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Opinion

STATES AND THE UN MUST SUPPORT NGO PARTICIPATION AND PLURALITY

*By Marta Mauras, Ambassador of Chile to the UN
in Geneva and former Vice-Chair of the UN
Committee on the Rights of the Child*

*States should recognise NGOs as vital and
legitimate stakeholders in the promotion and
protection of human rights and support their full
and active participation at the UN, says Chile's
Ambassador to the UN, Marta Mauras.*

In Chile, civil society actors and organisations played a key role in defending human rights during the military dictatorship and during our transition back to democracy. They continue

to have a prominent influence in strengthening public policies and institutions today. A well-known example is the 'pinguinos', student marches of six years ago to press for education reform away from privatisation. Today some of those students have themselves become parliamentarians, and as such are faced with legislating on an important reform of the education system, with students' organisations and many others knocking at their doors to be heard.

Together with Ireland, Japan, Sierra Leone and Tunisia, Chile promoted Human Rights Council Resolutions 24/21 in 2013 and 27/31 in 2014 on protecting 'civil society space' with the conviction that it is essential for States to maintain and reinforce efforts to strengthen the role of civil society and freedom of expression and association at home and in the international human rights system. Recall this was one of the more debated resolutions last September, with several amendments that were put to the vote but did not succeed.

This is also why last year, along with Uruguay and Mexico, Chile intervened in the ECOSOC NGO Committee meeting to stress that the Committee's role as set out in ECOSOC Resolution 31/1996 is to open and facilitate channels and spaces of action and participation in the UN. This was done in the face of what we think is a lamentable tendency to restrict civil society space and freedom of expression

and association, which in the UN is transformed into restrictions to NGOs. At the same time we welcomed that in the last session of the NGO Committee consultative status was granted to an important organisation, ARC International, in line with the strengthening of the diversity of voices which the UN should embrace.

From the perspective of a former member of a treaty body, the Committee on the Rights of the Child, civil society organisations play a crucial role. First, they provide information based on evidence and direct experience, often complementing scarce or general data. Second, they offer a complementary experience to that of the State. Third, they can provide concrete examples of situations that help understand better the context, decisions and their impact on human rights. Fourth, they explore new issues affecting human rights. It was NGOs, for example, that brought the issue of business and human rights to the attention of the Committee on the Rights of the Child, leading to the development and adoption by the CRC of its General Comment No 16 'on State obligations regarding the impact of the business sector on children's rights'. Finally, and most importantly, NGOs are essential to promote and implement the treaties and conventions and the recommendations by treaty bodies.

In the Human Rights Council, resolutions 24/21 and 27/31 clearly acknowledge this role. But we also need to listen to those States who express concerns on what is a civil society organisation, how to ensure they are independent, what is their financing and other such questions that need transparency from all parties concerned.

We believe that as the world opens up to more globalisation, civil society organisations are increasing in importance; supporting, complementing and completing efforts by States to realise human rights, not only in their legitimate capacity as critics or opponents but also as fellow stakeholders in policy and programme decisions by States.

Thus we believe that what needs to become the criteria for NGO participation in the UN are considerations of independence, diversity, plurality and alignment with the principles and purposes of the UN Charter. Too often we see objections presented year after year in the NGO Committee in the form of questions that challenge NGO applicants for ECOSOC consultative status. While this is legitimate in keeping with standards, these cannot become shackles for participation by smaller NGOs, or those that espouse specific causes, or those coming from remote areas. For the treaty bodies, the closer to the ground and more specialized, the more useful an NGO typically is. Treaty bodies, the Human Rights Council and other mechanisms and organs within the UN human rights system, need to listen to children, to persons with disabilities, to women victims of violence, and so on.

Therefore, we believe the system needs strengthening by ensuring the UN is a space that guarantees the right to freedom of expression of ideas and opinions. While civil society organisations and NGOs do not replace States, they complement them. This is relevant especially regarding human rights-focused NGOs, because States have committed to adopt legal and practical measures to create a safe and positive environment for human rights defenders to act freely and securely. In this sense, we believe the efforts of the Council to create some sort of a UN focal point to support human rights defenders and protect them against intimidation and reprisals needs to be pursued.

Finally, on their side, civil society organisations need to ensure their contributions to the UN are solid, in that they are well researched, verified and appropriately documented. They should actively seek opportunities to work in support of visits of experts and missions by human rights mechanisms, in addition to making their voices be heard in conferences and at meetings. The [Practical Guide to the UN Committee on NGOs](#), launched by ISHR, is a very good help to all of us.

This is an edited version of remarks delivered by Ambassador Mauras at an [event co-hosted by ISHR and the Australian Mission](#) to the UN in Geneva on 22 April 2015.

NGO PARTICIPATION AT THE UN: A ROADMAP FOR REFORM

By Jean-Daniel Vigny, Swiss human rights expert and member of the ISHR Board

(Geneva, 27 April 2015) - After being posted for 4 years - from 2007 to 2011 - in New York as a Swiss human rights diplomat to the UN, I would now like - in my capacity as a senior international human rights expert and member of the board of ISHR - to share my personal experience with the ECOSOC Committee on NGOs and to outline five key recommendations about how to improve its work at the political and operational levels

As an observer to the NGO Committee, I actively took the floor each year during its main and resumed session to support numerous Swiss NGOs or international NGOs based in Geneva – in particular human rights organisations - applying for consultative status to ECOSOC. I defended our NGOs when their representatives were on the podium to answer oral questions from the Committee and I myself sometimes even made comments and asked questions in the hope to help the NGO confronted with members of the Committee not favouring civil society. I also took the floor when our NGOs where confronted with odd questions or wrong critics on the quadrennial reports they have to present on their activities. I also had each year to defend one or two Swiss based NGOs threatened with a withdrawal or suspension of their consultative status by some members of the Committee. In most of such cases, it is impossible for the minority of the State members of the NGO Committee favourable to NGOs to successfully oppose such a decision. Thus, the only way out for the minority of the Committee is to oppose a withdrawal of the consultative status by reluctantly going for a consensus on a lesser evil, that is, a suspension of the NGO for 2 or 3 years. This works in general since the majority of the Committee prefers a consensus decision to a vote.

Since a majority of the NGO Committee usually has problems with NGOs from the North but is more positive towards NGOs from the South, in particular so called Governmental NGOs, it took as a general rule - with some positive exceptions - Swiss-based NGOs at least 3 sessions (this means one year and a half as a minimum) to obtain consultative status to ECOSOC. And the worst case scenario was reserved to NGOs concentrating on country-specific human rights situations, on women issues, in particular sexual and reproductive rights of women, on LGBTI rights, on minority issues, on caste, on freedom of expression and association, or on the abolition of the death penalty. In such cases, the majority of the NGO Committee members filibuster literally for years with a range of procedural tactics, including endless and repetitious questions, in order to stall or deny requests for consultative status, going even so far as to table a no action motion when confronted by a proposal to take action.

So, my first recommendation to Ministries of Foreign Affairs positively inclined to civil society participation at the national and international levels is to ask their missions in New York to attend

each session of the Committee and to commit themselves for their own NGOs. And believe me that is, alas, not the case yet since very few States do 'démarche' NGO Committee members bilaterally or take the floor to defend their NGOs. I also urge the few big international NGOs represented in New York, such as Amnesty International, Human Rights Watch and FIDH, to also attend the biannual sessions of the NGO Committee and be active or at least witness the way the majority of the Committee treats civil society.

An NGO applying for consultative status could also encourage the State where it is based to be more active in the Committee, including by asking parliamentarians to request the government to champion their application. And one should not forget that ECOSOC with 54 members compared to the 19 of the NGOCOM has occasionally overturned negative decisions by the Committee thanks to strong lobbying by Member States favourable to civil society! But this should be more often the case, especially when the majority of the Committee refuses through a no action motion to take a decision on a long overdue application for consultative status.

