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**Opinion**

**CELEBRATING 30 YEARS OF HUMAN RIGHTS IMPACT**

*By Phil Lynch, Director of the International Service for Human Rights*

30 years ago last month, ISHR’s visionary founder, Adrien Claude-Zoller, identified the need to support human rights defenders and victims of human rights violations - from the families of the disappeared in Latin America to survivors of the Khmer Rouge genocide in Cambodia - to seek justice and accountability at the UN.

He established the International Service for Human Rights on 17 December 1984 to meet this pressing need.

**Putting aside our hindsight bias**

In the field of psychology there is a phenomenon known as ‘hindsight bias’. It refers to our tendency, after an event has occurred, to regard that event as predictable or even inevitable.

We all know, however, that progress in the field of human rights is never inevitable. It takes courage and commitment, coordination and collaboration, and good planning and an element of good luck.

So, I’d ask you to join me in putting aside your hindsight bias for a moment to ask ‘but for’. But for Adrien’s vision 30 years ago, and the dedication and tenacity of many hundreds of ISHR staff, trainees, Board members and interns since, what now seemingly inevitable human rights advances may not have been achieved?

**30 years of human rights impact**

But for the perseverance of ISHR, and our powerful partnership with Amnesty International and the International Commission of Jurists, we may not today have a [Declaration on Human Rights Defenders](#) or a Convention on Enforced and Involuntary Disappearances.

But for the masterful coordination of civil society engagement with the [Vienna World Conference](#) by ISHR and its then Deputy Director Mark Thomson back in 1993, the post of UN High Commissioner for Human Rights may never have been created.

But for the establishment of [ISHR's intensive training program](#), many thousands of human rights defenders – from UN experts like Maina Kiai and [Sheila Keetharuth](#), to NGO leaders like [Lucia Nader](#) and [Hassan Shire Sheikh](#) – may not have become the influential change agents they are today.

But for the advocacy of ISHR and NGO partners such as both the East and Horn of Africa Human Rights Defenders Project and the West African Human Rights defenders Network, the [African Commission](#) may never have mandated a Special Rapporteur on Human Rights Defenders.

But for the individual support and systemic advocacy undertaken by ISHR's New York office, dozens of human rights [NGOs like ARC International](#) may never have been granted UN consultative status, and many victims would have been denied a voice on the international stage.

But for the personal commitment of former ISHR Director Chris Sidoti, and other experts like Michael O'Flaherty and John Fisher, the [Yogyakarta Principles](#) on sexual orientation and gender identity would not have been developed and it is unlikely that the Human Rights Council would have subsequently adopted a resolution on lesbian, gay, bisexual and transgender rights.

And but for the persistence of ISHR and the Women Human Rights Defenders International Coalition, combined with the leadership of Norway, the General Assembly would never have adopted a [resolution on women human rights defenders](#), providing a roadmap for the realisation of women's rights at the national level.

### **Join the growing network of support for human rights defenders and human rights change**

So please join me in thanking and acknowledging all those ISHR [staff](#), [Board members](#) and volunteers, together with our human rights defender networks, NGO colleagues, diplomatic partners and [financial supporters](#), but for whom the world would not have enjoyed much of the human rights progress that it has.

And please consider joining me in making a [donation to sustain and strengthen ISHR's vital work](#). Human rights progress is never inevitable, but without the commitment and contributions of people like you it is impossible.

Thank you for standing with us and the brave human rights defenders with whom we work.

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## **Human Rights Defenders Profiles**

### **IDOLINA GALLARDO: MEXICAN INDIGENOUS HUMAN RIGHTS DEFENDER**

Idolina is a teacher in Tlahuitoltepec who participates to a model of distance learning through televised classes called 'telesecundaria'. She was completing a doctorate degree in education when her brother was detained in relation to his participation to a protest led by the 'Seccion 22', the democratic branch of the teacher's Union, against a reform that would have negative consequences on the educational system in the indigenous and rural communities. She then decided to leave aside

the doctorate in order to fully dedicate herself to the defence of her brother. This has been a breathless process since its beginning.

***'The educational reform that the state of Mexico wants to introduce would lead to privatisation and unification of the learning methods and assessments.'***

The reform was accused not only in Oaxaca but also in other Mexican states to leave aside the indigenous communities with its top-down approach. For example, the current system has what is called 'normal schools', where local teachers are trained and end up obtaining places in their local schools. The reform plans to set a unified assessment, developed by government officials or businesses, for all the professors of the country. This new evaluation would not take into account the diversity of the backgrounds, cultures and needs of the children, and would end up 'cleaning' schools from these indigenous professors and curtailing their labour rights. If the teachers do agree that there should be some kind of evaluation, they believe it should be carried out in a bottom-up manner by experts and affected stakeholders.

***'The conditions of the detention of her brother were brutal.'***

On the 18th of May 2013, an undefined armed group broke into the family house. Damian Gallardo then remained incommunicado for 30 hours, after which he was charged on the grounds of 'organised crime' and denied any kind of contact with his family or lawyer. He received physical and psychological torture, and was forced to declare without witnesses, until the National Human Rights Commission finally convened on facilitating the access to the lawyer. He then withdrew its declarations and put a case on torture, yet him and the other detained teachers were transferred to Jalisco's maximum security prison, miles and mountains away from their hometown. The teachers were formally accused to be kidnappers, the prosecutors basing their accusations on allegedly suspicious phone transcripts which, until recently, they decided not to disclose. Her brother now remains in the maximum security prison, but 'he feels strong', Idolina asserts. He faced one case of aggression by prison officials, but fortunately it did not occur again. Yet he struggles to communicate with the outside world, and the hearings he should attend for the legal recourse he lodged against the kidnapping sentence is being indefinitely postponed.

***'I am not only defending my brother's cause' says Idolina, 'I am defending the cause of all those protesters that suffer from arbitrary detention, criminalisation and defamation campaigns.'***

'I come here in representation and support of all of them', she adds, speaking about her travel to Europe. She explains that this phenomenon is nothing new, and that the State is trying to send the message that human rights defenders and those who disagree with State reforms and policies should better stay quiet. 'Yes, the State repression has a chilling effect on protesters and defenders, even only on sympathisers of the Unions. But the increasing publicity of this repression raises awareness and multiplies the discontentment, and will eventually have the reverse effect of leveraging opposing voices'.

***'Yes I am afraid, but I am also full of hope.'***

She knows that the way is long and full of obstacles, starting with the founded fear of reprisals when she comes back to Mexico after her defense work in Europe and the constant control that she is subjected to back home. 'We see strange cars parked near our house, people asking questions to my relatives... we have even been accused of having illicit incomes, even though we are a very modest indigenous family with no properties at all' she explains. Idolina knows that her trip to Europe is being defamed, but she also knows that she counts on the support of local NGOs and, she hopes, the international mechanisms in case she faces threats when she returns to her home country.

## **BETTINA CRUZ: MEXICAN HUMAN RIGHTS DEFENDER WORKING ON BUSINESS AND HUMAN RIGHTS**

The Mexican Region of Tehuantepec has one key geographical characteristic: a lot of wind. And with the wind came many problems in the past decades. According to Bettina Cruz, those problems have a name: eolian companies, coming from mainly European states. These foreign companies do not understand the diversity of implications that their projects have, she says. They do not understand that when they implant windmills in coffee or corn fields, they are depriving indigenous communities from a main source of alimentation. They do not understand the cultural roots of those communities. And, say several social movements from the region, they do not care about dispossessing those communities of their own, lawful territories.

***‘I’ve been arrested and condemned in relation to a demonstration in which I did not even participate.’***

On 13 April 2013, different communities from Tehuantepec carried out a peaceful demonstration in front of the premises of the Comisión Federal de Electricidad (CFE), a semi-governmental institution, to protest against the complicity of the CFE with allegedly illegal contracts that disregard the ownership of the land, as well as other human rights violations related to the installation of wind farms in the region. Bettina was, at that time, in another city undertaking a different activity in defense of community rights. Yet, she was detained and imprisoned and had to pay no less than 15,000 Mexican Pesos to be released until a final formal decision concerning her charges of ‘crimes against national wealth’ and ‘illegal deprivation of liberty’ is delivered. Bettina already fears the form which this decision will take and the onerous and difficult appeal she will have to launch.

***‘This kind of action is just another strategy to intimidate, prosecute and criminalise the work of human rights defenders.’***

Bettina Cruz and her supporters believe that there is a worrying perversion of the judicial system taking place in order to suffocate the work of human rights defenders, especially their efforts to draw attention to the violations carried out by multinational companies around their large-scale projects which are backed by the Government. Many social protests in that context are criminalised and subject to long, irregular and apparently corrupt processes. When the defenders are women, the harassment is even stronger and sometimes leads to sexual violence. Bettina has suffered physical attacks and even death threats, with absolute impunity for the perpetrators.

***‘We receive firm support from local and international NGOs and from our OHCHR office.’***

When Bettina was first detained by unidentified men, Amnesty International released an alert on the concerns about her case and on the reiterated use of fabricated charges against human rights defenders. Overall, her case has benefited from broad publicity and has been covered by many NGOs and the Mexican OHCHR office, whilst at least 300 Organisations have joined the *Amicus Curiae* submitted for her trial.

***‘We came to Geneva to advocate for the respect of the rights of indigenous communities, who are amongst the key stakeholders, and the main victims, of business and human rights issues. And we do have concrete demands.’***

Bettina Cruz and other indigenous defenders from South America gathered to participate in the Business and Human Rights Forum which is held annually in the Palais des Nations in Geneva. They feel their presence is important and spreads the message that indigenous communities will do whatever is in their hands to raise awareness on their vindications. Bettina, during her intervention in one of the Panels organised, highlighted the importance of the Right to a Free, Prior and Informed

Consent, which must be reinforced through strong laws and their sound implementation. ‘Consultations are not valid when they are mere tools of simulation’ she explains, ‘I only see consultations that are carried out once the company is already installed, or without the participation of civil society observers, and this does not follow international standards’. She points out that the United Nations Declaration on the Rights of Indigenous Peoples and the recommendation from the UN Working Group on business and human rights are the minimum standards that States should follow, but that it is imperative that States also ensure that enough measures for the protection of human rights defenders are taken.

