission noted that it had received information indicating that in some

countries the armed forces are routinely used to control demonstrations, a practice that runs contrary to inter-American human rights standards.

During the session, the Commission launched its report on the 'Right to Truth in the Americas', which highlights the importance of addressing and eradicating impunity for violations, as a key component in securing the respect of human rights. IACHR Executive Secretary Emilio Álvarez Icaza [stated](#) that the report is not 'only about the past, but a contribution to the present to help ensure .. that the democracies of today can move forward in settling the debt that remains'. He added '.. it is also a contribution to the future, because guaranteeing the right to truth makes it possible to build a future free of these types of abuses.'

Several hearings sought to highlight the connections between human rights and extractive industries, prompting the Commission to conclude that 'development projects are often not managed with strict adherence to human rights'. It noted that 'it is essential that any development project is carried out in keeping with the human rights standards of the inter-American system, including the requirement of prior consultation.' The Commission also noted its concern regarding the existence of a relationship between companies in the extractive industry and members of the police said to be hired by them.

'The question of responsibilities of businesses in regard to human rights abuses is one that has gained considerable attention through the Commission. We are keen to encourage the Commission to put its attention on the question of the protection of human rights defenders across the region calling for corporate accountability,' said ISHR's Ben Leather.

The Commission noted that its new Special Rapporteur on Economic, Social and Cultural Rights will be operational by the end of the year, provided it receives the funds it requires. The IACHR invited OAS Member States to contribute to a special fund to be used for the establishment of the Rapporteur and its activities.

The Commission announced that it will publish a Report on the 154th Session within the coming weeks.

Contact: Eleanor Openshaw on e.openshaw@ishr.ch or Ben Leather on b.leather@ishr.ch

CHINA: INVESTIGATE DEATH OF HUMAN RIGHTS DEFENDER AND RELEASE WOMEN'S RIGHTS ACTIVISTS

(Geneva, 13 March 2015) – China should ensure a full, independent and impartial investigation into the death of human rights defender Cao Shunli and immediately and unconditionally release five women's rights activists detained for campaigning against sexual harassment, the International Service for Human Rights said today on the [first anniversary of Cao Shunli's death](#).

Cao Shunli died on 14 March 2014 after being arbitrarily detained and denied adequate access to health care and a lawyer as a reprisal for her efforts to raise the issue of human rights in China, both in Beijing and at the United Nations Human Rights Council in Geneva. Prior to her death she was held under the spurious charges of 'picking quarrels and provoking trouble'.

In a disturbing parallel, five Chinese women human rights defenders remain arbitrarily detained after being arrested for 'picking quarrels and creating a disturbance' in association with their efforts to highlight sexual harassment on the occasion of International Women's Day on 8 March. There are

concerns that the five women - Li Tingting, Zheng Churan, Wu Rongrong, Wei Tingting and Wang Man - are similarly being denied access to adequate health care or legal counsel.

'One year on from Cao Shunli's passing there has still not been any adequate investigation, far less accountability, into her alleged ill-treatment or disturbing death, despite China's obligations under the Convention against Torture and other international human rights standards to ensure that a prompt and thorough investigation is undertaken and perpetrators held to account. If China is unable or unwilling to conduct such an investigation and combat impunity, then the UN Human Rights Council has a responsibility to act,' said ISHR Director Phil Lynch.

'Equally disturbingly, China continues to harass, detain and perpetrate reprisals against human rights defenders who peacefully exercise their rights to freedom of expression, association and assembly, whether in China or at the UN. This is a flagrant violation of the international Declaration on Human Rights Defenders and plainly incompatible with China's membership of the UN Human Rights Council,' Mr Lynch said.

Like Cao Shunli, some of the women had been active in submitting information about China to the United Nations and worked to promote China's compliance with the Convention on the Elimination of Discrimination against Women. In November 2014, the [UN Committee on the Elimination of Discrimination against Women](#) called on the government of China to 'take all necessary measures to protect women human rights defenders, including those who have provided information to the Committee'.

'Speaking up against sexual harassment and discrimination, and in favour of women's rights, LGBT rights and equality should be supported and applauded, not silenced and criminalised,' said ISHR's Director of Human Rights Council Advocacy, Michael Ineichen.

'ISHR calls on Chinese authorities to end reprisals and to immediately and unconditionally release [Li Tingting, Zheng Churan, Wu Rongrong, Wei Tingting and Wang Man](#), together with all other human rights defenders detained for exercising their basic rights to freedom of expression, association, assembly and cooperation with the UN,' Mr Ineichen said.

The detention of the five women's rights activists comes at a time when the space for human rights defenders and civil society organisations in China appears to be further contracting. A [draft law on 'foreign' NGOs](#) would, if enacted, substantially restrict their operations and access to funding and subject them to greater government interference and control. At the same time, a [draft anti-terrorism law](#) contains a range of vague and overbroad provisions the interpretation and application of which could be used to further restrict and criminalise the work of human rights defenders.

'On this one year anniversary of the death of Cao Shunli, we call for justice and a recognition that her work, together with the work of many other courageous human rights defenders in China, is not only lawful and legitimate, but absolutely essential for any semblance of good governance, sustainable development, and respect for the rule of law in China,' Mr Lynch said.

Contacts:

- Michael Ineichen at m.ineichen@ishr.ch or + 41 78 827 77 86
- Phil Lynch at p.lynch@ishr.ch or + 41 76 708 47 38

VENEZUELA: END REPRISALS AGAINST THOSE COOPERATING WITH THE INTER-AMERICAN COMMISSION

(Washington DC, 21 March 2015) – Venezuela must cease intimidating and threatening human rights defenders who expose human rights abuses and seek justice through the Inter-American Commission on Human Rights, the International Service for Human Rights today.

The call came as the Inter-American Commission itself expressed alarm at reprisals against Venezuelan human rights defenders participating earlier this week in human rights hearings at the Commission's 154th Session.

[In a press release issued on 20 March](#), the Commission highlighted cases of individuals 'singled out, intimidated, and discredited' in advance of and following their visit to Washington DC for Commission hearings, calling such reprisals 'absolutely unacceptable'.

'We are pleased that the Inter-American Commission has responded swiftly and categorically to denounce intimidation against those that cooperate with the body,' said ISHR's Eleanor Openshaw.

On 18 March, the names, date and time of arrival and departure of seven human rights defenders were listed on the website of the TV programme 'Con el Mazo Dando', hosted by the President of the National Assembly Diosado Cabello and run on State channel VTV. The web piece is entitled, [Marco Antonio Ponce \(OVC\) Heads List of NGOs Traveling to Washington DC and Miami to Conspire against the Government of Venezuela](#). Several of the defenders had been mentioned on the same programme on 11 February, with their photos published on the programme's website.

The defenders referred to in these web pieces and on Radio Sur TV include Marco Antonio Ponce of the Observatorio Venezolano de Conflictividad Social (OVC), Rafael Uzcátegui of the Programa Venezolano de Educación-Acción en Derechos Humanos (PROVEA), Ligia Bolívar of the Centro de Derechos Humanos de la Universidad Católica Andrés Bello (UCAB), Carlos Nietos of Una Ventana para la Libertad, Rocío San Miguel of Control Ciudadano, Carlos Correa of Espacio Público, Liliana Ortega of COFAVIC, Aurelio Fernández Cochenzo of Transparencia Venezuela, and Feliciano Reina of CODEVIDA.

'We are deeply concerned to hear of these acts against Venezuelan defenders exercising their right to participate at the Inter-American Commission session. These include defenders with whom ISHR works closely and who are forced to look to human rights mechanisms outside the country for redress and to hold the State to account,' Ms Openshaw said.