My second recommendation is to rally a large group of supporters for a common cause, the EU and the rest of WEOG and other friendly States of civil society from the East European Group, GRULAC, the African Group and the Asian Group. And I would dearly hope that many national and international NGOs from the world at large join the campaign to invest in reform of the system by joining the campaign for improved membership and modalities of the NGO Committee.

My third recommendation is to break the status quo of quasi permanent membership to the NGO Committee by some States not favourable to civil society by starting a wide international campaign in New York, Geneva and capitals by inciting States positively inclined to civil society to apply for membership to the Committee! There are indeed many such States in the WEOG, the East European Group, GRULAC and several ones in the African Group as well as a few in the Asian Group.

My fourth recommendation is a rather difficult one: since several rules of procedure and methods of work set out in ECOSOC resolution 1996/31 have been misinterpreted by a majority of the NGO Committee, ECOSOC could develop an 'interpretative guide' for the Committee on the application of ECOSOC resolution 1996/31. Another option would be to consult progressive States on the possible inclusion - in the ECOSOC yearly resolution on the NGO Committee - of a paragraph calling for all applications for consultative status to be forwarded to ECOSOC for decision within a 3 years limit, thereby short-circuiting the present practice of repeated deferral of many applications.

My fifth and final recommendation is to continue to share cases of denial or repeated deferral of consultative status as reprisals with the Special Rapporteur on Freedom of Association and Assembly and to pursue implementation of his recommendations to strengthen NGO participation at the UN and in other multilateral fora. We could also encourage the Special Rapporteur on Human Rights Defenders to study, report and make recommendations as to the reform of the NGO Committee, including in relation to the misapplication of ECOSOC resolution 1996/31.

Finally let's make ISHR's [Practical Guide to the UN Committee on NGOs](#) known to the national and international civil society at large in Geneva, New York as well as in regions and cities of the world!

This is an edited version of remarks delivered by Ambassador Mauras at an [event co-hosted by ISHR and the Australian Mission](#) to the UN in Geneva on 22 April 2015.

STRENGTHENING NGO ACCESS AND PARTICIPATION AT THE UN

By the Presidency of the UN Human Rights Council

(Geneva, 22 April 2015) - It cannot be stressed enough that for the efficiency and functionality of the Human Rights Council it is absolutely vital that we focus on our core competencies and unique features, which includes working in close cooperation with civil society. Civil society is at the core of human rights, at the core of our work in the Human Rights Council.

To further strengthen this core, we need to have a dynamic and interconnected civil society that can contribute to change on the ground by translating State commitments into laws, policies and actions. And for this to happen, the effective and active participation of NGOs in the Human Rights Council and its mechanisms is instrumental. We simply cannot fulfil the Council's mandate without them.

It is, therefore, important to ensure that the established avenues for their engagement with the Council are open and accessible. The main avenue made available to civil society is via applying for accreditation to the UN to obtain Economic and Social Council (ECOSOC) 'consultative status'. As outlined in resolution 1996/31, this status grants NGOs, among other privileges, the opportunity to deliver oral and written statements at the Council sessions and to organise side events.

The United Nations Committee on Non-Governmental Organisations (the 'UN Committee on NGOs') is the body responsible for the consideration of NGO applications for ECOSOC accreditation with the UN human rights system. Yet, what is worrisome is the fact that according to the UN Special Rapporteur on Human Rights Defenders in his report to the HRC's 27th session, several stakeholders have voiced concerns about the large number of deferrals and perceived lack of transparency in decisions on consultative status of NGOs.

With regards to NGO participation in our Council specifically, the Special Rapporteur on Freedom of Peaceful Assembly and of Association highlights that most accreditation difficulties are faced by NGOs working on human rights, with applications to the Committee pending for as long as 7 years.

Applying the criteria for assessing NGOs in a transparent and fair manner is of critical significance when it comes to determining which members of civil society are given the right to engage with our Council. This is because the effectiveness of our work is crucially underpinned by the participation of civil society actors. At this point, let me warmly congratulate ISHR on the launch of their new [Handbook on the UN Committee on NGOs](#), which I sincerely hope will help to further broaden civil society participation in the work of our Council.

In this context, let me also underline that my Bureau and I are particularly worried about recurring cases of reprisals and intimidation against members of civil society who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights. As the Presidency of the Council, we have called and will continue to call upon States to prevent and ensure adequate protection against such acts. It is our strong belief that NGO participation is invaluable to the work of our Council, and, as such, we have to do our utmost to protect it – a cause the Presidency, in close cooperation with OHCHR, is committedly pursuing.

NGO participation means having a window to the 'reality on the ground'. It means receiving knowledge from a unique source of information about the local implementation of our international commitments and indications of where human rights challenges lie.

NGO participation also means having a more frank and open discussion on human rights- a necessary condition for fulfilling our mandate.

Furthermore, participation of civil society in the Human Rights Council means creating more awareness about human rights violations globally and holding States accountable for their actions vis-à-vis their constituencies and for their commitments voiced during the Universal Periodic Review. A fully active civil society can help bridge the 'protection gap' between the rights of individuals and the responsibilities of us, as States.

Therefore, strengthening and supporting civil society's role in the Council, means strengthening the Council itself, ensuring its continued relevance, effectiveness and impact.

None of us on our own, Governments included, have all the facts, best ideas, or know all the reasons underlying the problems we are trying to address. We can only benefit from collective wisdom. With this in mind, it is vital for us, States, to hear from all stakeholders, especially marginalised voices, in order to take practical steps for effectively implementing our human rights commitments.

Still today, many people around the world are not guaranteed their basic rights and they look to our Council to defend them, their freedoms and their dignity. It is my conviction that civil society is and always will be indispensable to better addressing this call, which is why NGO participation in the Council is invaluable and must be protected. We cannot do this work alone. And we should not underestimate the impact we can have if we work collectively.

This is an edited version of a statement delivered by Vice-President of the Human Rights Council, Ambassador Filloreta Kodra, at an event hosted by the Permanent Mission of Australia to the UN in Geneva on 22 April 2015.

Director's Update

SUPPORTING HUMAN RIGHTS DEFENDERS AND ACHIEVING HUMAN RIGHTS CHANGE: ISHR'S 2015 ANNUAL REPORT

(Geneva, 25 April 2015) - We're delighted to present our [2015 Annual Report](#).

This Annual Report is dedicated to Chinese human rights defender, lawyer and democracy activist, Cao Shunli.

Abducted at Beijing airport en route to Geneva to participate in an ISHR training programme in September 2013, Cao was detained incommunicado, denied access to adequate health care, and died in custody on 14 March 2014.

Nothing will atone for Cao's death. Throughout 2014, however, her life served as an inspiration for ISHR's work to strengthen the protection of human rights defenders, to combat and ensure accountability for attacks against them, and to support them in exercising the right to advocate and seek justice at the United Nations that Cao was denied.

The spurious charges used to justify Cao's detention – 'illegal assembly', 'picking quarrels' and 'creating disturbances' – are illustrative of the use and abuse of laws to restrict and criminalise the work of defenders in many countries throughout the world. The importance of a conducive legal environment for civil society actors drove our successful advocacy to reform anti-protest laws in Australia and enact a specific law to protect human rights defenders in Côte d'Ivoire.

The abduction and detention of Cao is emblematic of the enforced disappearance and arbitrary detention of so many human rights defenders around the world. While tragically unsuccessful in securing Cao's release, ISHR's high-level lobbying and advocacy did contribute to securing the release of human rights defenders from imprisonment in other States, including Bahrain, Niger and Sri Lanka.

Read here about [how we achieve impact](#).

The actions to prevent Cao from testifying at the UN reflect the worsening incidence and severity of reprisals against those who turn to regional and international mechanisms to seek justice and exercise the right to freedom of expression denied to them at home. Cao's case informed our strategic advocacy to strengthen mechanisms to end reprisals, including the mandating of a special rapporteur to combat reprisals in Africa.