## Top 5 human rights posts for 2014

Throughout 2014, ISHR has brought the latest international human rights news, views and developments to over 110,000 website visitors.

Here’s a selection of the most popular as chosen by you, our readers and supporters, and now reprised for your festive season reading pleasure!

1. The African Commission on Human and Peoples’ Rights adopts a landmark resolution condemning violence and calling for an end to discrimination on the basis of sexual orientation and gender identity, perhaps marking a turning of the tide against anachronistic laws across the continent which criminalise homosexuality and even the advocacy of LGBT rights: <http://www.ishr.ch/news/african-commission-adopts-landmark-resolution-lg...>
2. The UN Human Rights Council adopts a crucial resolution on the protection of human rights defenders, calling on States to enact laws and policies to support and enable their work. The resolution also renews the mandate of the UN Special Rapporteur on Human Rights Defenders for a term of three years: <http://www.ishr.ch/news/un-human-rights-council-adopts-crucial-resolutio...>
3. Human rights advocates from around the world take a stand at the UN Human Rights Council, calling on Chinese authorities to be investigated and held accountable for the death of detained human rights defender Cao Shunli: <http://www.ishr.ch/news/china-interrupts-moment-silence-cao-shunli-un-hu...>
4. ISHR releases a new film on the human cost of intimidation and reprisals against those who cooperate with the UN: <http://www.ishr.ch/news/new-video-reprisals-human-cost-cooperating-unite...>
5. What are the characteristics and strategies of the most successful human rights campaigns? In a guest opinion piece, Jo Becker of Human Rights Watch examines some of the most significant international human rights campaigns over the last decade to identify the secrets of success: <http://www.ishr.ch/news/jo-becker-5-ways-successful-human-rights-campaign>

We’re committed to bringing you many more great articles in 2015, keeping you abreast of the latest human rights insights and analysis. If you don’t already do so, be sure to [subscribe to our regular Human Rights Monitor](#), follow us on [Twitter at @ISHRglobal](#), and [join our friends on Facebook](#).

## Our Work to Support Human Rights Defenders

### **SRI LANKA: NEW GOVERNMENT MUST SUPPORT HUMAN RIGHTS DEFENDERS AND COOPERATE WITH THE UN**

(Geneva, 9 January 2015) – The new government in Sri Lanka must prevent, investigate and ensure accountability for attacks against journalists, lawyers and human rights defenders, the International Service for Human Rights said today.

‘The election of a new government in Sri Lanka, bringing to an end the term of the repressive Rajapaksa regime, should also bring an end to the pattern of attacks, disappearances and defamation against lawyers, journalists and other human rights defenders who have stood up for the rule of law and demanded accountability for past and ongoing human rights violations in the country,’ said ISHR Director Phil Lynch.

United Nations experts, such as the [High Commissioner for Human Rights](#) and the [Human Rights Committee](#), together with non-governmental organisations such as [FORUM-ASIA and ISHR](#), have repeatedly expressed grave concern at the arbitrary detention and enforced disappearance of human rights defenders in Sri Lanka. In October 2014, for example, the UN Human Rights Committee called on the Sri Lankan government to ‘vigorously investigate all cases of threats and attacks against journalists, lawyers, clergymen, political activists, NGO workers and human rights defenders, hold the perpetrators accountable, and provide effective remedies to victims’. It also expressed grave concern over ‘defamation campaigns against human rights defenders and the blocking of websites’.

In addition to calling on the new government to investigate and ensure accountability for attacks on defenders, ISHR also called on President-elect Maithripala Sirisena to prioritise cooperation with a UN Human Rights Council-mandated international investigation into alleged war crimes and crimes against humanity perpetrated by both the former Sri Lankan Government and the Tamil Tigers. The Human Rights Council is due to consider a report examining the death of an estimated 40,000 civilians in the closing stages of the Sri Lankan civil war in 2009 when it next meets in Geneva in March 2015. Victims, witnesses, journalists, lawyers and others who have sought to submit information to this international inquiry have been subject to surveillance, harassment and other forms of intimidation.

‘In November, the UN High Commissioner for Human Rights said that “A [wall of fear](#) has been created that has undoubtedly served to deter people from submitting evidence” to the inquiry. The new Sri Lankan Government must dismantle this wall. It should also commit to cooperating fully with the Human Rights Council-mandated investigation and to end intimidation and reprisals who seek to promote justice and accountability through the UN,’ Mr Lynch said.

‘The Rajapaksa regime sought to rule by suppressing dissent, restricting civil society and undermining the rule of law. Ultimately this led to their defeat by an electorate with a thirst for democracy, good governance and fundamental freedoms. There is now an opportunity for the new Sri Lankan government to distinguish itself by committing to respect for freedom of expression, association, assembly and the right to non-discrimination,’ Mr Lynch said.

‘The new government should also distinguish itself by embracing human rights defenders and a vibrant civil society as essential partners in combatting corruption and promoting security and sustainable development. Far from being ‘enemies of the state’, the work of human rights defenders is vital to good governance, accountability and the rule of law,’ Mr Lynch said.

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## VENEZUELAN HUMAN RIGHTS DEFENDERS LOOK TO THE UN FOR JUSTICE AND ACCOUNTABILITY

(Update – 22 December 2014) -The International Service for Human Rights (ISHR) condemns the [criminalisation of human rights defenders](#) in Venezuela and in particular the public defamation of defenders and organisations which participated in ISHR's recent training session in Caracas. Last week Diosdado Cabello - President of the National Assembly and Vice-President of the ruling PSUV party - used his weekly [television show](#) to delegitimise the work of respected human rights defenders Humberto Prado of the Venezuelan Prisons Observatory (OVP) and María De Freites Sánchez of Transparency Venezuela. ISHR reiterates its support for the legitimate human rights work of these defenders and the organisations which they represent and urges the Venezuelan government to implement the UN Declaration on Human Rights Defenders, publicly recognising the importance of their role and taking actions to sanction defamation of their work and protect their physical and moral integrity. As a current member of the UN Human Rights Council, Venezuela's obligation to uphold the highest human rights standards is clearer than ever.

(Geneva, 19 December 2014) - As restrictions on defending rights increase at national level and regional options for accountability close, human rights defenders in Venezuela are looking more and more to the international sphere for redress and means to hold Venezuela to account for human rights violations. At the invitation of the [Human Rights Centre, Universidad Católica Andrés Bello](#), and the NGO [Civilis Derechos Humanos](#), ISHR has been working with human rights activists from various regions of Venezuela to explore opportunities for advancing their human rights concerns through the UN.

Defending human rights in Venezuela is dangerous and difficult. Popular protests at the start of the year were crushed with force and political opposition leaders detained, drawing condemnation of key UN figures as well as civil society groups. Human Rights Watch spoke of the use of '[excessive and unlawful force](#)' by security forces. The UN High Commissioner for Human Rights, Mr Zeid Ra'ad al-Husseini denounced '[the prolonged and arbitrary detention of political opponents and protestors in Venezuela](#)' and echoed the call by the UN Working Group on Arbitrary Detentions to release those detained.

The reaction of State forces to the protests provided a powerful illustration of the restrictions on freedom of expression, association and assembly introduced over the last years. Restrictions on media sources and the criminalisation, intimidation and attacks against journalists are well documented<sup>1</sup>. Freedom of association is severely limited through the 'Political Sovereignty and National Self-Determination Law' of December 2010 which prohibits civil society organisations from receiving foreign funding. Human rights defenders are victims of campaigns to stigmatise and defame them, and accused of seeking to destabilise the country<sup>2</sup>.

Access to justice within the country is severely restricted as the independence of the judiciary is undermined. The [case of intimidation and reprisals against Judge Afiuni](#) for acting on recommendations made by the Working Group on Arbitrary Detention, is illustrative and has had a chilling effect. With the withdrawal of Venezuela from the American Convention on Human Rights

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<sup>1</sup> See, for example, Amnesty International 'Annual Reports' and Human Rights Watch 'World Reports'.

<sup>2</sup> For example in the case of Humberto Prado: <http://www.frontlinedefenders.org/node/25018>.

in September 2013, access to the Inter-American Court on Human Rights is also denied to Venezuelans.

Options for holding the Venezuelan State to account are very slim at national and regional levels. In such contexts, the UN human rights mechanisms become the last resort.

Over the next two years, Venezuela is due to report to the Human Rights Committee and to the Committee on Economic, Social and Cultural Rights in 2015, and comes up for its second cycle of the Universal Periodic Review in 2016. Venezuela holds several high-status positions within the United Nations human rights mechanisms, as member of the Human Rights Council, member of the NGO Committee (the first gateway for NGOs seeking ECOSOC accreditation) and as a member of the Security Council as of January 2015. [ISHR, along with Amnesty International, has been campaigning for members of the Human Rights Council to uphold the human rights standards expected of them.](#) The gulf between the positions held by Venezuela within the UN, and the range and depth of human rights violations experienced in the country, is both shocking and wholly unacceptable. Venezuela has not accepted the visit of a single UN Special Rapporteur – the experts instituted by the Council of which Venezuela is a member – since 1996<sup>3</sup>.

One of the human rights defenders participating in one of the trainings on the UN system is **lawyer and journalist, David Gómez Gamboa, Professor at the Faculty of Law and Politics at the Universities of Zulia and of Rafael Urdaneta** both in Maracaibo in the North-western State of Zulia. Mr Gómez Gamboa notes how the protests which started in February 2014 were the fillip for the creation of an inter-institutional Commission<sup>4</sup> of University professors, students and other staff to monitor the human rights situation in the region. There was no prior human rights organisation in the city. Similar initiatives in other universities in the country have led to the exchange of information on violations, and to the identification of patterns of torture meted out by State actors to civilians in the different towns of the country.