The Commission followed up on its press statement by issuing precautionary measures - the international law equivalent of a protective injunction - for one of those singled out by the programme, 'Con el Mazo Dando', Marco Antonio Ponce. The Commission noted that the precautionary measures were being issued due to 'ongoing acts of harassment by Venezuelan State officials' against Mr Ponce, who information suggests is 'in a grave and urgent situation.' Precautionary measures are issued by the Commission in 'serious and urgent situations presenting a risk of irreparable harm to persons'.

Another of those mentioned in the articles, Humberto Prado of the Observatorio Venezolano de Prisiones (OVP), is already subject to provisional measures by the Inter-American Court of Human Rights as a result of ongoing threats to his security.

'We call on Venezuela to ensure the safety and wellbeing of all those that have been singled out by these State-run media outlets in a bid to stigmatise and discredit them, and to comply fully with the precautionary measures issued in relation to Mr Ponce,' said Ms Openshaw.

This week's reprisals come in a context of mounting harassment and stigmatisation of human rights defenders by State-run media outlets in the country. In December of last year, Mr Caballo made similar statements regarding human rights defenders on his weekly television show.

In addition, Venezuela has made inflammatory statements regarding civil society actors in past Commission sessions which the [Inter-American Commissioners have been swift to decry](#). The Chair of the Commission, Tracey Robinson, has issued frequent reminders to States during public sessions of the Commission's absolute repudiation of reprisals against those cooperating with the mechanism. However, today's press statement and issuance of precautionary measures is a step up in the Commission's response to reprisals.

In May 2014 the Organisation of American States adopted a [significant resolution regarding the protection of human rights defenders](#) in which they registered both their support for human rights defenders' work at national and regional levels, and resolved to condemn actions that 'may prevent or hinder, whether directly or indirectly, the work of human rights defenders in the Americas.'

'The Organisation of American States must be clear in condemning these recent reprisals against Venezuelan activists and reassert in the strongest terms the rights of individuals to engage with human rights bodies,' said Ms Openshaw. 'Cooperating with human rights systems - whether to provide information, expose violations or seek justice - is a right for each and every individual that must be defended by all member States. Venezuela has shown little respect for the human rights mechanisms in recent times, as evidenced through its withdrawal from the American Convention on Human Rights in September 2013, but attacking a human rights defender cooperating with a human rights body is a grave provocation tantamount to attacking the human rights system itself.'

'As the current session of the UN Human Rights Council enters its final week we call on States to categorically denounce reprisals and demand that membership of the Council – as in the case of Venezuela – require the highest standard in the promotion of human rights,' Ms Openshaw concluded.

Este artículo también existe en Español [aquí](#).

Our Work to Strengthen Human Rights Systems

US: PROTECT FREEDOM OF EXPRESSION AT UN FOR HUMAN RIGHTS ORGANISATION FIGHTING CASTE-DISCRIMINATION

(New York, 25 March 2015) – The United States should use its position as a member of a United Nations committee that accredits non-governmental organisations to support the International Dalit Solidarity Network (IDSN) to obtain special consultative status with the UN and thus protect its right to express its views regarding the elimination of caste-based discrimination, fifteen leading civil society organisations, said in an [open letter to the US Secretary of State](#) today.

'After seven years of waiting, IDSN deserves to receive a definitive response to its request for UN consultative status,' said Michelle Evans of the International Service for Human Rights. 'We call on the United States to take a leadership role in the ECOSOC Committee on NGOs to ensure this happens.'

The Committee on NGOs, an intergovernmental body tasked with considering the applications of NGOs for consultative status (which is required to attend and participate in many UN meetings), often deviates from UN guiding principles in its handling of applications of credible and deserving human rights NGOs. This is because the majority of States on the Committee do not support a vibrant and diverse civil society and often oppose organisations whose views they do not agree with. States use various tactics to block these organisations, including asking repetitive questions that frequently go beyond the scope of what NGOs are required to submit with their application.

'As a result of its continuous deferrals of applications through perpetual questioning, the Committee fails to fulfil its core mandate of giving a voice to NGOs, including IDSN, a reputable and prominent NGO that works globally for the elimination of caste-based discrimination, a significant human rights problem of high relevance to the UN,' said Ms Evans.

In the letter, civil society organisations (including ISHR, Human Rights Watch and FORUM-ASIA) cite concerns of the UN Special Rapporteur on the right of assembly and association on the handling of the IDSN case. In his [2014 report to the UN General Assembly](#), the independent expert criticised India, a long-standing Committee member, for arbitrarily blocking IDSN from obtaining consultative status, calling its actions 'clearly unacceptable, wrong and unfair'. The UN expert also highlighted the obligations of multilateral organisations and member States to promote and protect the rights of everyone to access and communication with international human rights mechanisms.

'India's actions in the NGO Committee amount to a violation of the rights to freedom of expression and association, not only undermining the integrity and credibility of the UN, but also hindering the proper functioning of the UN mechanisms which rely on the free flow of information from civil society, including from IDSN,' said Ms Evans.

Along with other prominent human rights organisations, ISHR calls on the United States to uphold the legal obligation to strengthen civil society participation and to promote and protect fundamental rights to freedom of association, assembly and expression by supporting IDSN to obtain consultative status.

Contact: Michelle Evans, New York Advocacy Manager, International Service for Human Rights onm.evans@ishr.ch

CHINA: RELEASE ARBITRARILY DETAINED WOMEN HUMAN RIGHTS DEFENDERS

(Geneva, 9 March 2015) – China should immediately release five women human rights defenders that remain in pre-trial detention following the arrest of at least 10 activists over the weekend, ISHR said today. The arrests seems to part of a move to prevent a [national campaign against sexual harassment on public transport](#) that was intended to overlap with International Women's Day on 8 March.

ISHR understands that the arrests were coordinated, taking place in various places across China, and targeting prominent women human rights defenders.

The Universal Declaration of Human Rights protects the rights to freedom of expression, association and peaceful assembly while, among other things, the Declaration on Human Rights Defenders enshrines the right to advocate the acceptance of human rights ideas and principles (Article 7).

'We are deeply disturbed by the Chinese authorities' blatant breach of its international human rights obligations in arresting these courageous women human rights defenders,' said Michael Ineichen, Programme Manager at the International Service for Human Rights.

'No person should face arrest or detention for exercising their rights to freedom of expression, association and assembly. We call on the Chinese authorities to immediately release the women human rights defenders that remain incarcerated'.

These arrests come after the Committee on the Elimination of Discrimination Against Women expressed its concerns to the Chinese government over [excessive restrictions on the work of women's rights organisations](#) and called for the protection of women human rights defenders late last year. In May 2014, the UN Committee on Economic, Social and Cultural Rights reminded China of its obligation under international law 'to protect human rights and labour activists, as well as their lawyers, [against any form of intimidation, threat and retaliation](#)'.

'The Chinese government has not responded adequately to any of these concerns. It has continuously allowed the systematic harassment and intimidation of women human rights defenders and failed to hold perpetrators accountable. The arrest of these women human rights defenders is a stark example of this,' commented Phil Lynch, Director of the International Service for Human Rights.

'We urge the international human rights community to intervene to safeguard the fundamental human rights of these women human rights defenders. The Human Rights Council's discussion with the [Special Rapporteur on Human Rights Defenders](#) taking place today provides an excellent opportunity for States to speak out for defenders, in an effort to hold China to account for the arrest of these women human rights defenders and the flagrant abuse of the rights to freedom of expression, association or assembly of women human rights defenders in China,' Mr Ineichen said.

UN DETENTION MONITORING BODY ADOPTS POLICY TO COMBAT REPRISALS

(Geneva, 27 February 2015) – A UN body responsible for monitoring places of detention has adopted a [significant policy](#) to combat intimidation and reprisals against those who provide information or contribute to its work to expose and prevent instances of torture and ill-treatment.

The UN Sub-Committee on the Prevention of Torture - a body comprised of 25 independent experts, including doctors and lawyers - adopted the policy following sustained [advocacy by ISHR](#) and others and in response to the 'frequency' of cases of intimidation and reprisals that arise both during and after its missions to countries to inspect places of detention.