Following Cao's death, ISHR coordinated civil society action within the Human Rights Council to honour her life and secured high-level statements from the UN Secretary-General and the US State Department, among others, condemning her death. China may have been successful in silencing Cao, but in so doing the Chinese Government paradoxically demonstrated the importance and impact of international human rights advocacy and strengthened the voices and resolve of national-level human rights defenders all over the world. Throughout 2014, ISHR was privileged to support hundreds of activists – from Afghanistan to Venezuela, and from Liberia to Thailand – to use the UN and regional mechanisms as levers for concrete human rights change.

Read here about [where we achieve impact](#).

This [annual report](#), and the human rights achievements it records, is dedicated to Cao Shunli and the many human rights defenders who have died or been disappeared in connection with their vital and courageous work.

Thank you for [standing with us](#) and with them.

Rosemary McCreery, ISHR Chairperson

Philip Lynch, ISHR Director

Our Work to Support Human Rights Defenders

SYRIA: HUMAN RIGHTS ORGANISATIONS MARK BIRTHDAY OF RAZAN ZAITOUNEH WITH RENEWED CALL FOR RELEASE OF 'DUMA FOUR'

(Geneva, 28 April 2015) - To mark the 38th birthday (on April 29) of missing human rights defender and lawyer **Razan Zaitouneh**, head of the Violations Documentation Centre in Syria (VDC), winner of the 2011 Sakharov Prize for Freedom of Thought and the 2011 Anna Politkovskaya Award of RAW in WAR (Reach All Women In War), the undersigned human rights organisations today reiterate their call for her immediate release, as well as that of her missing colleagues **Samira Khalil**, **Nazem Hamadi** and **Wa'el Hamada**.

On 9 December 2013, the four human rights defenders, collectively known as the 'Duma Four', were abducted during a raid by a group of armed men on the offices of the VDC in Duma, near Damascus. There has been no news of their whereabouts or health since.

The VDC is active in monitoring and reporting on human rights violations in Syria and the undersigned organisations believe that the abduction of the four activists was a direct result of their

peaceful human rights work. Their ongoing detention forms part of a wider pattern of threats and harassment by both government forces and non-state actors seeking to prevent human rights defenders exposing abuses.

In the months prior to her abduction, Razan Zaitouneh wrote about threats she had been receiving and informed human rights activists outside Syria that they originated from local armed groups in Duma. The most powerful **armed group operating in Duma at the time of the abductions was the Army of Islam headed by Zahran Alloush**. In April 2014, Razan Zaitouneh's family issued a statement saying they held Zahran Alloush responsible for her and her colleagues' wellbeing given the large presence his group maintained in the area.

The undersigned organisations, as well as other activists, have been calling for the release of the 'Duma Four' since their abductions. Today they again urge the Army of Islam and other armed groups operating in the area to take immediate steps to release the abducted VDC staff, or investigate their abduction and work for their release. They further urge governments that support these groups, as well as religious leaders and others who may have influence over them, to press for such action, in accordance with United Nations Security Council Resolution 2139, which 'strongly condemns' the abduction of civilians and demands and immediate end to this practice.

Razan Zaitouneh has been one of the key lawyers defending political prisoners in Syria since 2001. She has played a key role in efforts to defend the universality of human rights and support independent groups and activists in Syria. Along with a number of other activists, she established the VDC and co-founded the Local Coordination Committees (LCCs), which co-ordinate the work of local committees in various cities and towns across Syria. She also established the Local Development and Small Projects Support Office, which assists non-governmental organisations in besieged Eastern Ghouta.

Samira Khalil has been a long-time political activist in Syria and had been detained on several occasions by the Syrian authorities as a result of her peaceful activism. Before her abduction, she was working to help women in Duma support themselves by initiating small income-generating projects. Wa'el Hamada, an active member of the VDC and co-founder of the LCC network had also been detained by the Syrian authorities. Before his abduction he was working, together with Nazim Hamadi, to provide humanitarian assistance to the residents of besieged Eastern Ghouta.

Signatories:

- | | |
|--|--|
| 1. Alkarama Foundation | 8. Bahrain Centre for Human Right |
| 2. Amman Center for Human Rights Studies | 9. Defending prisoners of conscience in Syria Organization |
| 3. Amnesty International | 10. Cairo Center for Development (CCD) |
| 4. Arab Foundation for Development and Citizenship | 11. Canadian Journalists for Free Expression (CJFE) |
| 5. Arab Network for Human Rights Information (ANHRI) | 12. Centre for Democracy and Civil Rights in Syria |
| 6. Arab Organization for Human Rights in Syria | 13. Committees for the Defending Democratic Freedoms and Human Rights in Syria |
| 7. Badael Foundation | |

14. El-Nadeem Center for Rehabilitation of Victims of Violence
15. Enmaa Center for Democracy and Human Rights
16. Fraternity Center for Democracy and civil society
17. Front Line Defenders (FLDs)
18. Freedom House
19. Gulf Center for Human Rights
20. Human Rights Fist Society , Saudi Arabia
21. Human Rights Organization in Syria - MAF
22. Human Rights watch (HRW)
23. Humanist Institute for Co-operation with Developing Countries (HIVOS)
24. Hand in Hand Organization , Syria
25. Monitor for Human Rights in Saudi Arabia
26. Index on Censorship
27. International Media Support (IMS)
28. International Centre for Supporting Rights and Freedoms
29. International Civil Society Action Network (ICAN)
30. International Service For Human Rights (ISHR)
31. The Tunisian Initiative for Freedom of Expression
32. Institute for War and Peace Reporting (IWPR)
33. International Federation for Human Rights (FIDH) under the Observatory for the Protection of Human Rights Defenders
34. Iraqi Women Network
35. Iraqi Journalists Rights Defense Association (IJRDA)
36. Iraqi Network for social Media
37. Kurdish Committee for Human Rights in Syria (observer)
38. Kurdish Organization for Human Rights in Syria (DAD)
39. Kvinna till Kvinna Foundation
40. Lawyers for Lawyers
41. Lulua Center for Human Rights
42. Madad NGOs
43. Maharat Foundation
44. MENA Media Monitoring group
45. Metro Centre to Defend Journalists in Iraqi Kurdistan
46. National Organization for Human Rights in Syria
47. Nazra for Feminist Studies
48. No Peace Without Justice (NPWJ)
49. One World Foundation (OWF)
50. Omani Observatory for Human Rights
51. World Organization Against Torture (OMCT) under the Observatory for the Protection of Human Rights Defenders
52. Pax for Peace – Netherland
53. Pen International
54. Reach All Women in War (RAW)
55. Reporters Without Borders (RSF)
56. Sentiel Human Rights Defenders
57. Syrian American Council (SAC)
58. Syrian Center for Media and Freedom of Expression (SCM)
59. Syrian Center for Legal Researches & Studies
60. Syrian Journalists Association
61. Syrian Network for Human Rights (SNHR)
62. Syrian League for Citizenship
63. Violations Documentation Center in Syria (VDC)
64. Yemeni organization for defending human rights and democratic freedom

HONDURAS: END DEFAMATION OF HUMAN RIGHTS DEFENDERS, GUARANTEE THEIR SECURITY AND LEGISLATE FOR THEIR EFFECTIVE PROTECTION

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

(Geneva, 16 April 2015) - ISHR today called upon Honduras to end the wave of [stigmatisation](#) against human rights defenders, which apparently constitutes a reprisal for having exercised their right to interact with the UN Human Rights Council's Universal Periodic Review (UPR) process. ISHR also joined other civil society organisations in demanding that the Honduran Congress incorporate civil society feedback into the draft law for the protection of defenders, currently at risk of passing in a severely weakened form.

In a [public letter](#) to the President of the Congress (also available in [Spanish](#)), ISHR – together with the Honduran Human Rights Defenders Network, CEJIL, JASS and Protection International – congratulated the previous work of Congress to involve civil society in the process of drafting *the Law to protect human rights defenders, journalists and justice operators*. However, local defenders and international NGOs warned that the law would be ineffective if passed in its current state. ISHR had previously recommended the incorporation of civil society input into the law as part of a [submission](#) to Honduras' upcoming UPR.