**‘We have interviewed and advocated for victims of human rights violations. We have been able to show how the terms of the international treaties Venezuela is party to, have been violated again and again in our region of the country’**, said Mr. Gómez Gamboa.

Mr Gómez Gamboa notes that human rights defenders in the country have been intimidated, attacked and stigmatised by public authorities.

**‘We respond to this situation by defending human rights as fully as we are able, drawing on the principles and rights articulated in the UN Declaration on Human Rights Defenders of 1998 to defend our right to defend rights’.**

In reflecting on why he had taken time to travel to Caracas to participate in the workshop on the UN human rights mechanisms, Mr Gómez Gamboa noted that an increased knowledge of the UN would benefit his organisation’s work investigating and reporting on violations, but was also vital

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<sup>3</sup> A request by the Special Rapporteur on the right to food, was accepted in 2011 but arrangements have yet to be made for her to visit the country.

<sup>4</sup> *Comisión Inter-Institucional de Derechos Humanos de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia y de la Escuela de Derecho de la Universidad Rafael Urdaneta.*

information that he and his colleagues sought to disseminate through the human rights education they carry out.

**‘The course convened by the Human Rights Centre of the University of the Universidad Catolica Andres Bello with the participation of the International Service of Human Rights has been an extraordinary opportunity to push the work of our Commission forward’** he said.

On his return to Geneva following the workshops, ISHR’s Ben Leather commented, ‘We look forward to continuing our collaboration with Venezuelan defenders as they seek to engage in UN processes through, for example, providing shadow reports to treaty bodies and information for the upcoming UPR. Given the experience of Venezuelan defenders in engaging with the UN, we will be continuing to impress upon the United Nations Member States and mechanisms the need to ensure the protection of all those that cooperate with the system.’

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*For more information on freedom of assembly and the right to peaceful protest in Venezuela, see the brand new Venezuelan civil society website [manifestar.org](http://manifestar.org) (in Spanish)*

*Read this article in Spanish [here](#).*

## **KYRGYZSTAN SHOULD WITHDRAW BILL TARGETING LGBT PERSONS AND HUMAN RIGHTS DEFENDERS**

(Geneva, 27 November 2014) - The Parliament of Kyrgyzstan should unequivocally reject a bill which criminalises acts and expression aimed at forming ‘a positive attitude towards non-traditional sexual orientation’, the International Service for Human Rights said today.

If passed, the draft law would impose both monetary penalties and terms of imprisonment of between 6 to 12 months on persons involved in disseminating information on the rights of lesbian, gay, bisexual or transgender persons in the media or the internet, and also criminalise organising or participating in peaceful assemblies which aim to promote or protect LGBT rights.

‘This bill is manifestly incompatible with international human rights law and should be either withdrawn or unequivocally rejected,’ said ISHR’s Pooja Patel.

‘The bill violates the right to freedom of expression by criminalising free speech and the dissemination of information about LGBT rights, it offends the right to freedom of association and assembly by criminalising peaceful meetings aimed at protecting LGBT rights, and it is plainly incompatible with the prohibition against discrimination on the grounds of sexual orientation and gender identity,’ Ms Patel said.

‘As a party to the International Covenant on Civil and Political Rights, both the government and parliament of Kyrgyzstan have an obligation under international law to withdraw this bill.’

In addition to being incompatible with the ICCPR, to which Kyrgyzstan became a party in 1994, Ms Patel also noted that the bill has the purpose, or would have the effect, of targeting and criminalising the work of human rights defenders in a manner that is inconsistent with the Declaration on Human Rights Defenders.

‘The Declaration on Human Rights Defenders, the adoption of which Kyrgyzstan supported in 1998, explicitly enshrines the right to freely publish and disseminate information on human rights and to discuss and advocate for the acceptance of human rights ideas and principles,’ Ms Patel said.

The [Yogyakarta Principles on International Law in relation to Sexual Orientation and Gender Identity](#) similarly codify the obligations of States to respect the rights to freedom of expression, assembly and association in relation to issues of sexual orientation and gender identity, and to respect, protect and enable the work of human rights defenders working on these issues (see, particularly, Principles 19, 20 and 27).

In addition to being gravely concerned about the criminalising and chilling effect of the bill, ISHR is also deeply concerned that it may licence or contribute to an increase in homophobic violence or discrimination in the country. A [recent Human Rights Watch report](#) documents a rising tide of violence, arbitrary detention and extortion of LGBT persons in Kyrgyzstan, including by police and security forces.

‘The evidence from Russia and other jurisdictions is clear - laws such as that proposed in Kyrgyzstan are strongly associated with violence and discrimination against LGBT persons, despite the protestations of the supporters of such laws that this is not the intent,’ Ms Patel said.

ISHR understands that the bill has been voted on once and passed by a wide margin, and is required to be voted on twice more by parliament before being forwarded to the President, Almazbek Atambayev, for signature.

‘ISHR joins with [UN human rights experts](#), international [NGOs](#), and [civil society organisations in Kyrgyzstan](#) in calling for this bill to be struck out without delay,’ Ms Patel said.

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## **FROM RESTRICTION TO PROTECTION: REPORT ON ENSURING A SAFE AND ENABLING LEGAL ENVIRONMENT FOR HUMAN RIGHTS DEFENDERS**

(Geneva, 20 November 2014) - All States should develop and implement specific laws on the protection of human rights defenders and conduct a comprehensive legislative audit to repeal laws which criminalise their work, according to a major new report released by the International Service for Human Rights today.

The report, which examines the operation of laws affecting human rights defenders across 40 jurisdictions covering all regions, found that while there is a proliferation of laws which unduly restrict or criminalise the work of human rights defenders, there are also increasing examples of good practice, although only a very small number of States have taken the step of incorporating the Declaration on Human Rights Defenders into national law.

‘It is regrettable that despite repeated calls by international and regional human rights experts, to date only Colombia, Côte d’Ivoire and Mexico have enacted specific laws on the protection of human rights defenders. We call on those States to ensure effective implementation of these laws and for other States to follow their lead,’ said ISHR Director and report author Phil Lynch.

The report notes that, in the course of the Universal Periodic Review, almost twenty States, the vast majority of them from the European Union, have recommended to other States to enact a human rights defender law without adopting such laws themselves.

‘States such as Ireland, Norway and Switzerland should ensure that the leadership they show on the protection of human rights defenders abroad is reflected in their national laws,’ Mr Lynch said.

According to the report, ‘specific laws on human rights defenders could assist not only to provide formal legal protection to their work, but also to give official recognition to the legitimacy of such work, educate law enforcement officers, public officials and the public at large about the importance of defenders and the protection thereof, and be a source of support and inspiration to defenders themselves both inside and outside the country concerned.’

In addition to providing guidance as to the consultative process for developing a human rights defender law, the report also advises as to the key provisions of such a law, recommending that it:

- enshrine the rights of defenders and the obligations of the State to promote, protect and respect those rights;
- mandate and ensure the adequate resourcing of programs and mechanisms to promote the importance and legitimacy of human rights defenders’ work, and to protect human rights defenders and their families and associates who may be at risk, whether from State or non-State actors;
- oblige the State to investigate and pursue accountability for any violations of the rights of defenders, their families and associates; and
- provide for access to effective remedy for victims.

The law should also include provisions to:

- mandate research and analysis on threats and attacks against human rights defenders with a view to identifying underlying and causative factors and making recommendations aimed at prevention and the promotion of an enabling environment; and
- ensure that the law itself is systematically evaluated, including through consultation with human rights defenders, with a view to identifying the amendments or other measures that may be necessary to ensure its effectiveness.

‘Through this report, we join the current and former UN Special Rapporteur on Human Rights Defenders, the African Commission on Human and Peoples’ Rights, the Inter-American Commission on Human Rights, and human rights defenders from around the world in urging States to incorporate the international Declaration on Human Rights Defenders into national law,’ Mr Lynch said.

In addition to recommending and giving guidance as to the development and enactment of a specific human rights defender law, the report also contains 25 concrete recommendations to States to give legal force and effect to the Declaration on Human Rights Defenders through legislative provisions in other areas, ranging from penal codes to tax law.

In this regard, and despite the low level of direct implementation of the Declaration, the report found good practice examples of implementation of aspects of the Declaration in many regions and countries:

- In the United Kingdom, the *Charities Act of 2011* specifically recognises that work to advance human rights is of public benefit and confers tax advantages and concessions on organisations undertaking such work.
- In Colombia, the *Criminal Code* increases the penalties for various offences – from threats to disappearances – where those offences are perpetrated against human rights defenders.

- In Uganda, the recently enacted *Prevention and Prohibition of Torture Act* imposes a legal responsibility on the State to protect any person alleging or giving evidence in relation to torture from any form of ill-treatment or intimidation. The Philippines' *Anti-Enforced or Involuntary Disappearances Act* imposes similar duties on the State to protect human rights defenders working on cases of enforced disappearance.
- In Sierra Leone, the *Right to Access Information Act of 2013* provides an enhanced right to access information, from both public and private bodies, where that information pertains to human rights. It also reduces the period within which information must be produced when it concerns the life or liberty of a person.
- In India, the National Human Rights Commission has established a dedicated Human Rights Defender Focal Point, providing advice and support to defenders at risk.
- In Australia and Canada, anti-discrimination laws provide explicit protection in relation to intimidation and reprisals against those who submit discrimination complaints.

The report also found that while examples of good practice can be found in most regions and many States, examples of laws which restrict or criminalise the work of human rights defenders in a manner that is incompatible with international human rights law can be found in *all* regions and in *all* States. Such laws range from counter-terrorism laws in Australia and Ethiopia, to NGO laws in China and Kenya, to public assembly laws in Egypt and Myanmar, to laws regulating journalists and freedom of expression in Italy and Russia. The report includes a checklist to assist States to identify and reform such laws.