The policy emphasises that the State has the 'primary duty to ensure that all alleged acts of reprisals and intimidation are promptly, impartially and effectively investigated, those responsible brought to justice, and victims provided with appropriate remedies'. It also recognises, however, that UN human rights bodies have a duty of care to those people who cooperate with them and provide them with the vital information necessary for their work.

'We are concerned that, when we undertake visits, people we come into contact with do not suffer reprisals as a result. If not, the SPT's preventative mandate, which includes the basic imperative to "do no harm", is put at risk. That is why we have adopted a clear public policy on this,' said [Professor Malcolm Evans, Chair of the Sub-Committee on the Prevention of Torture](#).

The policy provides for the appointment within the SPT of a 'Focal Point on Reprisals' to coordinate proactive implementation of the policy, which includes both investigating individual cases of reprisals and examining and addressing 'systemic causes of reprisals'. The actions envisaged by the policy in this regard include examining alleged [cases of reprisals](#), raising concerns as to such cases with State officials and relevant UN mechanisms, and exposing instances of reprisals through both local and international media.

'ISHR welcomes the adoption of this important policy, which recognises the primary duty of the State to prevent and ensure accountability for reprisals but also the obligations of the UN to protect those who contribute to its important work,' said Eleanor Openshaw of ISHR. The policy itself speaks of the SPT's 'uncompromising stance against reprisals and its unwavering commitment to prevent them'.

'ISHR is particularly pleased that the policy commits to examining and addressing systemic causes of reprisals, such as the lack of adequate investigation and accountability in individual cases which contributes to a prevailing environment of impunity,' Ms Openshaw said.

The SPT joins other UN treaty bodies, such as the [Human Rights Committee](#) and the [Committee on Enforced Disappearances](#), in adopting a specific policy to combat reprisals as recommended by an [ISHR submission on the legal duty of treaty bodies](#) to take all such steps as are necessary to prevent and ensure accountability for reprisals.

'While the adoption of this policy is a welcome development, the fact remains that overall the UN response to combating reprisals and protecting those who cooperate with it remains inadequate. We continue to push for the appointment of a high-level, UN-wide focal point on reprisals as both a legal and moral imperative for the UN and member States,' Ms Openshaw said.

Contact: Eleanor Openshaw, Program Manager (Combating Reprisals), on e.openshaw@ishr.ch

NAURU: LIFT THE VEIL OF SECRECY ON HUMAN RIGHTS

(Geneva, Switzerland and Melbourne, Australia, 26 February 2015) – The Government of Nauru should take urgent steps to respect and protect journalists, strengthen judicial independence and enact specific legislation protecting human rights defenders, the International Service for Human Rights and the Human Rights Law Centre said in a [joint briefing paper on Nauru](#) published today.

Nauru's Universal Periodic Review - a major review of each State's human rights record - is scheduled to take place in November 2015 at the United Nations Human Rights Council in Geneva.

ISHR Director Phil Lynch said it was vital that Nauru enact and implement laws to protect journalists, whistle blowers and human rights defenders and to ensure greater public access to government information.

'In recent years a veil of secrecy has descended on government in Nauru, with significant restrictions imposed on journalists wanting to travel to the country and the denial of requests to visit by both United Nations human rights experts and leading non-governmental organisations such as Amnesty International. The Universal Periodic Review of Nauru later this year provides States an opportunity to lift this veil and emphasise to Nauru the importance of an independent media, access to information and a critical civil society to good government and accountability,' Mr Lynch said.

HRLC Director of Legal Advocacy Daniel Webb said that many of the key recommendations from Nauru's last UPR in 2011 were yet to be implemented.

'After its last Universal Periodic Review Nauru committed to allowing greater UN access and to strengthening its legal and judicial sectors, yet on these matters Nauru has actually regressed. In addition to imposing barriers to the UN, NGOs and journalists visiting Nauru, the entire judiciary was effectively removed in January 2014, undermining both the actual and perceived independence of the courts,' said Mr Webb.

Mr Webb said that Nauru's decision to allow Australia to detain asylum seekers in its territory had contributed to its failure to implement many of the key recommendations from its last UPR.

'Australia should be a positive force for human rights protections in the region. Instead, its asylum seeker policies have been a catalyst for regression,' said Mr Webb.

'At times about 10 percent of the people on Nauru have been asylum seekers sent there by Australia. They've been held in mandatory and indefinite detention in clear breach of international law. Controversy and concern around their treatment has contributed to Nauru's deterioration on matters of access, transparency and respect for the rule of law,' Mr Webb said.

'ISHR and the HRLC are particularly concerned about the imposition of gag clauses by Australia in contracts pertaining to Nauru and reports of retribution and reprisals against those who speak out about human rights abuses in the country,' ISHR's Mr Lynch said.

'States should use the opportunity presented by the UPR to push Nauru to enact legislation which enshrines the right to access and disclose information about human rights and to guarantee that individuals who publically criticise the government or who disclose information about human rights abuses are not subject to reprisals,' Mr Lynch said.

The [ISHR and HRLC joint briefing paper](#) is intended to assist States and other stakeholders to formulate questions and recommendations regarding the protection of human rights defenders during the UPR.

For further comment contact:

In Geneva - Phil Lynch, Director, International Service for Human Rights, + 41 76 708 4738 or p.lynch@ishr.ch

In Australia - Daniel Webb, Director of Legal Advocacy, Human Rights Law Centre, + 61 437 278 961 or Daniel.webb@hrlc.org.au

RWANDA: BRIEFING PAPER ON THE SITUATION OF HUMAN RIGHTS DEFENDERS

31.03.2015

New Briefing Paper on the Situation of Human Rights Defenders in Rwanda online [here](#).

(Geneva) – Rwanda is scheduled to be reviewed at the 23rd session of the Universal Periodic Review in November 2015.

In its last Universal Periodic Review in January 2011, Rwanda accepted all four recommendations specific to Human Rights Defenders, with a subsequent amendment to the restrictive 2009 Media Law. However, human rights defenders continue to face harassment, intimidation, arbitrary arrest

and unfair trials, whilst laws for the prevention of ethnic divisionism and hatred are abused to restrict freedom of expression and peaceful assembly.

Especially vulnerable are corporate accountability and environmental rights defenders, who are frequently accused of being anti-development and risk threats of violence, intimidation and the closure of their organisation.

Key recommendations that should be made to Rwanda at the UPR in 2015 include that the Government should enact specific laws and policies to protect the work of human rights defenders and combat impunity by ensuring investigations into violations. Rwanda should also reform laws based on genocide ideology that can be arbitrarily used to restrict freedom of expression, as well as sanction any authority found to be abusing such laws.

This **Briefing Paper on the Situation of Human Rights Defenders in Rwanda** is intended to assist States and other stakeholders to formulate questions and recommendations regarding the protection of human rights defenders during the UPR.

For further information about the Briefing Paper or for any assistance or advice in the formulation of recommendations, please contact ISHR's Clement Voule, on c.voule@ishr.ch.

IRELAND: CONSULT AND PROTECT HUMAN RIGHTS DEFENDERS THROUGH NATIONAL ACTION PLAN ON BUSINESS AND HUMAN RIGHTS

(Geneva, 2 March 2015) – Ireland should consult closely with human rights defenders in developing a new national action plan on business and human rights and ensure the plan contains measures to support and protect their vital work to promote corporate respect for human rights and corporate accountability for violations, the International Service for Human Rights said today.

In a [submission to Ireland's Department of Foreign Affairs and Trade](#), following its [call for input](#) on the development of a new national plan on business and human rights (NAP), ISHR said Ireland has an opportunity and responsibility to develop international best practice in both the process for developing, and the substance of, the NAP.

'Ireland has an impressive track record in supporting human rights defenders and measures for their protection, both bilaterally and in international fora', said Michael Ineichen of ISHR.