'In the context of the UPR, Honduras has an important opportunity to demonstrate its commitment to human rights defender security,' said ISHR's Ben Leather. 'Regrettably, the current draft of the human rights defender protection law is inadequate. Only a law which incorporates human rights defender input will be effective, with a weak law being as bad as no law.' Local and international human rights organisations provided a list of inputs and recommendations to the Congress in August last year which have not been adequately reflected in the draft law.

The move to pass a weakened law comes against a backdrop of reprisals against human rights defenders seeking to use the UPR to demand better human rights protection. Honduras will be reviewed in May and defenders travelled to Geneva last week to participate in UPR pre-sessions. Their participation provoked a surge of defamatory statements by public officials and journalists, suggesting that activists seek to [denigrate](#) the country, [undermine](#) the government, and make [money](#) through their actions. In a disturbing parallel of recent reprisals in [Venezuela](#), officials also suggested that civil society participation in the Inter-American Human Rights Commission in [Washington](#) is evidence of the same vested interests. Among those making the defamatory comments are the Foreign Affairs Minister, staff of the Presidency and large national newspapers. Many comments refer explicitly to civil society participation in the UPR process.

'Human rights defender participation is central to the UPR process', said Mr Leather. 'This wave of stigmatisation is a threat to the security of defenders. We call upon Honduras to abide by its obligations under international law to protect human rights defenders and safeguard against reprisals. Stigmatisation must cease, those guilty should be sanctioned, and measures must be put in place to protect those at risk. The world is watching'.

'It is clear under international law, including Human Rights Council Resolution 25/18, that Honduras has a duty to create a safe and enabling environment for human rights defenders. Now is a crucial time for that obligation in Honduras: the State must act urgently both to combat these reprisals and guarantee that a strong law for human rights defender protection is passed, rather than the current weakened version,' Mr Leather concluded.

The letter to the Congress outlines the following key flaws in the current draft of the law:

- The National Protection System created would not be guaranteed autonomy. Civil society has consistently argued that this must reside in the Secretary of State for the Offices of Human Rights, Justice, the Interior and Decentralisation, but be given certain budgetary and decision-making autonomy if it is to be effective.
- The conformation of the defenders' protection mechanism contemplates the participation of the military. Civil society have demonstrated that the army is not prepared for protecting activists, nor is it constitutionally mandated to do so.
- Human rights defender representation on this mechanism has decreased from five to two, and has been conditioned upon their accreditation by the Honduran NHRI. Thus, independent civil society oversight is limited.
- The representation of judges and magistrates on the mechanism has also been limited.

ISHR and other local and international NGOs will also be encouraging other actors – such as UN Special Procedures, the diplomatic community in Honduras and the President of the Human Rights Council - to act according to their responsibilities by raising these issues with the Honduran authorities and taking steps to support and protect local defenders.

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

BAHRAIN: RELEASE NABEEL RAJAB IMMEDIATELY AND UNCONDITIONALLY

(Geneva, 14 April 2015) - Bahraini authorities should immediately and unconditionally release Nabeel Rajab and drop all charges against him, ISHR and a coalition of Bahraini and international human rights NGOs said in a joint statement today.

Joint Statement:

We in the Bahrain and international human rights NGO community condemn the arrest and detention of Nabeel Rajab, a prominent human rights defender in the Kingdom of Bahrain. On 4 April, the Bahrain Public Prosecution Office renewed Mr Rajab's pretrial detention for a further 15 days. We call on the Bahraini authorities to immediately and unconditionally release Mr Rajab and to drop all charges against him.

On 2 April 2015, security forces surrounded Mr Rajab's home and arrested him in relation to two new charges involving a series of recent tweets and an opinion piece published in the Huffington Post. The first charge is for 'insulting a statutory body' in connection with his documentation of mistreatment and torture in Bahrain's Jau Prison. The second charge of 'spreading rumours during wartime' relates to his reporting on civilian deaths in Yemen, in contravention of a government prohibition of any public mention that is critical of the conflict. If he is convicted on all current charges, Mr Rajab could face more than 10 years in prison.

At the request of the public prosecution, Bahraini authorities advanced Mr Rajab's scheduled appeal hearing from 15 April to 5 April, only to adjourn it to 5 May. This appeal concerns the six month sentence handed down to Nabeel Rajab on 20 January in relation to a tweet critical of the Bahraini Ministries of Interior and Defense.

Mr Rajab's continued harassment and prosecution is a clear violation of his right to freedom of expression as guaranteed by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Declaration on Human Rights Defenders. Article 19 of the UDHR states that, 'everyone has the right to freedom of opinion and expression', while Article 19 of the ICCPR provides that, 'everyone shall have the right to freedom of expression; this right shall include the freedom to seek and impart information and ideas of all kinds'.

We therefore call on the government of Bahrain to immediately and unconditionally release Mr Nabeel Rajab from custody and drop all charges against him. We further call on Bahrain to ensure free and peaceful expression, and to cease all harassment of and restrictions against civil society and human rights defenders in Bahrain.

Sincerely,

1. Americans for Democracy & Human Rights in Bahrain (ADHRB)
2. Bahrain Center for Human Rights (BCHR)
3. Bahrain Human Rights Society (BHRS)
4. Bahrain Institute for Rights and Democracy (BIRD)
5. CIVICUS: World Alliance for Citizen Participation
6. English PEN
7. European Centre for Democracy and Human Rights (ECDHR)
8. FIDH, within the framework of the Observatory for the Protection of Human Rights Defenders
9. Index on Censorship
10. International Service for Human Rights (ISHR)
11. No Peace Without Justice
12. OMCT, within the framework of the Observatory for the Protection of Human Rights Defenders
13. Rafto Foundation for Human Rights
14. VIVARTA
15. World Movement for Democracy

Background:

Mr Nabeel Rajab is the President and Co-Founder of the Bahrain Center for Human Rights, Deputy Secretary General of the International Federation for Human Rights (FIDH), and a member of Human Rights Watch's Middle East Advisory Board.

Bahrain authorities have previously prosecuted Mr Rajab on politically motivated charges. They have never presented any credible evidence that Mr Rajab has advocated, incited or engaged in violence. Mr Rajab was detained from 5 May to 28 May 2012 for Twitter remarks criticizing the Interior Ministry for failing to investigate attacks carried out by what Mr Rajab said were pro-government gangs against Shia residents. On 28 June 2012, a criminal court fined him 300 Bahraini Dinars (US\$790) in that case. Authorities again detained Mr Rajab on 6 June 2012 for another Twitter remark calling for Prime Minister Khalifa bin Salman al Khalifa to step down. On 9 July 2012, a criminal court convicted and sentenced him to three months in prison on that charge. A court of appeal overturned that verdict, but in a separate case a criminal court sentenced him to three years in prison for organising and participating in three unauthorised demonstrations between January and

March 2012. An appeals court reduced the sentence to two years, which Mr Rajab completed in May 2014.

In September 2014, Mr Rajab travelled to Europe to call for stronger international action on Bahrain. He met with representatives of various governments, the European Union, the European Parliament, and participated in the 27th Session of the United Nations Human Rights Council.

On 1 October 2014, less than 24 hours after his return to Bahrain, Mr Rajab was summoned to the Criminal Investigations Directorate (CID) Cyber Crimes Unit for interrogation, where officers arrested and interrogated him for a number of hours in relation to a tweet he published while abroad. This arrest ultimately led to Mr Rajab's conviction on 20 January 2015, on charges of 'insulting public institutions,' referring to the Bahrain Ministries of Defense and Interior. The Bahraini Government charged him in relation to a tweet in which he criticised members of the Bahraini security forces who have joined the ISIS extremist group. Mr Rajab was charged under Bahrain's penal code which unduly restricts and criminalises, '[offending] by any method of expression the National Assembly, or other constitutional institutions, the army, law courts, authorities or government agencies'. The court sentenced him to six months in prison. Following international attention in his case, Mr Rajab was released on bail pending the completion of his appeal.