'A conducive legal environment that protects and enables the work of human rights defenders, and which does not unduly restrict or criminalise such work, is vital for democracy, development and the rule of law,' ISHR's Phil Lynch said.

The report was prepared with the pro bono support of five of the world's leading law firms – Allens, Debevoise & Plimpton, DLA Piper, Reed Smith and Simmons & Simmons – with the findings and recommendations underpinned by over 2,500 pages of professional legal research. The governments of Ireland and Liechtenstein provided financial assistance for publication of the report.

The report was launched at an event at the Palais des Nations in Geneva with Sir Nicolas Bratza (former President of the European Court of Human Rights), Reine Alapini-Gansou (Commissioner with the African Commission on Human and Peoples' Rights) and Maryam Al-Khawaja (Co-Director of the Gulf Center for Human Rights).

The event also involved the launch of a [high-level legal advice](#) prepared by Sir Nicolas Bratza, together with Professor Egbert Myjer and leading international law firm Freshfields, on the legal obligations of the Human Rights Council, its President, Bureau and Member States to protect against and promote accountability for intimidation and reprisals against human rights defenders and others who cooperate or seek to cooperate with the Council and its mechanisms.

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## **CHINA MUST END DETENTION, RESTRICTIONS AND REPRISALS AGAINST WOMEN HUMAN RIGHTS DEFENDERS**

(Geneva, 17 November 2014) - China must end restrictions on the formation of women's rights NGOs, prevent and ensure accountability for reprisals against women human rights defenders, and abolish the use of 'black jails' which are used to disproportionately imprison women petitioners, the International Service for Human Rights said in response to a UN report issued today.

The UN committee focusing on the rights of women has expressed its grave concern to the government of China over undue restrictions on the work of women's rights organisations in the country and called for the protection of women human rights defenders.

The body of independent experts conducted [a full-day review](#) of China's compliance with the UN Convention on the Elimination of Discrimination Against Women on 23 October 2014.

In its [concluding observations](#), just issued, the Committee expressed concerns over allegations by some NGOs that reports submitted for the Committee's consideration had been censored by State agents.

'Civil society has the right to unhindered access to the UN. This naturally includes the right to submit information directly to human rights experts with the expectation that it is not tampered with,' stressed Michael Ineichen of the International Service for Human Rights. 'These allegations are serious and need to be promptly investigated to ensure that such practices stop,' he added.

The Committee rightly identified the need to review highly restrictive national legislation on the formation of NGOs as one of the key contributing factors that prevent and undermine the operation and independence of civil society in China.

'The government of China needs to ensure that civil society organisations, including women's rights NGOs, can register directly without requiring sponsorship from State agents', said Ms Pooja Patel, of the International Service for Human Rights.

The Committee on the Elimination of Discrimination Against Women was further concerned that some NGO representatives from China feared reprisals as a result of their participation in China's review in Geneva. In this regard, the Committee 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'.

This [echoes the call made earlier this year by the UN Committee on Economic, Social and Cultural Rights](#), which 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'. It also follows decisions by the [Human Rights Committee and the meeting of Chairpersons](#) of UN treaty bodies to step up efforts to combat reprisals.

ISHR welcomes the increasing awareness and sensitivity by the UN independent experts to the genuine concerns of human rights defenders regarding actual or potential reprisals as a result of their work with the UN.

'However, since the death of [Ms Cao Shunli in March](#) – as a result of the denial of adequate health care while in detention – no efforts have been made by the Chinese government to hold perpetrators accountable, and the systematic practice of harassment and intimidation against human rights defenders cooperating with the UN continues,' highlighted Ms Eleanor Openshaw of the International Service for Human Rights.

In addition to expressing concern at impediments to the establishment and operation of NGOs, together with reprisals against those who cooperate with the UN, the Committee also expressed its concern regarding unregulated detention facilities in China ('black jails') where women petitioners are alleged to be disproportionately detained. Though the government refuted such allegations and

insisted that detention facilities were not permitted to operate outside of the law, [rights groups have documented evidence of their existence](#).

'We strongly urge the government of China to act on the Committee's recommendations to immediately abolish 'black jails', and to penalise perpetrators including non-State actors,' said Ms Patel.

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## **Our Work to Strengthen Human Rights Systems**

### **UPR: WELCOME INCREASE IN FOCUS ON PROTECTION OF HUMAN RIGHTS DEFENDERS**

(Geneva, 6 January 2015) – ISHR advocacy has been associated with a substantial increase in attention to, and recommendations regarding, the situation and protection of human rights defenders in the context of the Universal Periodic Review.

Throughout 2014, the International Service for Human Rights produced a series of [briefing papers](#) for diplomats on the situation of human rights defenders in States scheduled for review by the UN Human Rights Council through its Universal Periodic Review process. Each paper provided an overview of the key risks and threats faced by human rights defenders, the legislative and administrative environment for their work, and recommendations to ensure that defenders are able to operate in a safe and enabling environment free from restrictions or attack.

The briefing papers – which covered States including Angola, Cote d'Ivoire, the Democratic Republic of Congo, Egypt, Ethiopia, the Gambia, Iran, Italy and Kazakhstan – were supplemented with lobbying of diplomats and decision-makers in Geneva.

These briefing papers and lobbying are associated with a very substantial increase – over 70 per cent – in the number of recommendations made to States under review in 2014, when compared with their last review on 2010, in relation to such issues as the protection of human rights defenders and civil society space, and the need to end restrictions on the rights to freedom of expression, association and peaceful assembly.

In addition to being associated with a positive increase in recommendations made by States pertaining to human rights defenders, there is a strong correlation between the recommendations proposed by ISHR and those actually made by States.

Over 85 per cent of recommendations proposed by ISHR were subsequently made by States, including in relation to the need to strengthen laws and policies for the protection of human rights defenders, to investigate and ensure accountability for threats and attacks against journalists, to facilitate peaceful protest and strictly regulate the use of force against demonstrators, to review and repeal laws and policies which criminalise or unduly restrict the activities of defenders, and to cooperate fully with international and regional human rights mechanisms.

'ISHR welcomes the significant increase in focus on the situation of human rights defenders in the context of the Universal Periodic Review. We are deeply concerned, however, that this increase also reflects a deteriorating and more dangerous environment for human rights defenders in many parts of the world,' said ISHR's Manager of Advocacy and Communications, Ben Leather.

‘What is now critical is that States that received recommendations directed to ensuring a safe and enabling environment for human rights defenders implement them as a matter of priority. We also urge States which made such recommendations to follow them up both bilaterally and through the UN Human Rights Council,’ Mr Leather said.

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## **HUMAN RIGHTS RESOLUTIONS AT THE UN GENERAL ASSEMBLY PASSED WITH AN INCREASED SUPPORT**

(New York, 23 December 2014) - The plenary session of the UN General Assembly has adopted a number of key human rights resolutions with an increased margin of support.

‘At the end of a difficult year for human rights it is pleasing that the UN General Assembly has marked progress by adopting a number of important resolutions - including in relation to the human rights situations in North Korea and Syria and on such thematic issues as the protection of journalists and the prevention of violence against women - by record margins,’ said Michelle Evans, Director of Advocacy at ISHR’s New York office.

‘ISHR is particularly pleased that the General Assembly adopted the report of the Human Rights Council by a significant margin of 125 votes to 2, with 56 abstentions. This vindicates the important and timely resolutions adopted by the Council’s September session on the protection of civil society space and the elimination of violence and discrimination on the grounds of sexual orientation and gender identity,’ Ms Evans said.

The General Assembly increased the vote in favour of a resolution on the prevention and investigation of extrajudicial, summary or arbitrary executions by 11, with 122 States recorded as voting in favour of the resolution and none against. The resolution had been the focus of [an attempt at Third Committee stage to weaken or delete language recognising that certain groups are are particular risk](#) of extrajudicial, summary and arbitrary executions.

‘This is an important signal by an increasing majority of States that the arbitrary killing of individuals is unacceptable, and that States must pay specific attention to preventing and investigating extrajudicial, summary and arbitrary execution of those at particular risk,’ Ms Evans said.

The resolution on the moratorium against the death penalty also received increased support at the General Assembly stage, with 117 in favour to 114 in favour at the Third Committee. This recorded vote marks a significant increase in favour on a similar resolution adopted two years ago (which passed with 111 votes).

The country resolutions on the human rights situations in the Democratic People’s Republic of Korea, Iran, and Syria were all voted on, as they were at the Third Committee stage, and in all cases the majority vote was increased. In the resolution on the DPRK, the General Assembly encourages the Security Council to consider referring the situation in the country to the International Criminal Court. The resolution adopted by the plenary passed by 5 more votes than that adopted by the subsidiary Third Committee in November.

The resolution on the human rights situation in Iran saw an increase of 5 votes, with 85 voting in favour. Iran claimed the resolution to be ‘political, prejudicial and unbalanced’. The vote on the human rights situation in Syria recorded 5 more votes than in the Third Committee, with 127 in favour, 13 against and 48 abstentions.

A draft resolution on the situation of human rights in Myanmar was deferred until its budget implications have been considered by the Fifth Committee of the General Assembly.

A Third Committee report on the 'Advancement of Women' was passed by consensus. It contained resolutions on eliminating violence against women, and one on the elimination of female genital mutilation. Other human rights resolutions passed by consensus by the General Assembly included a resolution on the safety of journalists and the need to combat impunity for attacks against them, together with a resolution on the right to privacy put forward by Brazil and Germany.

Finally, the report of the Human Rights Council was taken to a vote but was approved by 125 to 2. Belarus and Israel voted against the General Assembly taking formal note of the Human Rights Council report, while 56 States abstained. This was a positive outcome, with fears that adoption of the report might face delays or deferrals, [as occurred in regard to the Council report to the 68th session](#) of the General Assembly, proved unfounded.