'Ireland now has the potential to become first-in-class in the area of business and human rights by ensuring human rights defenders are at the centre of its plan, both in design and process. The plan should set out concrete, measurable actions that Ireland will take to support corporate accountability activists and land and environment defenders, both at home and abroad. It should also clearly spell out the obligations of Irish business to engage, respect and protect human rights defenders, both in Ireland and through their extraterritorial operations,' Mr Ineichen said.

Human rights defenders play a critical role both in promoting corporate respect for human rights and in identifying, preventing, mitigating and ensuring accountability for corporate human rights abuses. Despite this, around the world, there are reports of increasing [attacks](#), threats and [harassment](#) against human rights defenders who advocate for corporate accountability. In particular, human rights defenders face significant risks to their lives and livelihoods on a daily basis as they work under the threat of [extrajudicial killings](#), [arbitrary detention](#), [restrictions](#) and [attacks on the right to protest](#), and [judicial harassment](#) as a result of their efforts to defend human rights in the face of harmful business activities.

‘Adopting a human rights defenders’ perspective in the development of the Irish NAP is essential to ensure that the plan serves to enhance the protection of human rights defenders and contributes to a more safe and enabling environment for their work.’ Mr Ineichen said.

In the process of drafting its national plan, Ireland should clearly identify the role of human rights defenders in the implementation and follow-up of specific action points within the NAP. This could be achieved by ensuring the maximum level of transparency; for example by publishing drafts of the NAP, summary reports on its implementation, and engaging with a broad range of human rights defenders and civil society actors for their ongoing comment and input.

The [ISHR submission](#) recommends further that:

- Ireland develop and implement its National Action Plan based on the Guiding Principles read in conjunction with the UN Declaration on Human Rights Defenders. This requires the inclusion of concrete policies and measures to protect and support human rights defenders, and should pay particular attention to the specific protection needs of certain groups of defenders who are vulnerable or most at risk.
- Ireland must use the opportunity of drafting its NAP to take further steps to create and maintain a safe and enabling environments for HRDs, in line with the UN Declaration on Human Rights Defenders, in both Ireland and the host states of corporations domiciled in Ireland.
- Civil society organisations, home and host State affected communities, human rights experts and human rights defenders must be fully consulted in the development, implementation and review of the Irish NAP, including through Irish embassies in countries where human rights defenders are most at risk.

The NAP itself should:

1. Explicitly recognise the vital role of civil society and human rights defenders in monitoring the implementation of the UN Guiding Principles and acknowledge the particular risks they often face as a result of their work;
2. Reiterate the State duty to ensure safe and enabling environments for human rights defenders working in relation to business and human rights, in line with the UN Declaration on Human Rights Defenders;
3. Detail the steps and measures that Ireland will take to encourage businesses to fully consult with civil society organisations and human rights defenders in the design and implementation of projects, in order to guarantee free, prior and informed consent of affected communities;
4. Reflect a commitment to provide financial support to civil society organisations to promote protection of human rights defenders who are actively engaged on issues relating to business and human rights; and
5. Encourage and support the review of legislation that restricts and threatens human rights defenders, and the adoption of specific laws and policies that recognise and protect human rights defenders and their legitimate work, as well as laws and policies that guarantee free, prior and informed consent of communities affected by business. These processes should be undertaken both in Ireland and in States in which Ireland has diplomatic representation or

business interests or operations, with the participation of civil society and taking into account international good practice.

In relation to business, the NAP should:

1. Clearly articulate the obligation of corporations to respect and support human rights defenders and their work, including by not interfering directly or indirectly with their exercise of the human rights to freedom of expression, association, assembly and protest, and foresee appropriate monitoring mechanisms and sanctions to enforce this obligation;
2. Promote consultation with and the protection of human rights defenders in host States;
3. Encourage businesses to publicly support human rights defenders and their protection, including by supporting State action in that regard;
4. Encourage business to fully consult with civil society organisations and human rights defenders, including in the design and implementation of projects, in conducting human rights impact assessments, developing due diligence policies, and in the design of grievance mechanisms; and
5. Encourage investors to consult with human rights defenders and ensure that investors do not invest in projects that result in violations of human rights or undermine the rights of human rights defenders and affected communities, including their rights to freedom of expression, assembly and of association.

Contact: Michael Ineichen, Programme Manager Corporate Accountability, on m.ineichen@ishr.ch or + 41 78 827 77 86.

COLLECTIF DES FAMILLES DE DISPARUS EN ALGÉRIE: HUMAN RIGHTS DEFENDERS IN ALGERIA SEEKING ECOSOC STATUS

(Geneva, 3 March 2015) – The Collectif des familles de Disparus en Algérie (CFDA) submitted its application for consultative status with the Committee on NGOs in June 2009. Since then, the Committee has deferred the application and CFDA has been asked 81 questions from the same group of States: Sudan, Pakistan and Venezuela. The Committee has posed questions to CFDA regarding the organisation's activities, funds, financial beneficiaries and partnerships with other organisations.

CFDA was founded in Paris in 1999 by a group of Algerian mothers whose loved ones were victims of enforced disappearances during the Algerian conflict in the 1990s. The organisation's main objective is to illuminate the fate of the victims of enforced disappearance and to end the impunity enjoyed by those responsible.

'The CFDA considers that a genuine rule of law in Algeria can only be achieved through the right to truth and justice.'

Algerian civil society faces serious limitations because of restrictive legislation and policy on civil liberties. The law on associations severely restricts the freedom of association and the law on information gives the authorities the ability to control the media. Additionally, in Algiers,

demonstrations are still prohibited, while in other parts of the country, prior authorization is required.

In addition to this restrictive legislation, human rights activists in Algeria often face judicial harassment and violent repression, as well as limitations on freedom of expression.

'The CFDA keeps the memory of the victims alive and calls for their rehabilitation.'

Despite the obstacles the CFDA faces at the national level, the organisation seeks to establish networks with regional and international human rights organisations, such as the International Human Rights Federation (FIDH), the Euro-Mediterranean Human Rights Network or the Euro-Mediterranean Federation Against Enforced Disappearances.

Although the Committee has continuously deferred the CFDA, the organisation has still managed to engage with the United Nations. After collecting the testimonies of the families of victims, the CFDA lodges complaints with several international human rights mechanisms. The CFDA has filed over 4,000 cases to the UN Working Group on Enforced or Involuntary Disappearances (WGEID) and numerous individual communications at the UN Human Rights Committee.

In further efforts to shed light on human rights violations, the CFDA submitted an alternative report to the UN Human Rights Committee in 2007, to the UN Committee Against Torture in 2008 and during the Universal Periodic Review of Algeria to the UN Human Rights Council in both 2008 and 2012.

'Lately, the NGO committee has presented the same questions all over again, questions that are unrelated to the eligibility requirements of Resolution 1996/31.'

The Committee has continually deferred the CFDA since 2009 by sending repetitive questions that are often unrelated to the eligibility requirements for consultative status established by Resolution 1996/31. Often, the questions posed give the impression that the Committee did not consult the information provided in the CFDA's application. The Committee went as far as asking the CFDA why it had omitted to mention its website when it was clearly on the organisation's initial application.

Recently, the questions posed by the Committee suggest that the CFDA's contribution to ECOSOC would not be useful because of a lack of cooperation between the organisation and the Algerian authorities. However, these questions ignore the fact that the Economic and Social Council aims to consult *non-governmental* organisations, and cooperation with national authorities is not a requirement for consultative status.

'The restrictions on the access to information in Algeria and the authority's efforts to choke civil society reinforces the need to establish networks on international level and to ensure the sharing of information.'