Most recently, Mr. Rajab was arrested on 2 April 2015 on separate charges of insulting a statutory body, and spreading rumours during wartime. The former charge is related to Mr Rajab's documentation of human rights abuses at Bahrain's Jaw Prison on social media. The latter is related to his documentation and criticism of Bahraini involvement in the Yemeni conflict in an opinion piece written for the Huffington Post.

Simultaneously, Mr Rajab's previous case has been reopened by the public prosecution, impeding his appeal. If these charges are upheld, and he is convicted of the new charges, Mr Rajab may face over 10 years in prison.

VENEZUELA: STOP HARASSING HUMAN RIGHTS DEFENDER

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

(Geneva, 8 April 2015) - Venezuela is intimidating and harassing human rights defenders, and making unsubstantiated allegations that they are seeking to undermine Venezuelan democracy, 28 international and Latin American human rights organisations, including ISHR, said today. The authorities' allegations concern the groups' legitimate functions of documenting abuses and representing victims before international human rights bodies.

Venezuelan authorities should cease this tactic immediately, the groups said. Governments participating in the Summit of the Americas in Panama on 10-11 April 2015 should press the administration of Nicolás Maduro to ensure that human rights defenders can do their job without fear of reprisals, the organisations said.

The government harassment is clearly intended to discredit and intimidate groups that document human rights violations, the groups said.

On 11 February, Diosdado Cabello, president of the National Assembly and member of the governing party, stated on the website of his weekly TV show, *Con el Mazo Dando*, aired on the state-run *Venezolana de Televisión*, that 'NGO representatives from the Venezuelan extreme right' would

participate in hearings before the Inter-American Commission on Human Rights (IACHR) in March. Cabello had previously criticised Venezuelan human rights defenders who participated in the country's review by the UN Committee Against Torture in Geneva, or travelled abroad to conduct advocacy meetings.

On 18 March, during his show, Cabello read a list of names of individuals and organisations that had traveled to Washington, DC to participate in the IACHR hearings. The list included leading human rights groups such as Provea, Espacio Público (Public Space), Observatorio Venezolano de Prisiones (Venezuelan Observatory of Prisons), Transparencia Venezuela (Transparency Venezuela), Cofavic, Codevida, and Observatorio Venezolano de Conflictividad Social (Venezuelan Observatory of Social Conflicts). Cabello accused them of receiving instructions from the US Embassy in Caracas before traveling to the hearings.

Cabello contends that the information presented on the show had been provided by anonymous 'patriotic informants' (*patriotas cooperantes*).

Twelve human rights defenders who arrived in Caracas on various flights between 20 and 22 March have said that they were followed by unidentified men from when they landed until they left the airport, were filmed or photographed, and/or that officials irregularly searched their bags.

On 23 March, María Alejandra Díaz, a lawyer who represented the government at the IACHR hearings, said on *Venezolana de Televisión* that 'The issue of human rights is just a façade' and that non-governmental groups that participated in the hearings 'say they are Venezuelan' but 'play the imperialist game' and 'lie in front of the IACHR to make Venezuela look like the devil.'

An article published on 3 April in the official newspaper *Correo del Orinoco* accused two well-respected human rights defenders of being part of the US Central Intelligence Agency's 'Venezuelan delegation' at the Summit of the Americas. Their objective is to 'legitimise destabilisation actions' in Venezuela, the article says.

Under international law, governments must ensure that human rights defenders are allowed to pursue their legitimate activities without reprisals, threats, intimidation, harassment, discrimination, or unnecessary legal obstacles. The Inter-American Court of Human Rights held in 2003 that '[r]espect for human rights in a democratic state depends largely on human rights defenders enjoying effective and adequate guarantees so as to freely go about their activities.'

The rights to freedom of expression and association may be subject to limitations, but the limitations must adhere to strict standards so that they do not improperly impede the exercise of those rights. Any restrictions should be prescribed by law, be necessary in a democratic society, and proportionate to the aim pursued.

In 2012, the UN special rapporteur on the rights to freedom of peaceful assembly and of association called on countries to ensure that these rights 'are enjoyed by everyone and any registered or unregistered entities' and that no one is subject to 'harassment, persecution, intimidation or reprisals' for exercising them.

Signatories

1. Amnesty International
2. Asociación Pro Derechos Humanos (APRODEH) (Peru)

3. Asociación por los Derechos Civiles (ADC) (Argentina)
4. Centro de Derechos Humanos de la Montaña Tlachinollan (Mexico)
5. Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh) (Mexico)
6. Centro de Estudios de Derecho, Justicia y Sociedad (Dejusticia) (Colombia)
7. Center for Justice and International Law (CEJIL)
8. CIVICUS
9. Ciudadanos en Apoyo a los Derechos Humanos, A.C. (CADHAC) (Mexico)
10. Comisión Colombiana de Juristas (Colombia)
11. Comisión Ecuémica de Derechos Humanos (CEDHU) (Ecuador)
12. Corporación Humanas (Chile)
13. Coordinadora Nacional de Derechos Humanos (Peru)
14. Due Process of Law Foundation (DPLF)
15. Instituto de Estudios Legales y Sociales del Uruguay (IELSUR) (Uruguay)
16. Instituto de Defensa Legal (IDL) (Peru)
17. Instituto de Desenvolvimento e Direitos Humanos (Brazil)
18. International Commission of Jurists
19. International Federation for Human Rights (FIDH)
20. International Service for Human Rights (ISHR)
21. Frontline Defenders
22. Fundación Myrna Mack (Guatemala)
23. Fundación Regional de Asesoría en Derechos Humanos (INREDH) (Ecuador)
24. Human Rights Watch
25. Observatorio Ciudadano (Chile)
26. Robert F. Kennedy Center for Justice & Human Rights
27. Transparency International
28. World Organization Against Torture

ENDING REPRISALS AGAINST HUMAN RIGHTS DEFENDERS: ISHR'S IMPACT IN 2014 AND VISION FOR 2015

(Geneva, 16 April 2015) - For many people, defending human rights can be dangerous work. From defamation to detention, and from enforced disappearances to executions, reprisals against human rights defenders and others for speaking out and seeking accountability through international and regional human rights mechanisms worsened in frequency and intensity throughout 2014.

At the same time, 2014 perhaps marked an inflection point for the international community in its resolve to combat reprisals, with unprecedented progress in the development of policies and mechanisms to address reprisals, much of it led by ISHR. Over the course of 2014, the African Commission on Human and Peoples' Rights became the first regional human rights body to establish a dedicated reprisals focal point, eight of ten UN treaty bodies appointed rapporteurs to investigate and follow up on allegations of intimidation and reprisals, numerous treaty bodies issued recommendations regarding the protection of human rights defenders, and a group of 56 States led

by Botswana renewed the call for the appointment of a high level official to protect those who seek to cooperate with the UN.

Read about the [impact of our work in 2014 to end and ensure accountability for reprisals against human rights defenders, and our vision of what we can achieve with your support in 2015.](#)

WOMEN HUMAN RIGHTS DEFENDERS: ISHR'S IMPACT IN 2014 AND VISION FOR 2015

(Geneva, 15 April 2015) - Around the world women human rights defenders face threats and risks for their work to challenge discrimination, patriarchy and entrenched privilege. ISHR stands with them in this work, providing intensive training and advocacy support, lobbying to ensure that the role and protection needs of women human rights defenders are reflected in international resolutions and standards, and working with women's rights activists and groups to promote the effective implementation of these resolutions and standards on the ground.