### **HONDURAS SHOULD STRENGTHEN AND ENACT DRAFT LAW ON THE PROTECTION OF HUMAN RIGHTS DEFENDERS**

(Geneva, 18 December 2014) - Authorities in Honduras should urgently strengthen and enact a draft law on the protection of human rights defenders currently before Congress, the International Service for Human Rights said today.

The call came as the Inter-American Commission on Human Rights [concluded a country visit to Honduras](#) and expressed alarm at the high level of violence against human rights defenders, journalists and their families, and the impunity with which the vast majority of such attacks are perpetrated.

In a [press release](#), the Inter-American Commission said that authorities in Honduras should 'adopt urgent measures to attack the structural causes of this violence and impunity' and 'ensure that the Bill currently before Congress for the protection of journalists, human rights defenders, and justice operators meets all human rights standards and is urgently approved.'

'The legal recognition and protection of human rights defenders in a specific law is a necessary, although by no means sufficient, element of establishing a safe and enabling environment for their work,' said Ben Leather of ISHR.

'Authorities in Honduras should consult and work closely with civil society actors to ensure that the draft law fully incorporates the international Declaration on Human Rights Defenders, effectively responds to the situation and protection needs of defenders at the national level, and is implemented with adequate resources and without delay,' Mr Leather said.

The forthcoming Universal Periodic Review of Honduras, scheduled for April 2015, presents an opportunity for States and other stakeholders to increase pressure on authorities to strengthen and enact the draft law. In a [Briefing Paper](#) prepared specifically for the UPR, ISHR calls on States to recommend to Honduras that it enact and fully implement a law on the protection of human rights defenders, while also reviewing and repealing legislative provisions which restrict and criminalise their work.

'ISHR calls on Honduras to refrain from criminalising the legitimate activities of human rights defenders - particularly those working to promote lesbian, gay, bisexual or transgender rights or to

oppose large-scale development projects - and repeal all laws and policies that restrict their activities,' Mr Leather said.

The recommendations of both ISHR and the Inter-American Commission in relation to Honduras reflect key recommendations contained within ISHR's recent global report '[From Restriction to Protection](#)', which calls on all States, in consultation with civil society actors, to develop, enact and effectively implement a national law on the protection of human rights defenders and to repeal laws which criminalise or otherwise restrict their vital work.

The recommendations also largely reflect those set out in an important [new report by Protection International](#) which analyses national laws and policies on the protection of human rights defenders in Africa, Asia and Latin America.

'Honduras should seize the opportunity to show international and regional leadership by responding positively to recommendations made by the likes of Protection International, ISHR, the UN Special Rapporteur on Human Rights Defenders and now the Inter-American Commission to give full legislative force and effect to the international Declaration on Human Rights Defenders at the national level,' Mr Leather said.

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## **NEW PRESIDENT OF HUMAN RIGHTS COUNCIL AND BUREAU MUST PROTECT CIVIL SOCIETY SPACE**

(Geneva, 12 December 2014) - The newly elected President and Vice-Presidents of the UN Human Rights Council have both an opportunity and an obligation to ensure that the Council is a safe and accessible place for human rights defenders and victims of human rights violations, the International Service for Human Rights said today.

At an organisational meeting held in Geneva today, the Ambassador of Germany, Joachim R cker, was elected as President of the Human Rights Council for 2015.

The Ambassadors of Albania, Botswana, Kazakhstan and Paraguay were elected as Vice-Presidents of the Council, each drawn from a geographic region. Both the President and Vice-Presidents are elected and serve in their individual and not national capacities.

Addressing the Council following Ambassador R cker's appointment, ISHR's Michael Ineichen said, 'You take office at a time when the world is not only witness to a range of serious human rights crisis, but at a moment when the United Nations human rights protection system itself is under increasing pressure.'

'Within this context, the role of the Council as the world's peak multilateral human rights body is ever more crucial and its impact is intrinsically linked to the safe and unhindered participation of civil society and human rights defenders in its work,' Mr Ineichen said.

With ongoing efforts by some States to [close the space for civil society participation](#) at the UN and by others to [intimidate and prevent victims and human rights defenders from cooperating with the UN](#), Mr Ineichen that the new President and Bureau has both an opportunity and an obligation 'to ensure that the Council is a safe and accessible place within which human rights defenders can exercise their rights to freedom of expression, to expose human rights violations and to seek accountability for victims and affected communities'.

'We congratulate the Ambassador of Germany on his much deserved appointment to this crucial post and look forward to working closely and collaboratively with him and his Bureau to strengthen the Human Rights Council and to support those who turn to it for protection and justice,' Mr Ineichen said.

ISHR's statement to the Council comes just weeks after the organisation published a [high-level legal advice](#) prepared by Sir Nicolas Bratza, Professor Egbert Myjer and leading international law firm Freshfields on the legal obligations of the Council, its President and Bureau to take concrete steps to prevent and promote accountability for reprisals against those who cooperate with the UN.

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## **INDIA SHOULD ENACT LAW ON HUMAN RIGHTS DEFENDERS AND STRENGTHEN MECHANISM FOR THEIR PROTECTION**

(Geneva, 11 December 2014) - India should develop a national law on the protection of human rights defenders and strengthen the capacity and mandate of the national human rights commission focal point on defenders, the International Service for Human Rights said today.

The call follows a statement from Human Rights Defenders Alert India which recommends that the National Human Rights Commission of India establish and resource a full-time dedicated focal point to intervene in cases where human rights defenders are at risk and to investigate and promote accountability where threats and attacks occur.

HRDA India's statement also called on the National Human Rights Commission to work closely with civil society groups and human rights defender networks to initiate the development of a national law on the protection of human rights defenders.

Both calls echo key recommendations contained within ISHR's recent report '[From Restriction to Protection](#)', which calls on all States, in consultation with civil society actors, to develop, enact and effectively implement a national law on the protection of human rights defenders.

The report also recommends that all States legislatively mandate and adequately resource a dedicated human rights defender focal point within a national human rights institution established in accordance with the Paris Principles.

'ISHR joins with Human Rights Defender Alert India in calling for the State to give full legislative force and effect to the international Declaration on Human Rights Defenders at the national level,' said Ms Pooja Patel of ISHR.

'The legal recognition and protection of human rights defenders in a specific law is a necessary, although by no means sufficient, element of establishing a safe and enabling environment for their work.'

'ISHR also joins with Human Rights Defender Alert India in calling for the National Human Rights Commission to fully mandate and resource their human rights defender focal point. Properly resourced, such focal points can provide protection to defenders at risk, document and follow up on alleged attacks and violations, review and advocate on laws that may affect defenders, and conduct training and education to raise awareness as to the necessity and legitimacy of defenders' work,' Ms Patel said.

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## **HUMAN RIGHTS COUNCIL MUST TO ACT ON LEGAL OBLIGATION TO END REPRISALS**

(Geneva/New York, 20 November 2014) - The UN Human Rights Council and its President and Bureau have a legal duty to prevent and promote accountability for threats and attacks against those who submit information or seek to engage with the Council, the International Service for Human Rights said today.

In a legal advice submitted on behalf of ISHR to the United Nations top human rights body, leading international law firm [Freshfields Bruckhaus Deringer](#) found that the Human Rights Council is '[legally obliged to take action](#) if it possesses information about a credible risk or allegation of reprisals', and to protect individuals who communicate, cooperate or seek to engage with the Council, its independent experts or the Universal Periodic Review process.

'Any failure by the Council to take appropriate action where it possess information about reprisals having occurred or a credible risk of their occurring would be inconsistent with its obligations,' said Sir Nicolas Bratza, a former President of the European Court of Human Rights and one of the authors of the legal opinion. Professor Egbert Myjer, a former judge of the European Court, is also a signatory to the advice.

In addition to developing the legal foundations of the Council's obligation, the advice details the resulting responsibilities of the Council's President and Bureau to 'protect the Council's process and defend its integrity', particularly as it relates to the right of civil society to participate fully and safely in its work.

'This legal opinion by a leading international law firm confirms what the Human Rights Council has itself recognised: reprisals are unacceptable and must end. It goes, further, however, by setting out the legal duty to translate this recognition into action,' said Michael Ineichen of the International Service for Human Rights.

'The worsening incidence of reprisals – with recent reports of intimidation, attacks, enforced disappearances and torture against human rights defenders and others who have engaged with the Council or its mechanisms in States including Cameroon, China, Egypt, Sri Lanka and Viet Nam – is prima face evidence that the Council is not discharging its duty,' Mr Ineichen said.

'This advice unequivocally underscores the need for concrete action by the Council to effectively prevent reprisals, provide protection to individuals, and ensure investigation and accountability where reprisals occur. We look forward to working with the Council's President, Bureau and Member States to implement these obligations and to substantially increase the political cost imposed on States who tolerate or carry out reprisals,' he concluded.

While the legal advice affirms the Council's special responsibility to prevent and address reprisals, it also underscores the need for the entire UN system to act. Despite the request by the Human Rights Council in Resolution 24/24, the UN Secretary-General is yet to appoint a United Nations-wide senior focal point to combat reprisals and intimidation, following a decision by [the Third Committee](#) of the General Assembly to postpone action on this resolution.

'Freshfields' legal advice is particularly timely because the United Nations as a whole is still struggling to live up to its legal obligation to protect those who cooperate.' said Eleanor Openshaw of ISHR's New York office

'There is a clear obligation - in law - that the United Nations as a whole address this system-wide problem. It's now imperative for the Third Committee to clear the way for the Secretary-General to designate the UN-wide focal point,' said Ms Openshaw.

In the absence of a UN wide focal point, however, the advice affirms the obligation for the Human Rights Council's response to be unified, internally consistent and to reflect the best practice of the United Nations human rights mechanisms. Failure of the Council to match the good practice of other mechanisms, including the [treaty bodies](#), would risk providing better protection to those who cooperate with some mechanisms rather than others.