Despite Committee members insisting that the CFDA gaining consultative status would not be useful to ECOSOC, the CFDA intends to continue its important work on promoting the human rights situation in Algeria, and more specifically, on exposing and obtaining justice for cases of enforced disappearances in Algeria. The CFDA collects information on violations of civil, political, economic, social and women's rights of individuals in Algeria, which should be shared with member States and other NGOs. The ECOSOC consultative status is essential to the CFDA as it would allow the organisation to engage with all relevant organs of the United Nations, and have open, constructive dialogue with States and to reinforce relationships with other NGOs.

Key Developments in the Promotion and Protection of Human Rights

KUWAIT CLAMPS DOWN ON PEACEFUL PROTEST

16 Kuwaiti protesters were detained on March 23 for peacefully demonstrating against the government. Some still await release...[more](#)

25 YEAR SENTENCE FOR FACEBOOK POST AGAINST THAI ROYAL FAMILY

A Thai businessman has been convicted and sentenced to 25 years jail for allegedly criticising the royal family on Facebook...[more](#)

ALMOST ALL CRIMEAN TATAR MEDIA OUTLETS SHUT DOWN ON APRIL 1

On April 1 2015 all but one Crimean Tatar-language media agencies were closed down under a new Russian law...[more](#)

MURDER OF BANGLADESHI BLOGGER

A Bangladeshi blogger was murdered last week for ‘anti-Islamic’ writings, only a month after a similar event in the country’s capital ...[more](#)

NEW TURKISH SECURITY LAWS WILL FURTHER SILENCE CIVIL SOCIETY

Amendments to Turkish security laws that passed on March 27 endorse a range of regressive law enforcement policies that will harm civil society...[more](#)

ASSASSINATION OF YEMENI HUMAN RIGHTS DEFENDER

On 18 March 2015 Mr Abdul Kareem Al-Khaiwani, previously awarded the [Special Award for Human Rights Journalism Under Threat](#), was assassinated...[more](#)

TRIAL OF PROMINENT ANGOLAN JOURNALIST

On 24 March 2015 Mr Rafael Marques de Morais faced trial for defamation charges in connection with the publication of his book ‘Blood Diamonds: Torture and Corruption in Angola’...[more](#)

INTIMIDATION OF PEOPLE INTERACTING WITH THE IACHR IN VENEZUELA

The Inter-American Commission on Human Rights is concerned with defenders being threatened and targeted by Venezuelan authorities due to their participation with the Commission...[more](#)

HUMAN RIGHTS OFFICES AND LAWYERS’ HOMES RAIDED IN KYRGYZSTAN

The offices of a well-known human rights organisation and the homes of two of its lawyers have been raided by Kyrgyzstan’s national security agency...[more](#)

Opportunities for NGO Engagement

HUMAN RIGHTS COUNCIL

An organisational meeting for the Council’s 29th session, where States announce planned initiatives for the session, will take place on [26 May](#) at the Palais des Nations in Room XX.

The 29th regular session of the Council Session will be held on 15 June – 3 July in the Palais des Nations. Information and updates will be published [here](#).

UNIVERSAL PERIODIC REVIEW

The following states will be reviewed at the 22nd session of the Universal Periodic Review (UPR) which will be held on 4 - 15 May: Belarus, Liberia, Malawi, Mongolia, Panama, Maldives, Andorra, Bulgaria, Honduras, United States of America, Marshall Islands, Croatia, Jamaica, Libya. Documentation surrounding each State under review can be found [here](#).

The following States will be reviewed at the 24th session of the UPR which will be held in Jan/Feb 2016: Namibia, Niger, Mozambique, Estonia, Paraguay, Belgium, Denmark, Palau, Somalia, Seychelles, Solomon Islands, Latvia, Sierra Leone, Singapore. The deadline for NGO submissions is 22 June (tentatively). Guidelines for submissions are found [here](#). Information about the UPR mechanism can be found [here](#).

SPECIAL PROCEDURES

The Annual Meeting of special rapporteurs, independent experts and chairpersons of the working groups of the special procedures will be held on 8 - 12 June. Consultations with civil society will take place during this period. Information on consultations can be found [here](#).

TREATY BODIES

The 26th session of the Subcommittee on Prevention of Torture will be held on 15 - 19 June on the 1st Floor of Palais Wilson. Information about the Subcommittee's work and the associated Optional Protocol can be found [here](#).

The 54th session on the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment will be held on 20 April – 15 May on the 1st Floor of Palais Wilson. Colombia, Congo, Luxembourg, New Zealand, Romania, Serbia, Spain and The former Yugoslav Republic of Macedonia will be reviewed. NGOs must submit information by 6 April. See [here](#) for more information.

The 114th session of the Human Rights Committee will be held on 29 June – 24 July and will consider the following State reports: Canada, France, Spain, The former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Island, Crown Dependencies of the United Kingdom and Northern Island, Overseas Territory of the United Kingdom and Northern Island, Uzbekistan, Venezuela (the Bolivarian Republic of). The programme of work and other information is found [here](#). NGO submissions should be made well in advance of the relevant session.

If you are unable to attend relevant treaty body meetings, you can now watch them live online. A group of Geneva-based NGOs, including ISHR, has coordinated to make this possible. The webcasts can be viewed [here](#).

WORKING GROUPS

The 72nd session of the [Working Group on Arbitrary Detention](#) will be held on 20 - 29 April in Room IX at the Palais des Nations. The Working Group acts on information provided to it on alleged cases of arbitrary detention by sending urgent appeals to concerned Governments. Information on how to make written submissions is found [here](#).

The 11th session of the Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises will be held on 4 - 8 May in Room XII at the Palais de Nations. Submissions can be made at all times to the Secretariat at: wg-business@ohchr.org. More information can be found [here](#).

The 106th session of the Working Group on Enforced or Involuntary Disappearances will be held on 6 - 15 May in Room XXVII at the Palais des Nations. The sessions are generally held in private and the Working Group will consider information brought to its attention since its previous session. Information on how to make written submissions is found [here](#). More information can be found [here](#).

OTHER

The 27th session of the Meeting of Chairpersons of the Human Rights Treaty Bodies will be held 22 - 26 June on the 1st Floor of Palais Wilson. Informal consultations with NGOs are a standard feature of the meeting. Submissions are also periodically accepted and NGOs are encouraged to contact the Secretariat for further information at: mc.icm@ohchr.org. Information surrounding past and upcoming meetings is published [here](#).

COUNTRY VISITS BY SPECIAL PROCEDURES

Kazakhstan	Special Rapporteur on human rights implications of environmentally sound management, 26 March – 8 April 2015
Mauritius	Independent Expert on the enjoyment of human rights by older persons, 14 – 24 April 2015
Armenia	Special Rapporteur on the sale of children, child prostitution and pornography, 27 April – 4 May 2015
Sudan	Special Rapporteur on violence against women, its causes and consequences, 18 May – 28 May 2015
Japan	Special Rapporteur on the sale of children, child prostitution, and child pornography, 1 to 10 September 2015.

Find more information on these visits [here](#). To find out how you can support the visits, please contact respective mandate-holders via their email address, as listed in the [directory](#).

Conferences and events

PANEL DISCUSSION ON RIGHT TO FREEDOM OF ASSOCIATION

The Australian Permanent Mission to the UN and ISHR are co-hosting a panel event entitled '[Strengthening NGO participation and the right to freedom of association at the UN: current challenges and opportunities for reform](#).' It will be held on Wednesday 22 April 2015, 10.45am-12.15pm at the Australian Permanent Mission. This event will also launch a new ISHR publication entitled: A Practical Guide to the UN Committee on NGOs. RSVP essential by 15 April to events.geneva@dfat.gov.au.

ISHR 2015 TRAINING FOR HUMAN RIGHTS DEFENDERS

Apply now for ISHR's next [intensive training course for human rights defenders](#) - taking place in June.

ADVANCED TRAINING ON MONITORING ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The Geneva Academy of International Humanitarian Law and Human Rights is running an advanced [training seminar](#) in Geneva from 8 to 12 May 2015. It will provide in-depth knowledge and understanding to experienced human rights advocates, government representatives and UN staff on how to enhance their work on monitoring economic, social and cultural rights. For those requiring a visa, the application deadline is 17 April. For others, the deadline is 22 May.