Read about the [impact of our work to support women human rights defenders in 2014, and our vision of what we can achieve with your support in 2015.](#)

DEFENDERS OF LGBT RIGHTS: ISHR'S IMPACT IN 2014 AND VISION FOR 2015

(Geneva, 15 April 2015) - 2014 was a year of both significant progress and disturbing regress in the protection and realisation of LGBT rights worldwide; on the one hand witnessing the adoption of the first ever resolution the rights of LGBT persons at the African Commission on Human and Peoples' Rights in May 2014, while on the other hand a number of countries proposed or enacted laws to criminalise advocacy and associations directed at promoting LGBT rights or equality.

ISHR's intensive training and advocacy support to LGBT rights defenders helps to leverage international and regional human rights mechanisms to contribute to concrete legal and policy change on the ground.

Read about the [impact of our work to support defenders of LGBT rights in 2014, and our vision of what we can achieve with your support in 2015.](#)

BUSINESS AND HUMAN RIGHTS DEFENDERS: ISHR'S IMPACT IN 2014 AND VISION FOR 2015

(Geneva, 15 April 2015) - Throughout 2014, ISHR worked with human rights defenders to promote corporate respect for human rights and corporate accountability for violations, and with both States and experts to strengthen the protection of corporate accountability activists under international and national laws and policies.

2015 is shaping as a seminal year in the field of business and human rights defenders. ISHR is committed to providing strategic advice and support to human rights defenders in the negotiation of a new global treaty on business and human rights (the process for which will commence in Geneva in July), while also supporting work at the more local level to develop and ensure the effective implementation of National Action Plans on Business and Human Rights and the UN Guiding Principles. We'll also launch a major new resource for human rights defenders to assist them to develop capacities and activities to directly engage and positively influence business.

Read about the [impact of our work to support corporate accountability activists in 2014 and our vision of what we can achieve with your support in 2015](#).

HUMAN RIGHTS DEFENDERS WORKING TO PROMOTE DEMOCRACY AND END IMPUNITY: ISHR'S IMPACT IN 2014 AND VISION FOR 2015

(Geneva, 15 April 2015) - UN Special Rapporteur on Freedom of Association and Assembly and former ISHR trainee Maina Kiai wrote recently that 2014 may well be remembered as 'the year of the protest, the year of the revolution, the year of shrinking space'. Certainly it was a year in which ISHR was called upon more than ever to support and stand with human rights defenders working in States where increasing demands for democratic rights and freedoms were met by desperate regimes with worsening attacks and restrictions. ISHR's work with grassroots human rights defenders has helped shine an international spotlight on many of these situations – from Egypt to North Korea, and from Sri Lanka to Bahrain – and to increase international pressure for accountability and change.

Read about the [impact of our work in 2014 to support human rights defenders who promote democracy and combat impunity and our vision of what we can achieve with your support in 2015](#).

Our Work to Strengthen Human Rights Systems

GETTING PAST THE GATEKEEPER: A PRACTICAL GUIDE TO THE UN COMMITTEE ON NGOS

(Geneva, 22 April 2015) - ISHR is pleased to launch today its *Practical Guide to the UN Committee on NGOs* (esta publicación también está disponible en [español](#)) - an essential resource for all non-governmental organisations looking to 'get past the gatekeeper' and obtain UN consultative status as a means to engage effectively with its human rights system.

The UN Committee on NGOs is the body through which all NGO applications for Economic and Social Council (ECOSOC) accreditation with the UN human rights system must pass. This Committee is one of the least transparent and accountable bodies in the UN. ISHR has witnessed first-hand the difficulties that many human rights organisations face in navigating this process.

This handbook is a response to an intense need for information and explanations about decision-making in the Committee and the overall process of obtaining ECOSOC accreditation. Scores of NGOs have requested ISHR for help with the application and review process. Others have approached ISHR in cases when the NGO has been accused of infraction and is faced with losing or having its status suspended. We receive questions regularly on, among others, filling out the application for accreditation, appearing in front of the Committee, managing constant delays and deferrals of an application, and how to respond to cases of blatant reprisals.

The handbook provides logistical information, strategic advice, and guidance to human rights organisations that wish to obtain UN consultative status. The first chapter provides an overview of accreditation options with the UN, with a focus on obtaining consultative status with ECOSOC. The second and third chapters provide information on the application and review process. Chapter IV dives into the political dynamics in the Committee, while Chapter V provides advice for those NGOs whose applications are constantly deferred. Chapter VI covers key obligations for NGOs once

consultative status is received, and highlights the disciplinary sanctions if requirements are contravened.

The effective and active participation of NGOs in the UN human rights bodies and mechanisms is instrumental to the system's functioning and integrity. NGOs have played a major role in the Human Rights Council and former Commission on Human Rights. They have been essential in the creation of international instruments, the approval of resolutions, and the creation of special procedures, among other advances. This body of work has been produced on the basis of first-hand information and testimonies, which only civil society can provide.

This handbook is a small contribution to assist those NGOs that wish to participate in the work of the UN. Without them, the UN human rights system would simply no longer function.

Download the [Practical Guide to the UN Committee on NGOs](#).

Read the [remarks of the Presidency of the UN Human Rights Council](#) at the launch of the Guide here.

Read the [remarks of Chile's Ambassador to the UN in Geneva](#) at the launch of the Guide here.

Read the [remarks of Swiss human rights expert Jean-Daniel Vigny](#) at the launch of the Guide here.

SAFEGUARDING CIVIL SOCIETY SPACE AND PARTICIPATION AT THE UN: ISHR'S IMPACT IN 2014 AND VISION FOR 2015

(Geneva, 16 April 2015) - The right, and indeed the responsibility, of non-governmental organisations to critique governments, expose and pursue accountability for human rights violations, and advocate for changes in law, policy and practice should be uncontroversial. Regrettably, however, it is a right which is increasingly contested, including in the context of NGO participation at the UN.

In 2014, ISHR again played a leadership and coordination role in advocating for, supporting and safeguarding civil society space and participation. Our work in this regard ranged from supporting victims to testify at the UN Human Rights Council, to advising and assisting NGOs such as ARC International to obtain UN consultative status in their own right.

Looking ahead, ISHR will continue to play a vital leadership and coordination role in supporting civil society participation at the UN and the African Commission, while also expanding our advocacy and law reform work on an enabling environment at the national level.

Read about the [impact of our work in 2014 to safeguard civil society space and participation at the UN and beyond, and our vision of what we can achieve with your support in 2015](#).

SPAIN: GAGGING LAWS UNDULY RESTRICT FREEDOM OF ASSEMBLY AND HUMAN RIGHTS DEFENCE AND MUST NOT ENTER INTO FORCE

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

(Geneva, 14 April 2015) - ISHR today called upon the Spanish Government to postpone the entry into force of three controversial reforms which were passed by Congress on 26 March 2015, and which are manifestly incompatible with fundamental rights and freedoms enshrined in international law and the European Convention on Human Rights, which was ratified by Spain in 1979. The laws are currently scheduled to enter into force in July this year.

Civil society organisations, such as [Rights International Spain](#) (RIS), along with several [UN human rights experts](#), have expressed grave concern at the negative impact the reforms will have on fundamental freedoms, including the rights to freedom of expression, association and assembly.

The new [Citizen's Security Law](#) requires prior governmental consent to engage in peaceful protest, as well as limiting severely the places in which such protests can take place.

The [reform of the Criminal Code](#) has the potential to unfairly punish those who convene marches, whilst increasing the sanctions which can be imposed for offences taking place in the context of protests.

Rights groups fear, meanwhile, that the anti-terrorism reform contains vague and imprecise terms which could be applied arbitrarily and impose disproportionate limits upon freedom of expression.

'These gagging laws clearly violate the rights to freedom of expression, association and assembly. They impose arbitrary and unnecessary restrictions and undue and excessive sanctions upon those who seek to use the streets as a forum for their human rights defence and to raise concerns about governance,' said ISHR Advocacy and Communications Manager, Ben Leather. Spain has seen a [283 per cent increase](#) in street protests since 2008, in line with the increase in austerity measures.