'This would be antithetical to the United Nations' official position that human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and that all human rights must be treated in a fair and equal manner,' said Sir Nicolas Bratza.

Freshfields submitted the [legal advice](#) on behalf of the International Service for Human Rights. It was presented on 20 November by one of its main authors, Sir Nicolas Bratza, a former President of the European Court of Human Rights at the Palais des Nations in Geneva.

Freshfields is a leading global law firm, advising governments, multinational corporations and international organisations. It is one of just four firms worldwide ranked in Band 1 in the area of Public International Law by Chambers & Partners.

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## **MEXICO MUST ADDRESS IMPUNITY AND UPHOLD THE RIGHT TO DEFEND HUMAN RIGHTS DEFENDERS**

(Mexico City, 17 November 2014) - Authorities at all levels in Mexico must take action to address impunity for attacks and threats against human rights defenders, with structural impunity contributing to the severe vulnerability of defenders in the country, a group of international human rights experts said today.

Concluding a week-long visit, the International Civil Society Mission to Mexico identified gaps and deficiencies in both the scope and implementation of laws, policies and measures to protect defenders but also emphasised that such measures can only have limited effect so long as the overall environment for defending rights remains so hostile.

The International Civil Society Mission, made up of academics and activists from the Americas and Europe, visited four States during their mission - Baja California, the Federal District, Guerrero, and Oaxaca - meeting with local human rights defenders, as well as authorities at all levels. Defenders who testified to the Mission spoke of a range of attacks and threats to their work at the hands of State actors (at federal, state and municipal levels), actors involved in large-scale business projects, and individuals with ties to organised crime.

Women human rights defenders spoke of the particular vulnerability they can experience in terms of threats and attacks and in regard to a denial of access to justice. They noted that this was all the greater when they were indigenous women and living in rural areas, where poverty is endemic.

The Mission highlighted the importance of the public recognition of the work of human rights defenders in contributing to their safety and in preventing and responding to stigmatisation and attacks against them. Defenders spoke of the need for public recognition of their work on a periodic basis, as well as on the occasion of specific attacks against individual defenders.

The Mission received many reports of the criminalisation of the right to defend rights, particularly in the context of peaceful protest. They also highlighted the use of vaguely-worded legal provisions to criminalise defenders, such as in the case of [Ms Lucila Bettina Cruz Velázquez](#), who was charged with acts or omissions gravely affecting the 'national consumption and national wealth' ('el consumo y la riqueza nacional'). The stigmatisation of defenders provided a context where unfounded charges such

as the theft of a vehicle were made against defenders, with such judicial harassment being both time-consuming and expensive to the defenders.

The Mission acknowledged legislative initiatives and measures taken by the Mexican State for the protection of human rights defenders, including the 2012 enactment of a law establishing a protection mechanism for human rights defenders and journalists. However, the Mission noted that the protection mechanism needs to be strengthened, including through improved assessments of the risks defenders face and holding to pre-established timeframes for implementing assessments and measures.

‘Defenders spoke of cases where protection measures had been granted but not implemented, with the defender in question subsequently being the victim of yet another attack.’ said Eleanor Openshaw, who participated in the Mission for ISHR.

Several defenders said they had not approached the mechanism for protection because they doubted its effectiveness, opting instead to work with colleagues on measures of self-protection.

The Mission concluded that the mechanism has so far failed to properly implement policies or programs to prevent attacks against defenders. A unit mandated by the law, to analyse trends of attack against defenders and define preventative measures that include structural reform, has yet to be actually established or operationalised.

A major factor underlining the lack of protection defenders experienced was failure by the authorities at different levels to take responsibility for protection or investigations, frequently citing a lack of clarity as to where federal and state responsibilities start and end.

‘It is evident that a clearer articulation of state responsibilities and coordination between the various authorities at the different levels is needed for protection mechanisms to have any chance of working,’ said Ms Openshaw.

Ultimately however, the protection mechanism is simply a tool to allow defenders to keep working. Defenders safety and security cannot be guaranteed without prompt, thorough, impartial investigation of attacks and threats against defenders and the effective prosecution of those responsible, concluded Mission members.

In its trip to Guerrero, the Mission had the opportunity to visit the Normal Rural ‘Raúl Isidro Burgos’ in Ayotzinapa and meet with family members of the 43 students disappeared on 26 September this year.

‘We were able to express to family members the indignation we feel and many around the world feel for the disappearance of their sons, and to express our solidarity,’ said Ms Openshaw. ‘The disappearance of the students speaks to a situation of violence against those that claim their rights. It is also evidence of a profound culture of impunity in the region, where the rule of law appears to be barely existent. Mission members add our voices to all those that call for the students to be returned alive and for all those responsible for their disappearance to be held accountable.’

In a meeting with Federal authorities, including the Head of the Human Rights Unit of the Ministry of the Interior, mission members shared their preliminary conclusions ahead of their final report and recommendations, due early next year. Mission members expressed concern for the wellbeing of those defenders with whom they had met, calling upon the authorities to ensure the protection of defenders who had cooperated with the mission as part of the State’s obligations to protect against reprisals and uphold the right to defend human rights.

Organisations convening, accompanying and participating in the Mission were: [The Mexican Commission for the Defense and Promotion of Human Rights](#) (CMDPDH), [Peace Brigades](#)

[International – Mexico Project](#) (PBI México) and [Conexx – Europe](#), with the support of [Amnesty International Mexico](#), [Just Associates \(JASS\)](#), the International Service for Human Rights (ISHR), [Front Line Defenders](#), [Protection International \(PI\)](#), the [Robert F. Kennedy Center for Justice and Human Rights \(RFK Center\)](#), [the Observatory for the Protection of Human Rights Defenders \(OMCT/FIDH\)](#), and the German Coordinating Committee for Human Rights in Mexico.

The International Civil Society Mission is part of a broader effort to shine light on the situation for human rights defenders in Mexico. The Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH) has launched a campaign ‘Haz que se vean’ (Make them Visible) for this purpose. Follow the campaign at #HazQueSeVean

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## **IACHR AND UN RAPPORTEURS COMMIT TO COLLABORATION AND CALL ON STATES TO PROTECT HUMAN RIGHTS DEFENDERS**

(Washington DC, 4 November 2014) - At the 153rd Period of Sessions of the Inter-American Commission on Human Rights (IACHR) in Washington DC, the IACHR Rapporteur on the rights of human rights defenders, Commissioner José de Jesús Orozco Henríquez, and the United Nations Special Rapporteur on the situation of human rights defenders, Michel Forst, held a [working meeting](#) in which they committed to strengthen collaboration between their two mandates in order to provide better attention to human rights defenders.

‘This is an important commitment which can exponentially increase the potential of both mandates,’ said ISHR’s Eleanor Openshaw. ‘ISHR has consistently advocated for greater collaboration between the UN and regional human rights systems and we hope this commitment can be replicated across other special procedures and mechanisms’.

Both Rapporteurs condemned the widespread killings, threats, harassment and criminalisation of defenders in various countries across the region, as well as the failure of States to effective measures by for defenders at risk. They also took the opportunity to condemn reprisals against activists interacting with the systems they represent.

Forst said ‘I am extremely concerned with the increasing number of acts of intimidation and reprisals against human rights defenders in connection with their engagement with the United Nations human rights mechanisms or with regional organizations. These reprisals take the form of smear campaigns, travel bans, harassment, intimidation, direct threats, physical attacks and killings. We therefore urgently need to put an end to all forms of intimidation and reprisals against defenders who cooperate with the United Nations and the IACHR’.

Orozco, meanwhile, highlighted that, ‘it is urgent that States ensure that human rights defenders can exercise the right to defend human rights and that States refrain from imposing restrictions that hinder defenders’ work. In addition, it is necessary to move forward with national legislation that establishes mechanisms for the protection human rights defenders and to ensure their effectiveness’.

The meeting came towards the end of a week in which the IACHR hosted [several public hearings](#) underlining the vulnerability of human rights defenders in the region, including one – convened by the Commission itself – on the [criminalisation of defenders](#). Videos of all the public hearings can be found online [here](#).

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## **Key Developments in the Promotion and Protection of Human Rights**

### **WORRYING IMPUNITY FOR LGBT VIOLENCE IN RUSSIA**

After the adoption by the Russian Federation of the anti-LGBT ‘propaganda’ law in June 2013, growing numbers of LGBT people have been attacked and harassed across Russia. The law effectively legalized discrimination against LGBT people and cast them as second-class citizens. Authorities deliberately ignore the hate-crimes committed against them... [more](#)

### **THE GOVERNMENT WILL SLASH THE AUSTRALIAN HUMAN RIGHTS COMMISSION BY 30%**

The Human Rights Law Center denounces an announcement by the Australian Government that it will cut funding to the Human Rights Commission by around 30 percent. Such cuts will significantly weaken the Commission and reduce the Government’s accountability on human rights. There is also a concern that the decision may have been a politically motivated response to critics... [more](#)

### **CRITICS OF OMAN’S GOVERNMENT FACE HARASSMENT AND DETENTION**

Researchers have documented a pattern of arrests and detentions that violated fundamental political rights, including free speech. For example, security forces recently arrested Said al-Jaddad, a human rights activist and pro-reform blogger, without an arrest warrant. Human Rights Watch believes that Omani authorities should initiate reforms to bring Oman’s laws into compliance with international standards... [more](#)

### **COURT IN VIETNAM UPHOLDS IMPRISONMENT OF THREE PROTESTERS**

On 12 December 2014, the Dong Thap Appellate Court in Vietnam upheld the previous sentence handed down to human rights defender Ms Bui Thi Minh Hang and two other protesters, who were imprisoned on charges of ‘causing public disorder’. Ms Bui Thi Minh was one of the human rights defenders who were beaten and detained when attempting to visit the partner of a human rights lawyer who defends victims of forced evictions... [more](#)

### **INDIGENOUS HUMAN RIGHTS LEADER FROM ECUADOR WAS FOUND DEAD**

The body of an indigenous leader who opposed a major mining project in Ecuador has been found bound and buried. The finding came just days before the human rights defender planned to take his campaign to climate talks in Lima. Other indigenous leaders say the Ecuadorian Government is complicit in the crime... [more](#)

### **YES, HUMAN RIGHTS LAW MAKES A DIFFERENCE**

International human rights law may be far from perfect, but it does make a difference, said Michael O’Flaherty to Open Democracy. Often, it is its very existence that empowers human rights defenders, and its weaknesses should be the basis for sustained effort towards its strengthening... [more](#)

## Opportunities for NGO Engagement

### UNIVERSAL PERIODIC REVIEW

NGO written submissions for States that will be reviewed during the 23rd session of the UPR (2 -13 November - TBC) must be submitted to the UPR system by [23 March](#) (also tentative).