ESSEX HUMAN RIGHTS SUMMER SCHOOL

The Human Rights Centre at the University of Essex will offer its five day [summer school on Human Rights Research Methods](#) from 19 June to 3 July 2015.

LEITNER CENTRE SUMMER HUMAN RIGHTS INSTITUTE

The Leitner Centre runs its [Summer Human Rights Institute](#) from 20 to 31 July in New York City. The two-week certificate programme offers a comprehensive introduction to the theory and application of human rights law via subject lectures, workshops and fieldwork. Discounts are offered for Cycle 1 registration by 3 April and Cycle 2 by 29 May.

ADVANCED COURSE ON LAW, DEVELOPMENT AND HUMAN RIGHTS

The Institute for Human Rights at Åbo Akademi University, Finland, is running a one-week [intensive course](#) providing participants with specialist-level knowledge in the field of human rights and development. The programme runs 17-21 August 2015. The application deadline is 3 May.

VENICE SCHOOL OF HUMAN RIGHTS

The European Inter-University Centre for Human Rights and Democracy is accepting applications for the [Venice School of Human Rights](#). The school runs from 26 June to 4 July and has three thematic clusters – business and human rights; human rights and new technologies; and human rights and gender issues. The application deadline is 17 May 2015.

New Resources

UNIVERSAL RIGHTS GROUP HUMAN RIGHT COUNCIL SESSION REPORTS

URG'S Human Rights Council [Session Reports](#) provides a detailed analysis of the 28th session of the Human Rights Council.

WILTON PARK REPORT ON THE FUTURE OF TREATY MONITORING BODIES

[Strengthening the UN human rights treaty monitoring system: what are the next steps?](#) summarises discussions and conclusions from consultations on the effectiveness of the UN treaty monitoring system. The discussions were convened by Wilton Park and involved members of UN treaty bodies, government representatives, OHCHR officers, NGOs and academics.

ALKARAMA 2014 ANNUAL REPORT

Last week Alkarama launched its 2014 [Annual Report](#) which heavily criticizes a range of Arab States' persistent and gross undermining of the UN human rights system and civil society. However the report does note the increase in awareness of human rights in the Arab world over the past ten years.

HUMAN RIGHTS DEFENDERS IN LIBYA UNDER ATTACK

The OHCHR has released a [report](#) on the deteriorating situation for human rights defenders in Libya detailing violations of international human rights and humanitarian law. It follows a [report](#) published in September, and an [update](#) in December 2014, prepared jointly by the United Nations Support Mission in Libya and the OHCHR.

13 YEARS OF ENTRENCHED HUMAN RIGHTS ABUSES IN AFGHANISTAN

Today We Shall All Die by Human Rights Watch reports on widespread human rights violations perpetrated with impunity by Afghan government and pro-government forces since the fall of the Taliban 13 years ago. The report provides a frightening outline of entrenched human rights abuses and notes the threats activists and journalists face in carrying out their work in this war-plagued country.

THE VULNERABILITY OF HUMAN RIGHTS DEFENDERS IN ANGOLA

International Federation for Human Rights (FIDH), the Observatory for the Protection of Human Rights Defenders (OBS) and the Associação Justiça Paz e Democracia (AJPD) have jointly published a fact-finding mission report on Angola, depicting an environment where human rights defenders and journalists are subjected to judicial and administrative harassment, acts of intimidation, threats and other restrictions to their freedom of association and expression.

The report can be viewed in [English](#) and [Portuguese](#).

#UNFOLLOWME CAMPAIGN GUIDE

In its campaign to safeguard the right to privacy in a political climate of mass surveillance, Amnesty International has created a simple [guide](#) explaining how governments are collecting and monitoring private data. This guide is useful for human rights defenders, journalists, media and activists whose freedom of expression, association and peaceful protest depend on their right to privacy. The guide accompanies a 15,000 person [poll](#) (full data [here](#)) surveying perceptions of mass surveillance.

ATTACKS ON CIVIL SOCIETY AND DEMOCRACY IN KENYA

A new [policy brief](#) co-authored by CIVICUS and the National Coalition of Human Rights Defenders-Kenya describes how fundamental freedoms and civil society in Kenya face unrelenting pressure. A range of recommendations are also provided that seek to curtail oppressive bureaucratic tactics against NGOs, intimidation and attacks on activists, the disruption of protests and judicial harassment, restrictive legislation, and heightened threats to media freedoms.

VENEZUALAN PROTESTORS STILL AWAIT JUSTICE

In [The faces of impunity: A year after the protests, victims still await justice](#), Amnesty International examines the stories of human rights abuses that took place during the protests of February 2014 in Venezuela. The report details the arbitrary detention, torture and deaths of scores of protestors, the ongoing failure of authorities to investigate abuses, and recent political support for allowing the deployment of all sections of the armed forces in public order operations.

MASS PROTESTS: SUCCESSES AND FAILURES

Freedom House recently published a special report, examining mass social protests in 12 countries to glean best practices and determine the causes for failure in promoting and protecting the right of peaceful assembly. [Voices in the Streets](#) compares a range of democratic and nondemocratic societies,

and evaluates the role of the executive, law enforcement, courts, legislators, NHRIs, media, civil society and businesses in enabling or restricting freedom of assembly.

Case Notes on Decisions from International Human Rights Bodies

Merits Decisions

Leven v. Kazakhstan (2131/2012)

Kazakhstan liable for restricting freedom of religion

Summary

In October 2014, the Human Rights Committee was asked to consider whether Kazakhstan had violated its obligations under the International Covenant on Civil and Political Rights in connection with the fining of an individual and the cancellation of their residency permit due to their involvement in a religious organisation.

The communication was submitted by a German citizen, born and resident in Kazakhstan, under the Optional Protocol to the Covenant.

Background

The author, Mr Viktor Leven, had been a member of the Evangelist Christian Baptist Church in Kazakhstan since childhood. Of German ethnicity, the author was born in Kazakhstan, living there until 1992 when he moved to Germany where he subsequently received German citizenship. In 2000, the author returned to Kazakhstan together with his wife, with the intention of residing there permanently. The couple had seven children, born between 2001 and 2011. After the author's return, he attended the same Evangelist Christian Baptist Church that he had attended before his departure for Germany. In 2003, the author received a permanent residence permit as a foreign citizen residing in Kazakhstan.

In 2009, the author applied for Kazakh citizenship, and on 3 December 2009 he received permission for release from German citizenship with a view to obtaining Kazakh citizenship. On 14 October 2009, while he was waiting for his application for citizenship to be approved, the author was convicted by Esil District Court of conducting missionary activity without the required registration. He was sentenced to a fine of 6,480 tenge and expulsion from Kazakhstan. The Court ruled that since the author was a German citizen his repeated participation in services in the Evangelist Christian Baptist Church constituted missionary activity under the Kazakh Law on Freedom of Religion and Religious Unions.

The author appealed his conviction, claiming that he had not been conducting missionary activity but simply participating in the church services, and that even if he had wanted to register as a foreign missionary that would have been impossible, as he had no accreditation from any church or organization outside of Kazakhstan. On 2 November 2009, Akmolin Regional Court overturned the first instance decision, stating that the author's activities did not correspond to the definition of missionary activity under the Law on Freedom of Religion and Religious Unions.

On 6 November 2009, the District Prosecutor's Office filed a request for a supervisory review of the decision by the Regional Court. However, on 26 November 2009, the Supervisory Plenum of Akmolin Regional Court revoked the Court's decision and confirmed the author's conviction. On 14 December 2009, the author attempted to overturn the decision by filing an application for supervisory review with the General Prosecutor's Office. On 26 January 2010, the author's

application was rejected. In the meantime, the author's permanent residence permit had expired. At the time of submission, the author was under threat of immediate deportation.