Five UN Special Procedures had previously stated that 'the text of the reform projects includes broad or ambiguous definitions that pave the way for a disproportionate or discretionary enforcement of the law by authorities'. The Special Rapporteur on freedom of expression, David Kaye, had said of the Criminal Code Reform that 'the wording of the law is problematic and the crimes, as defined, could criminalise those who convene peaceful demonstrations'.

Moreover, NGOs have highlighted that the definition of terrorist offenses - using terms such as 'acts of incitement and glorification' or 'justification of terrorism' - contained in the anti-terrorism reform, are too broad and vague, leaving them open to arbitrary interpretation.

RIS has underlined that the Citizen Security Law has three clear and disturbing objectives: it requires that persons obtain prior authorisation from a government agency (as compared with a requirement to give prior notification to that agency) in order for a peaceful protest to be lawful, violating Article 21 of the Constitution; second, it seeks to prevent public space from being used as a place of political participation, and lastly, any form of social, peaceful protest legitimate in any democratic society will be sanctioned. According to the conditions of the new law, protesters could be fined as much as [600,000 euros](#) for protesting in front of certain public buildings, such as the Congress.

Last year ISHR published a briefing paper in [English](#) and [Spanish](#), raising the issue of the official restrictions on the space for human rights defenders and activists and encouraging the government of Spain to reverse the trend of increased restrictions on and abuses against demonstrators. The paper was formally submitted to Spain's Universal Periodic Review Process, which will conclude at the Human Rights Council this June.

'It is imperative that the Spanish State listen to the UN and to its own civil society and reform these laws in order to meet international standards,' said Mr Leather. 'Failing that, it falls upon other UN member States to use the adoption of Spain's UPR in June as a platform to question these new laws and demand action'.

For more information, contact ISHR's Ben Leather at b.leather@ishr.ch or Cristina de la Serna of Rights International Spain at cserna@rightsinternationalspain.org

MEXICO: ENHANCE IMPLEMENTATION OF HUMAN RIGHTS DEFENDER PROTECTION LAW

(Brussels/Washington DC, 1 May 2015) - A coalition of leading international and Latin American human rights organisations has called on Mexico to take urgent steps to enhance the implementation of its law on the protection of human rights defenders in a joint statement issued today.

Joint statement: International NGOs identify concerning shortcomings in the implementation of the Protection Mechanism for Human Rights Defenders and Journalists in Mexico

The undersigned organisations express our concerns regarding a crisis thwarting the implementation of the Mexican Federal Protection Mechanism for Human Rights Defenders and Journalists in recent months. February and March 2015 saw the resignation of both Victor Manuel Serrato Lozano, Director of the Human Rights Unit which oversees the running of the Protection Mechanism, and Lía Limón García, Under Secretary of the Human Rights and Judicial Affairs Secretariat which oversees the Human Rights Unit. This leaves the Protection Mechanism in a leadership vacuum similar that of March 2014. Although the post of Under Secretary was filled on 23 April 2015 by Roberto Campa Cifraín, almost two months have passed since the departure of the Director of the Human Rights Unit and there is little clarity about when this position will be permanently filled. This absence of leadership places the Protection Mechanism under increased strain and impedes its intended function, putting human rights defenders and journalists, who are either beneficiaries of the Mechanism or applicants awaiting approval, at even greater risk.

Beyond the lack of leadership, additional concerns regarding the highly flawed implementation of the Protection Mechanism have also been brought to our attention.

Inadequate resources

Civil society has expressed concern that the quality and number of risk analyses has decreased considerably and there are few incentives to improve this situation. This partly stems from inadequate resources for the Human Rights Unit. According to members of the Consultative Council, analysts for the Unit have had to foot the bill for their own travel expenses since October 2014. The insufficient funding is reflected in the reduction of resources made available to the Human Rights Unit and the lack of physical office space within the Unit itself to attend beneficiaries and applicants. Furthermore, civil society has complained that there has been no follow-up to the training provided to staff members at the Human Rights Unit. Also, many of the Mechanism personnel are employed under temporary instead of permanent contracts, resulting in a lack of clarity regarding work plans, and overall follow-up of cases, as well as to a general sense of instability.

Slow pace of implementation

Protection measures continue to be implemented at a very slow pace. HRDs and journalists are left at risk while they await measures granted during Governing Board meetings (Juntas de Gobierno) to be put in place. Furthermore, civil society has reported that there is inadequate follow-up to measures once granted noting that if there are changes in a HRD or journalist's level of risk, the Mechanism has not proven itself capable of responding effectively to these changes.

The criteria for the admission of cases remain unclear

Those accepted are implemented in a partial or contradictory fashion. The lack of appropriate and clear criteria and arbitrary application of protection means that HRDs and journalists run the risk of being excluded from the Federal Protection Mechanism.

Lack of prevention measures

Although the Prevention, Monitoring and Analysis Unit was assigned a director in early 2015, the unit is still not operational and therefore information is not forthcoming on establishing trends or patterns of attacks and security incidents carried out against HRDs and journalists. For this reason, prevention measures are rarely put in place because the analysis necessary to enact such measures is not carried out, although this is required under the Mechanism Law.

Impunity

Widespread impunity places HRDs and journalists at greater risk as there are few notable advances in investigations regarding crimes committed against them as a result of their work.

Lack of shared responsibility

Members of the Consultative Council have expressed concern that the responsibility to produce effective protection plans weighs heavily on them because, in large part, Government entities that also participate in Governing Board meetings have failed to assume a similar level of responsibility. Although members of the Consultative Council have demonstrated a very high level of commitment to the Protection Mechanism, their posts are voluntary and not remunerated, and as a result, the time they are able to dedicate to the Protection Mechanism is limited due to other commitments.

While the undersigned organisations recognise and applaud the progress made in specific areas of the Protection Mechanism, notably the ability to process cases with greater efficiency at Governing Board Meetings, we remain concerned regarding the aforementioned shortcomings. Of particular concern is the apparent lack of political will to resolve these issues and to guarantee the stability of the Protection Mechanism through consistent, permanent leadership.

In light of the aforementioned shortcomings, the undersigned organisations issue the following recommendations to the Mexican Government:

- Filling the position of Director of the Human Rights Unit should be a top priority. This individual should have strong professional background in human rights, particularly in protection issues for HRDs and journalists. Furthermore, guarantee that all positions within the Human Rights Unit are permanent.
- Guarantee greater transparency regarding the functioning of the Human Rights Unit, including the criteria used to accept or reject cases, and the follow-up provided where protection measures are granted. Ensure adequate funding to guarantee the effective and efficient functioning of the Human Rights Unit.
- Improve the manner in which Risk Analyses are conducted by sharing the methodology used with civil society and applicants in advance of case revision and ensuring their participation in the risk analysis process and at Governing Board meetings. Include information in the Risk Analyses reports such as the broader context in which HRDs or journalists live and work, their ethnicity, gender, rights being defended, etc.

- Respond to requests submitted for protection in a timely manner. Once protection measures have been granted, prioritise their immediate implementation with special consideration for those exposed to an even greater level of risk if implementation is delayed. Amend and update the measures granted as necessary recognising that the level of risk is likely to fluctuate. Ensure that protection measures include effective and timely investigations and bringing to justice those responsible for attacks and other security incidents carried out against HRDs and journalists.
- Guarantee the physical and psychological integrity of all HRDs and journalists, who are at risk as a result of their legitimate work, and who have been placed in a situation of even greater risk following this latest leadership crisis and the shortcomings identified in the implementation of the Protection Mechanism. Ensure that all necessary measures are taken to guarantee that their protection and security concerns are addressed adequately and without delay.