The States under review include: Micronesia, Lebanon, Mauritania, Nauru, Rwanda, Nepal, Saint Lucia, Oman, Austria, Myanmar, Australia, Georgia, Saint Kitts and Nevis, and Sao Tome and Principe.

### WORKING GROUP ON THE RIGHT TO DEVELOPMENT

The 16th annual session of the Working Group will be held from **27 April to 1 May** in Room XVI of the Palais des Nations in Geneva. All relevant documents for the 16th session will soon be made available [here](#).

Civil society is invited to send submissions to the Secretariat by e-mail to [r2d@ohchr.org](mailto:r2d@ohchr.org) no later than **31 January**. Submissions received thus far are available [here](#).

The documentation for the 16th session of the Working Group will contain only those submissions received in English and in MS Word or a compatible format. All submissions will be made available on the webpage of the Working Group.

### HUMAN RIGHTS COMMITTEE

The 113th session of the Human Rights Committee will take place from **16 March to 2 April** in Room XII of the Palais des Nations in Geneva. The Committee will examine the reports of Russian Federation, Cambodia, Ivory Coast, Cyprus, Monaco, and Croatia. The Committee will adopt lists of issues on the reports of Austria, Benin, Greece, Iraq, Republic of Korea, Suriname, and South Africa in the absence of a report.

The deadline for submitting information on States to be examined by the Committee is [20 February](#). The programme of work and other information related to the session can be found on [here](#).

### WEBCASTS OF THE TREATY BODY MEETINGS

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 at [www.treatybodywebcast.org](http://www.treatybodywebcast.org).

### CONSULTATIONS WITH UN SPECIAL RAPPORTEUR ON FREEDOMS OF PEACEFUL ASSEMBLY AND ASSOCIATION

Civil society and other relevant actors are invited to contribute information to an upcoming report of the UN Special Rapporteur Maina Kiai. The report will be presented to the Human Rights Council in June 2015 and will focus on the exercise of freedoms of peaceful assembly and association in the context of the **exploitation of natural resources**.

Information should be submitted by completing the questionnaire available in [English](#), [French](#), and [Spanish](#). Responses should to be sent by **31 January** to [freeassembly@ohchr.org](mailto:freeassembly@ohchr.org).

### CONSULTATION ON A DRAFT SET OF INDICATORS FOR FREEDOMS OF ASSOCIATION AND PEACEFUL ASSEMBLY

The UN Office of the High Commissioner for Human Rights is developing indicators for freedoms of peaceful assembly and association. It invites NGOs to comment the draft indicators available [here](#). Comments must be provided by **31 January** to [civilsociety@ohchr.org](mailto:civilsociety@ohchr.org).

### **FORTHCOMING COUNTRY VISITS BY SPECIAL PROCEDURES**

State of Palestine	Special Rapporteur on violence against women, 19 – 29 January
Cabo Verde	Special Rapporteur on adequate housing, 19 – 27 January
Kazakhstan	Special Rapporteur on Freedom of Peaceful Assembly and Association, 19 – 30 January
Portugal	Special Rapporteur on the independence of judges and lawyers, 27 January - 5 February

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**

### **CALL FOR HUMAN RIGHTS DEFENDERS**

Justice and Peace Netherlands is facilitating the Shelter City Initiative which creates the possibility for temporary shelter of human rights defenders who are threatened and under great pressure. The programme will shelter at least four human rights defenders and will provide housing, insurance, training, a daily allowance and an opportunity for the defender to share their story publicly.

To qualify for the programme, human rights defenders must enroll before **19 January** (application forms can be requested at [sheltercity@justiceandpeace.nl](mailto:sheltercity@justiceandpeace.nl)). They also need to be willing to travel to the Netherlands around 1 March, and be able to return to the country of origin after three months. They must speak English or French and be willing to speak in front of an audience.

If you know a human rights defender who is being threatened due to his or her activities and who could benefit from a temporary leave to the Netherlands, or you would like to request additional information, please contact [sheltercity@justiceandpeace.nl](mailto:sheltercity@justiceandpeace.nl).

## **New Resources**

### **ISHR'S REPRISALS HANDBOOK - NOW IN ARABIC AND FRENCH**

[ISHR's Reprisals Handbook](#) highlights the risks that defenders can face from interacting with international and regional human rights systems, and suggests ways in which they can leverage these systems to provide some degree of protection for themselves and promote accountability for perpetrators of acts of intimidation or reprisal. In doing so it does not aim to provide a fully comprehensive protection solution, but rather to complement measures that you should also take at the national level.

The handbook focuses, in particular, on the UN human rights system, the African Commission on Human and Peoples' Rights, the Inter-American Commission of Human Rights, and the Council of Europe.

The Handbook is available in [English](#), [Arabic](#) and [French](#), with further translations to come.

## **2014: THE YEAR IN ASSEMBLY & ASSOCIATION RIGHTS**

A new report has been launched by UN Special Rapporteur Maina Kiai on key developments in the area of freedom of assembly and association across the world in 2014. This report marks the Rapporteur's first "yearbook" of assembly and association rights – a year-end summary of the major developments of 2014, including important news events and the key activities of his mandate... [more](#)

## **A PRACTICAL GUIDE FOR CIVIL SOCIETY**

OHCHR, with input from civil society, has produced a guide entitled: '*Civil Society Space and the United Nations Human Rights System - A Practical Guide for Civil Society*'. This publication underlines issues related to the work of civil society actors. It explains concepts of civil society, challenges civil society actors face, and describes civil society space and elements for promoting it.

The PDF guide is available in [English](#), [French](#), [Spanish](#), [Arabic](#) and [Russian](#).

## **ISHR REPORT ON ENSURING A SAFE AND ENABLING LEGAL ENVIRONMENT FOR HUMAN RIGHTS DEFENDERS**

ISHR has recently published a significant report entitled '[From restriction to protection: Report on ensuring a safe and enabling legal environment for human rights defenders](#)'.

The report examines trends in the legal environment for human rights defenders from more than 40 countries from all regions and, based on that analysis, makes 25 key recommendations: 12 to build on existing good practice and 13 to reform restrictive practice.

## **CAMPAIGN HONOURS WOMEN HUMAN RIGHTS DEFENDERS**

The UN Human Rights Office is running a social media campaign using the hashtag [#reflect2protect](#), aimed at putting a spotlight on some of the essential work currently being undertaken by women human rights defenders.

The Office has also launched a publication entitled '[Women's Rights are Human Rights](#)', a handbook for anyone seeking to understand the basics of women's human rights – the legal standards, the political commitments, and specific issues of particular importance to women and girls' empowerment and rights.

## **BRIEFING PAPERS ON THE SITUATION OF HUMAN RIGHTS DEFENDERS FOR THE 21ST AND 22ND UPR SESSIONS**

ISHR has published a series of briefing papers on the situation of human rights defenders, intended to assist States and other stakeholders to formulate questions and recommendations regarding the protection of human rights defenders during the UPR.

Briefing papers for the upcoming 21st session of the UPR (19 - 30 January) are available on [Guinea](#), [Kenya](#), [Laos](#), [Spain](#) and [Turkey](#).

For the 22nd session of the UPR (4 - 15 May) the briefing papers are available on [Liberia](#), [Jamaica](#), [USA](#), [Libya](#) and [the Maldives](#).

## Case Notes on Decisions from International Human Rights Bodies

### Merits Decisions

#### KAZAKHSTAN FOUND LIABLE FOR REFUSING A RESIDENT'S ENTRY ON GROUNDS OF NATIONAL SECURITY

##### Ilyasov v. Kazakhstan (2009/2010)

###### Summary

In July 2014, the Human Rights Committee was asked to consider whether Kazakhstan's denying entry to an individual with permanent residency on grounds of national security violated the individual's rights under the Covenant.

The communication was submitted by a Russian national of Chechen ethnicity under the Optional Protocol to the Covenant.

###### Background

The author of the communication, Mr Timur Ilyasov, arrived in Kazakhstan in 1994 and subsequently received a permanent residence permit in 2000. In 2003, the author married a Kazakh national, with whom he later had a son.

On 14 February 2008, the author travelled together with his son to Russia, returning to Kazakhstan on 24 August 2008. The author was, however, refused entry by the border service of the National Security Committee (NSC) of Kazakhstan without explanation. The author's son, a Kazakh national, was granted entry and met by his mother at the border.

In contesting the NSC's decision, the author's wife requested the assistance of the Kazakhstan International Bureau for Human Rights and Rule of Law. The Bureau wrote a letter to the NSC requesting confirmation of the grounds upon which the author had been refused entry.

On 23 September 2008, the Deputy Commander of the NSC replied stating that the author was prohibited from re-entering the country in accordance with Kazakh migration law and for reasons of national security.