On 19 January 2012, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that he was the victim of violations by Kazakhstan of his rights to: (i) freedom from discrimination, (ii) freedom of thought, conscience and religion, and (iii) equality before the law (under articles 2(1), 18 and 26 of the Covenant respectively).

The Committee's decision

Regarding the admissibility of the author's claims, the Committee noted the author's claim under article 2(1) of the Covenant and recalled its jurisprudence that the provisions of article 2 lay down only general obligations for State parties. Accordingly, the provisions of article 2(1) "to respect and to ensure... the rights recognized in the present Covenant" did not afford any separate individual right that could be invoked in a communication under the Optional Protocol. The Committee therefore considered that the author's claims under article 2(1) were inadmissible under article 3 of the Optional Protocol for incompatibility with the provisions of the Covenant. The Committee found the author's claims under articles 18 and 26 of the Covenant to be admissible.

On the merits, the Committee noted that the author had been convicted for conducting missionary activity while not registered as a foreign missionary and that the offending activity had consisted of preaching and praying and conducting meetings with the followers of his church. Recalling its General Comment No. 22, the Committee considered that such activities formed part of the author's right to manifest his beliefs and that the sentence to a fine and deportation, as well as the resulting loss of his residence permit, constituted limitations of that right. The Committee then addressed the question of whether such limitations were "necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others", within the meaning of article 18(3) of the Covenant. The Committee again recalled its General Comment No. 22, in which it stated that article 18(3) was to be interpreted strictly, and that limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are founded.

The Committee noted that Kazakhstan had not advanced any argument as to why it was necessary for the purposes of article 18(3) for the author to first register as a foreign missionary before participating in worship at his church. Indeed, Kazakhstan had not sought to justify the infringement of the author's rights, aside from citing a provision of the domestic law. The Committee reiterated that article 18(1) of the Covenant protected the right of all members of a religious congregation to manifest their religion in community with others, in worship, observance, practice and teaching. The Committee also noted that the author's church had existed in Kazakhstan since he was a child and that he had participated in its religious activities both before and after he had obtained German citizenship. The Committee concluded that the punishment imposed on the author amounted to a limitation of the author's right to manifest his religion under article 18(1) and that the limitation had not been shown to serve any legitimate purpose under article 18(3).

In the light of the above, the Committee concluded that Kazakhstan had violated the author's rights under article 18 of the Covenant. Having found a violation of article 18, the Committee did consider it necessary to consider the author's claims under article 26.

In accordance with article 2(3)(a) of the Covenant, the Committee observed that Kazakhstan was under an obligation to provide the author with an effective remedy, including review of his conviction

and of the cancellation of his residence permit. The Committee found that Kazakhstan was also under an obligation to prevent similar violations in the future.

Kazakhstan must now submit its written response within six months of the Committee's decision, including information on the action taken in the light of the Committee's recommendations, and ensure that the Committee's decision is published widely.

Sam Hunter Jones is an international lawyer, based in London.

Kalyakin v. Belarus (2153/2012)

Belarus' refusal to register human rights organisation in violation of the right to freedom of association

Summary

In October 2014, the Human Rights Committee was asked to consider whether Belarus had violated its obligations under the International Covenant on Civil and Political Rights in connection with the refusal of an application to register a human rights organisation.

The communication was submitted by a Belarusian national under the Optional Protocol to the Covenant on behalf of himself and 20 other Belarusian citizens.

Background

On 24 June 2011, the author, Mr Sergey Kalyakin, together with two of the other alleged victims, submitted an application to the Belarusian Ministry of Justice for registration of a non-governmental human rights association, "For Fair Elections".

On 21 July 2011, the Ministry of Justice denied registration on the grounds that the application was not in compliance with the requirements of the Law on Public Associations. In particular, the Ministry of Justice claimed that: (i) it had not been provided with a list of the founders of the association, (ii) the record of its constituent assembly had not been signed by the chair, and (iii) it had concerns regarding a letter of guarantee confirming the allocation of office space to the association.

The author and the alleged victims filed a complaint against the decision by the Ministry of Justice at the Supreme Court. In particular, they claimed that the constituent assembly had been held in compliance with the Law on Public Associations and that they had submitted all the necessary documents to register the association.

On 21 September 2011, the Supreme Court rejected the claim on similar grounds to those relied on by the Ministry of Justice.

On 23 April 2012, the author submitted a request to initiate a supervisory review of the Supreme Court's decision. On 5 March 2013, the Prosecutor General's Office dismissed the author's request.

On 15 November 2011, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that Belarus had violated his and the other alleged victims' right to freedom of association (under article 22 of the Covenant), both alone and in conjunction with Belarus' obligation to adopt the necessary legislation to give effect to Covenant rights (under article 2(2) of the Covenant).

The Committee's decision

Regarding the admissibility of the author's claims, the Committee noted the author's claim that Belarus had violated article 22(2), read in conjunction with article 2(2) of the Covenant. The Committee considered that the author had not sufficiently substantiated this claim for the purposes of admissibility and therefore concluded that it was inadmissible under article 2 of the Optional Protocol. The Committee found, however, that the author's claims under article 22 of the Covenant alone were admissible.

On the merits, the Committee recalled that, in accordance with article 22(2) of the Covenant, any restriction on the right to freedom of association must be (i) provided for by law, (ii) imposed for one of the purposes set out in article 22(2); and (iii) "necessary in a democratic society" for achieving one of those purposes. The reference to a "democratic society" in the context of article 22 indicated that the existence and operation of associations, including those that peacefully promote ideas that may not be favourably viewed by the government or the majority of the population, was a cornerstone of any society.

The Committee noted that the registration of the association had been denied on the basis of a number of stated reasons. Those reasons were to be assessed in the light of the consequences that arose for the author and the alleged victims, as well as their association. The Committee noted that, even though such reasons were prescribed by the relevant law, Belarus had not attempted to advance any argument as to why they were necessary in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others. The Committee also noted that the denial of registration had led directly to the operation of the association being unlawful and directly precluded the author and the alleged victims from enjoying their right to freedom of association.

In the light of the above, the Committee concluded that Belarus had violated the rights of the author and the other alleged victims under article 22 of the Covenant.

In accordance with article 2(3)(a) of the Covenant, the Committee observed that Belarus was under an obligation to provide the author and the other alleged victims with an effective remedy, including reconsideration of the application based on criteria compliant with the requirements of article 22. The Committee found that Belarus was also under an obligation to prevent similar violations in the future.

Belarus must now submit its written response within six months of the Committee's decision, including information on the action taken in the light of the Committee's recommendations, and ensure that the Committee's decision is published widely.

Sam Hunter Jones is an international lawyer, based in London.

Quliyev v. Azerbaijan (1972/2010)

Azerbaijan in breach of Covenant for detention and trial conditions

Summary

In October 2014, the Human Rights Committee was asked to consider whether Azerbaijan had violated its obligations under the International Covenant on Civil and Political Rights in its treatment of a person accused of murder.

The communication was submitted by a national of Azerbaijan under the Optional Protocol to the Covenant.

Background

The author, Mr Quliyev, used to work as an operator at the Institute of Oil and Chemistry at the National Academy of Sciences of Azerbaijan. In 1989, a police investigation revealed that some of his colleagues had been part of a gang involved in violent crimes since 1979. On 5 September 1989, the gang reportedly killed the Chief Director of the Bakipive manufacturing group. The author submitted that some of the gangsters had testified under torture that he had committed the murder. He was arrested on 11 September 1989. The author was detained in isolation in a prison of the State Security Committee and at the Police Department of the Absheron district, Baku city. He confessed under severe torture, with his ribs being broken and one of his kidneys damaged. On 26 December 1989, the author attempted to commit suicide in the State Security Committee prison.