On 17 November 2008, the Bureau lodged a complaint on behalf of the author before the Astana City Court. On 21 November 2008, the Court refused to hear the complaint, stating that the Bureau did not have the necessary authorisation from the author to lodge the complaint. On 27 February 2009, the Bureau supplemented the complaint, claiming a violation of the author's right to receive information regarding the reason for his denied entry.

On March 2009, the Astana City Court rejected the complaint stating that the NSC had acted in accordance with the law and that the rights of the author had not been violated. The Court stated that the author had been denied entry by the NSC due to his alleged involvement in unspecified illegal activities in Russia.

On 4 March 2009, the Bureau sent a request to the NSC to declassify the information relating to the author's activities so that this information could be provided to the author. The NSC refused its disclosure on the basis that the information obtained from the Russian authorities was classified in accordance with the applicable Russian regulations.

On 16 March 2009, the Bureau submitted an appeal against the Astana City Court decision to the Sarsk Regional Court. On 21 April 2009, the Court rejected the appeal and confirmed the first instance decision.

On 18 May 2009, the Bureau filed a supervisory review request before the supervisory appeals board of the Sarsk Regional Court, which was rejected on 11 June 2009. On 16 July 2009 and 11 September 2009 respectively, the Bureau attempted to submit supervisory review requests to the Procurator-General of Kazakhstan and the Supreme Court. These requests were rejected on 16 August 2009 and on 15 October 2009 respectively.

On 21 July 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 Kazakhstan of his rights to: (i) adjudication of his claim by a competent judicial authority, (ii) freedom of movement, (iii) equality before the courts, (iv) family life, and (v) freedom from discrimination (under articles 2(3)(b), 12, 14, 23 and 26 of the Covenant respectively).

### **The Committee's decision**

Regarding the admissibility of the author's claims, the Committee found that the communication was admissible to the extent that it raised issues under articles 12, 17, 19(2), and 23 of the Covenant. The Committee found that the author's claims under article 2, 14 and 26 were inadmissible, either for lack of substantiation or for failure to exhaust all available domestic remedies (under articles 2 and 5(2)(b) of the Optional Protocol respectively).

On the merits, the Committee observed that the mere fact that a family member resided in Kazakhstan did not necessarily guarantee the author the right to re-enter the country. Referring to its General Comment 16, the Committee noted that a State party may deny the right of re-entry in pursuit of a legitimate aim. In the context of article 17 of the Covenant, the Committee also recalled that any interference with the family must be provided for by law, be in accordance with the provisions, aims and objectives of the Covenant and be reasonable in the particular circumstances of the case.

In the instant circumstances, the Committee considered that the author's denied entry into Kazakhstan constituted an interference with his family life. The author had been residing lawfully in Kazakhstan for 14 years before being refused re-entry, during which time he had developed a private and family life, with both his wife and son being Kazakh nationals.

In considering whether such interference was legitimate for the purposes of article 17, the Committee noted that the author had been refused entry to Kazakhstan for a period of more than three years. He had also not been informed of the specific reason for this decision, nor had he been given the possibility of accessing the necessary information to challenge the decision. No criminal investigation had been initiated against the author, either in Kazakhstan or in Russia, and his freedom of movement had been restricted solely on the basis of information that Kazakhstan had received from the intelligence service of another state. Further, the Committee observed that the author had later been allowed to re-enter Kazakhstan on the basis of intelligence information that he had renounced his illegal activities. On the basis of these observations, the Committee considered that Kazakhstan's interference with his family life had been arbitrary, contrary to articles 17 and 23 of the Covenant.

In addressing Kazakhstan's submission that the author's family could have resided together in Russia, the Committee noted the author's uncontested submission that his family was able to enter Russia for only limited periods of time. As the author's family life had been established in Kazakhstan for

over a decade, the Committee concluded that the possibility of a temporary relocation to Russia was not a viable alternative.

In light of the above, the Committee concluded that Kazakhstan had violated the author's rights under articles 17 and 23 of the Covenant. Having established a violation of articles 17 and 23, the Committee did not find it necessary to assess possible violations by Kazakhstan of articles 12 and 19.

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 and appropriate remedy, including adequate compensation. 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 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.*

## **THE NETHERLANDS URGED TO REFORM RULES ON CRIMINAL PROCEDURE AND THE RIGHT TO APPEAL**

### **Timmer v. Netherland (2097/2014)**

#### **Summary**

In July 2014, the Human Right Committee was asked to consider whether the Netherlands had failed to allow an individual convicted of assault to exercise his right to appeal in a meaningful way in violation of the individual's rights under the Covenant.

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

#### **Background**

On 23 July 2007, the author of the communication, Mr Gert Jan Timmer, was summoned to appear at the District Court of Arnhem on suspicion of assaulting a police officer and for failing to identify himself.

On 28 August 2007, the hearing was postponed until 10 October 2007 to allow the author the opportunity to read the case file, which he had not received in advance of the August hearing date.

At the hearing, the author was convicted of both offences and ordered to pay fines of EUR 170 for the assault and EUR 50 for not complying with the order to identify himself. No transcript of the hearing was produced, however, and no evidence-based reasoning was provided in the judgment (with Dutch criminal procedure permitting such an "abridged judgment" in the circumstances).

On the same day as his conviction, the author filed an appeal with the Court of Appeal in Arnhem.

On 8 January 2008, the Court of Appeal decided that the author's appeal would not be considered as the administration of justice did not require the case to be heard on appeal.

The author requested that the President of the Court of Appeal revise the decision of 8 January 2008. The President refused to do so in letters dated 13 and 23 December 2010.

On 2 February 2011, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that the Netherlands had violated his rights under article 14(5) of the Covenant to have his criminal conviction reviewed by a higher tribunal. He requested a full review of the criminal case against him, the clearing of his reputation, and damages for the violations of his rights and for reputational harm.

### **The Committee's decision**

Regarding the admissibility of the author's claims, the Committee found that the communication was admissible, as the author had exhausted all available domestic remedies and had sufficiently substantiated his claim, and the matter had not already been examined under another procedure of international investigation or settlement.

On the merits, the Committee found that the author's right to appeal under article 14(5) of the Covenant had been violated, due to the Netherlands' failure to provide conditions for a genuine review of his case by a higher tribunal and adequate facilities for preparation of his appeal. In particular, without access to a reasoned judgment or a trial transcript, the author had effectively been prevented from preparing an appeal.

In accordance with article 2(3) of the Covenant, the Committee observed that the Netherlands was under an obligation to provide the author with an effective and appropriate remedy, including adequate compensation. The Committee considered that the financial compensation of EUR 1,000 proposed by the Netherlands did not on its own constitute an effective remedy as it did not provide for a review of the author's criminal conviction, contrary to article 2(3)(a) of the Covenant. The Committee also found that the Netherlands should bring the relevant legal framework into conformity with the requirements of article 14(5) of the Covenant.

The Netherlands must now submit its written response within six months of the Committee's decision, including information on the action taken in 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.*

## **Admissibility decisions**

### **Human Rights Committee dismisses complaints against Bulgaria, Belarus, Australia, Azerbaijan, Argentina and France**

#### **S.I.D. et al. v. Bulgaria (1926/2010)**

In July 2014, the Committee was asked to consider whether Bulgaria had violated its obligations under articles 2, 17 and 26 of the International Covenant on Civil and Political Rights in failing to uphold the rights to an effective remedy, freedom from unlawful and arbitrary interference with the home, and freedom from discrimination before the law. The communication was submitted by 37 Bulgarian nationals of Roma ethnicity. The Committee considered that the authors' claims were inadmissible under article 2 of the Optional Protocol for lack of substantiation.

#### **Yachnik v. Belarus (1990/2010)**

In July 2014, the Committee was asked to consider whether Belarus had violated its obligations under articles 2, 18 and 26 of the International Covenant on Civil and Political Rights in failing to uphold the right to an effective remedy, freedom of religion, and freedom from discrimination before

the law. The author of the communication was Ms Yachnik, a Belarusian national. The Committee considered that the author's claims were inadmissible under article 2 of the Optional Protocol for lack of substantiation.

**Hickey v. Australia (1995/2010)**

In July 2014, the Committee was asked to consider whether Australia had violated its obligations under articles 2, 6 and 26 of the International Covenant on Civil and Political Rights in failing to uphold the right to an effective remedy, the right to life, and freedom from discrimination before the law. The author of the communication was Ms Hickey, an Australian national. The Committee considered that the author's claims were inadmissible under article 2 of the Optional Protocol for lack of substantiation.

**Huseynov v. Azerbaijan (2042/2011)**

In July 2014, the Committee was asked to consider whether Azerbaijan had violated its obligations under articles 7, 10, 14, 15 and 26 of the International Covenant on Civil and Political Rights in failing to uphold the right to freedom from cruel or inhuman treatment, respect for the inherent dignity of the human person in detention, equality before the courts, the prohibition of retroactive criminal law, and freedom from discrimination before the law. The author of the communication was Mr Huseynov, a national of Azerbaijan. The Committee considered that the author's claims were inadmissible under article 2 of the Optional Protocol for lack of substantiation.

**D'Amore v. Argentina (2071/2011)**

In July 2014, the Committee was asked to consider whether Argentina had violated its obligations under articles 2, 14 and 26 of the International Covenant on Civil and Political Rights in failing to uphold the right to an effective remedy, equality before the courts, and freedom from discrimination before the law. The author of the communication was Mr D'Amore, a national of Argentina. The Committee considered that the author's claims were inadmissible under article 2 of the Optional Protocol for lack of substantiation.

**Pronina v. France (2390/2014)**

In July 2014, the Committee was asked to consider whether France had violated its obligations under articles 2 and 14 of the International Covenant on Civil and Political Rights in failing to uphold the right to an effective remedy and equality before the courts. The author of the communication was Ms Pronina, a Russian citizen. The Committee considered that the author's claims were inadmissible under article 2 and 5(2)(a) of the Optional Protocol for lack of substantiation and the matter having already been examined under another procedure of international investigation or settlement.

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