During a trial hearing, the author and his four co-defendants retracted their confessions, alleging that they had been forced to confess under torture. They demanded the investigation of their torture allegations and the examination of additional evidence, but the court refused and used teargas against them while they were detained in a cage. The judge presiding over the trial removed the five defendants from the courtroom for “violation of order” and for the next four months both the author and his lawyers were barred from attending the court hearings.

On 12 November 1991, the author was convicted in absentia and sentenced to death by the Baku City Court. That sentence was final and could not be appealed to a higher court. The author was detained in Bayil prison on death row for six and a half years.

On 10 February 1998, the National Assembly of Azerbaijan adopted legislation amending the Criminal Code in order to abolish the death penalty. Under that law, death sentences were commuted to life imprisonment. Following the adoption of this legislation, the author’s sentence was changed to life imprisonment and he was transferred to Qobustan prison. Although the conditions of detention were better than in the previous prison, the author claimed that the regime of detention was degrading and in violation of European standards.

Until the abolition of the old criminal codes on 1 September 2000, the author had not been able to appeal the judgment of the Baku City Court. On 5 June 2005, the author lodged a cassation appeal. On 8 August 2005, the author also filed an appeal before the Qaradag District Court claiming that the imposition of life imprisonment instead of the death sentence contradicted article 11 of the Universal Declaration of Human Rights, article 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and provisions of the domestic Codes of Criminal Procedure.

On 20 September 2005, the Supreme Court rejected his cassation appeal and confirmed the 12 November 1991 verdict.

On 24 October 2005, the Plenum of the Supreme Court reviewed the 20 September 2005 decision and confirmed the 1991 verdict, replacing the death penalty with life imprisonment. The author was not present during those proceedings and his lawyer was only allowed to participate in the 20 September 2005 hearing before the Supreme Court.

On the same date, the Qaradag District Court reviewed the author’s appeal, comparing the penalties provided for under the 1960 Code and the 2000 Code. The Court reduced the penalties for some of the crimes, since under the new Code they were punishable with shorter prison terms. The Qaradag

District Court imposed the life imprisonment sentence on the author for some of the charges, subsuming in that sentence the shorter prison sentences for the rest of the charges.

On 31 October 2005, the author filed an appeal with the Appeals Court requesting it to quash the decision of the Qaradag District Court, and to impose the maximum penalty of 15 years' imprisonment. On 9 December 2005, the appeal was rejected, following a hearing at which neither the author nor his lawyer were present. The decision was not delivered to the author until 19 January 2006, 40 days after its adoption, while the statutory deadline for its appeal was 30 days. On 30 January 2006, the author filed a cassation appeal and filed a motion for the statutory deadline to be restored. On 28 March 2006, the Supreme Court rejected the appeal, ruling that the missed statutory deadline could not be restored.

On 17 January 2006, the author attempted to reopen the case based on newly established circumstances. On 3 March 2006, the Supreme Court's President rejected the application. In June 2007, the author attempted to lodge another appeal based on newly discovered circumstances. That appeal was rejected by the Supreme Court by a letter of 16 July 2007. On 10 August 2007, the author filed another appeal with the Plenum of the Supreme Court that was rejected on 6 September 2007.

After all domestic remedies had been exhausted, the author submitted a complaint to the European Court of Human Rights. On 28 November 2008, a committee of three judges rejected the complaint as inadmissible on the basis of articles 34 and 35 of the Convention without elaborating its decision further.

On 24 June 2010, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that he was the victim of violations by Azerbaijan of his rights to: (i) freedom from cruel and inhuman treatment, (ii) respect for the inherent dignity of the human person while in detention, (iii) treatment in custody aimed at reformation and social rehabilitation, (iv) a fair trial, (v) to defend himself in person, (vi) review of his sentence by a higher court, (vii) compensation for miscarriages of justice, and (ix) the benefit of a lighter penalty if such a penalty is imposed by law subsequent to the commission of an offence (under articles 7, 10(1 and 3), 14(1, 3, 5 and 6) and 15(1) of the Covenant respectively).

The Committee's decision

Regarding the admissibility of the author's claims, the Committee found that it lacked temporal jurisdiction over the author's claims under article 14 concerning the investigation and trial that took place in 1989 and 1991 respectively and concerning the conditions in the Bayil prison (which the author left in 2001), as these events pre-dated the entry into force of the Optional Protocol for Azerbaijan in 2002. The Committee also noted the author's claims that his rights under article 14(5 and 6) of the Covenant had been violated during the proceedings before the Qaradag District Court. With regard to article 14(5), the Committee observed that the 2005 decision of the Qaradag District Court was itself an additional proceeding for review of the author's sentence and did not result in the type of judgment that article 14(5) requires to be subject to appeal. With regard to article 14(6), the Committee observed that the author's conviction had not been reversed nor had he been pardoned. The Committee therefore found that the author had failed to substantiate the above claims for the purposes of admissibility, and declared them inadmissible under article 2 of the Optional Protocol. The Committee found, however, that the author had sufficiently substantiated his other claims under articles 7, 10 (1 and 3), 14 (1) and 15 and declared them admissible.

On the merits, the Committee noted that the Azerbaijan had confirmed most of the author's allegations regarding the conditions in which he had been serving his life imprisonment sentence. The Committee concluded that the author's conditions of detention violated his right to be treated with humanity and with respect for the inherent dignity of the human person, and were therefore contrary to article 10(1).

The Committee noted the author's uncontested claim that, after his cassation appeal was rejected by the Supreme Court, the Plenum of the Supreme Court reviewed that decision without notifying the author or his counsel. The Committee recalled that under the principle of equality of arms the same procedural rights must be afforded to both parties, unless distinctions are based on law and can be justified on objective and reasonable grounds not entailing actual disadvantage or other unfairness to the defendant. In the absence of any explanation by Azerbaijan for the unequal access of the prosecution and the defence to the hearing, the Committee concluded that Azerbaijan had infringed the principle of equality of arms, in violation of the author's rights under article 14(1) of the Covenant.

The Committee noted the author's claim that the commutation of his death sentence into life imprisonment for a crime committed at a time when life imprisonment was not provided by law violated article 15(1) of the Covenant. According to article 15(1), if provision is made by law for the imposition of the lighter penalty subsequent to the commission of the offence, the offender should benefit from the lighter penalty. In the present case, the Committee noted that the penalty of life imprisonment established by the legislation passed on 10 February 1998 superseded the death penalty, a penalty which is more severe than life imprisonment. In such circumstances, the Committee could not conclude that the Azerbaijan, by substituting life imprisonment for capital punishment, had violated the author's rights under article 15(1) of the Covenant.

In the light of the above, the Committee concluded that Azerbaijan had violated the author's rights under articles 10(1) and 14(1) of the Covenant. Having found a violation of article 10(1), the Committee did not find it necessary to examine the author's claims arising under articles 7 or 10(3).

In accordance with article 2(3)(a) of the Covenant, the Committee observed that Azerbaijan was under an obligation to provide the author with an effective remedy, including adequate compensation. The Committee found that Azerbaijan was also under an obligation to prevent similar violations in the future.

Azerbaijan must now submit its written response within six months of the Committee's decision, including information on the action taken in the light of the Committee's recommendations, and ensure that the Committee's decision is published widely.

Sam Hunter Jones is an international lawyer, based in London.

 **ISHR** | SUPPORTING HUMAN RIGHTS
DEFENDERS FOR **30 YEARS**

For more information about our work, or any of the issues covered in this publication, please visit our website:

www.ishr.ch

or contact us:

information@ishr.ch



www.facebook.com/ISHRGlobal



www.twitter.com/ISHRGlobal



www.youtube.com/ISHRGlobal

GENEVA OFFICE

Rue de Varembé 1, 5th floor
P.O. Box 16
CH-1211 Geneva 20 CIC
Switzerland

NEW YORK OFFICE

777 UN Plaza, 8th floor
New York, NY 10017
USA