Signatories:

1. Front Line Defenders
2. International Federation for Human Rights (FIDH) in the frame of the Observatory for the Protection of Human Rights Defenders
3. International Service for Human Rights (ISHR)
4. Jass – Just Associates
5. Latin America Working Group Education Fund
6. Peace Brigades International (PBI) – Mexico
7. Protection International
8. Washington Office on Latin America (WOLA)
9. World Organisation Against Torture (OMCT) in the frame of the Observatory for the Protection of Human Rights Defenders

Key Developments in the Promotion and Protection of Human Rights

PROMINENT BAHRAINIAN HUMAN RIGHTS DEFENDER REARRESTED

Bahraini activist Nabeel Rajab, who is currently appealing the sixth-month prison sentence he received for ‘publicly insulting official institutions’, has been rearrested for comments said to have been posted on Twitter. He is now facing up to 10 years in prison...[more](#)

MOROCCAN DEFENDER TARGETED FOR PROMOTING INVESTIGATIVE JOURNALISM

Moroccan journalist Hicham Mansouri has been sentenced to prison for ‘adultery’ and other charges, following an unfair trial. He appears to have been targeted for his efforts to promote investigation into allegations of corruption among government officials...[more](#)

LGBTI ACTIVISTS HOLD DAY OF SILENCE IN MOSCOW

The 'Week Against Homophobia' organised by Russian human rights defenders culminated in a 'day of silence' held in Moscow on 12 April in protest against the silencing of the LGBTI community and the shrinking of civil society space...[more](#)

UZBEK DEFENDER CHARGED WITH NEW ALLEGATIONS AHEAD OF SCHEDULED RELEASE

Mr. Azamjon Formonov has been charged with 'violating prison rules' just days before his scheduled release on 29 April, after nine years of arbitrary detention. If convicted, Mr. Formonov faces up to three additional years of detention...[more](#)

UN SPECIAL RAPORTEURS CONDEMN DETENTION OF ETHIOPIAN JOURNALISTS

On 24 April 2015 the Special Rapporteur on freedom of opinion and expression, David Kaye, and the Special Rapporteur on freedom of peaceful assembly and of association, Maina Kiai, issued a joint statement condemning the ongoing detention of nine journalists in Ethiopia...[more](#)

HUMAN RIGHTS LAWYER DETAINED IN SOMALILAND

Prominent human rights lawyer and activist Guleid Ahmed Jama was arrested on 18 April after he made statements on public radio denouncing the first executions of prisoners in Somaliland in nearly a decade...[more](#)

AZERBAIJAN'S LEADING HUMAN RIGHTS LAWYER DUBIOUSLY CONVICTED

A court in Azerbaijan has sentenced the country's most prominent human rights lawyer, Intigam Aliyev, to seven and a half years in prison, despite widespread international condemnation and accusations of political motivation...[more](#)

PROMINENT SAUDI ARABIAN ACTIVIST BEHIND BARS FOR ONE YEAR

Notwithstanding King Salman's amnesty for some Saudi prisoners in January, prominent activists and lawyer Waleed Abu al-Khair remains behind bars, with April 15 marking the completion of one year of his fifteen year sentence...[more](#)

PAKISTANI HUMAN RIGHTS DEFENDER SHOT AND KILLED

Leading social activist Sabeen Mahmud was gunned down outside the pioneering Karachi arts venue she founded, shortly after giving a talk on 'missing people' and enforced disappearances in Pakistan...[more](#)

AZERBAIJAN HUMAN RIGHTS DEFENDER CONVICTED

The conviction of leading human rights activist, Rasul Jafarov, highlights the government's crackdown on independent voices says Human Rights Watch...[more](#)

Opportunities for NGO Engagement

HUMAN RIGHTS COUNCIL

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

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

UNIVERSAL PERIODIC REVIEW

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

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

SPECIAL PROCEDURES

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

TREATY BODIES

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

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

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

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

WORKING GROUPS

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

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

The 13th session of the Working Group on the Issue of discrimination against women in law and practice will be held on 4 - 8 May in Room IX at the Palais de Nations. Submissions can be made at all times to the Secretariat at: wgdiscriminationwomen@ohchr.org. More information can be found [here](#).

OTHER

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

REQUESTS FOR INFORMATION

The Impact of the World Drug Problem on Human Rights

In a [Resolution](#) adopted at its 28th session, the Human Rights Council requested the High Commissioner for Human Rights to prepare a study on the impact of the world drug problem on the enjoyment of human rights. As such, the Office of the High Commissioner has [requested](#) relevant information from civil society.

Responses or any queries may be sent by 15 May 2015 to: OHCHR United Nations Office at Geneva, CH-1211 Geneva 10, Switzerland, fax [+41 22 917 9008](tel:+41229179008), c/o Robert Husbands; registry@ohchr.org, cc. rhusbands@ohchr.org.

Getting down to business – a comparative survey of enabling environments for businesses and associations

The Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association seeks input, by way of a [questionnaire](#), from civil society for his upcoming report to the UN General Assembly comparing the treatment of businesses and associations with a view to assessing how States facilitate the exercise of the rights of freedom of peaceful assembly and of association for non-State actors.

Responses may be sent by 5 June 2015 to freeassembly@ohchr.org.

COUNTRY VISITS BY SPECIAL PROCEDURES

Greece	Special Rapporteur on contemporary forms of racism , racial discrimination, xenophobia and related intolerance, 4 – 7 May 2015
Armenia	Special Rapporteur on the sale of children , child prostitution and child pornography, 11 – 18 May 2015

Serbia	Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, 18 – 26 May 2015
Sudan	Special Rapporteur on violence against women, its causes and consequences, 13 May – 24 May 2015
Italy	Working Group of Experts on People of African Descent , 1 – 5 June 2015
Japan	Special Rapporteur on the sale of children, child prostitution, and child pornography, 1 – 10 September 2015
Hungary	Working Group on the issue of discrimination against women in law and in practice , 1 – 11 September 2015

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

Conferences and events

ADVANCED TRAINING ON MONITORING ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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

ESSEX HUMAN RIGHTS SUMMER SCHOOL

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

LEITNER CENTRE SUMMER HUMAN RIGHTS INSTITUTE

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

ADVANCED COURSE ON LAW, DEVELOPMENT AND HUMAN RIGHTS

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

VENICE SCHOOL OF HUMAN RIGHTS

The European Inter-University Centre for Human Rights and Democracy is accepting applications for the [Venice School of Human Rights](#). The school runs from 26 June to 4 July and has three thematic

clusters – business and human rights; human rights and new technologies; and human rights and gender issues. The application deadline is 17 May 2015.

New Resources

BASIC FREEDOMS IN MALDIVES UNDER THREAT

In a new [report](#) Amnesty International highlighted the assault on civil society in the Maldives. Egregious examples include NGOs being threatened with deregistration, political opponents being arrested, journalists and human rights defenders receiving death threats, and police failing to hold perpetrators accountable.

A GRAPHIC NOVEL ABOUT HUMAN RIGHTS DEFENDERS IN MEXICO

La Lucha: The Story of Lucha Castro and Human Rights in Mexico is the first in a series of nonfiction graphic novels produced by Front Line Defenders (FLD), documenting the stories of human rights defenders at risk around the world. A copy of the novel can be obtained [here](#) by making a donation to FLD.

HOW-TO GUIDE FOR USING THE UPR SUBMISSION REGISTRATION SYSTEM -

UPR Info has published a [how-to guide](#) to assist NGOs, NHRIs, regional organisations and UN entities to submit written contributions for the preparation of country reports as part of the Universal Periodic Review.

THE FUTURE DIRECTION OF THE HUMAN RIGHTS COUNCIL RESOLUTION SYSTEM

A 12-month [study](#) by Universal Rights Group assesses the evolution of UN Human Rights Council resolutions, their relevance, and their possible impact for human rights in the future. The study incorporates research, policy dialogue and interviews with diplomats, OHCHR staff, academics and NGOs.

2014 REPORT ON FREEDOM OF ASSEMBLY AND ASSOCIATION BY SPECIAL RAPPORTEUR, MAINA KAI

[The Year in Assembly & Association Rights](#) marks Special Rapporteur Maina Kiai's first 'yearbook' of assembly and association rights. The 'yearbook' is a summary of the major developments of 2014, including important news events and the key activities of his mandate.

BUSINESS AND HUMAN RIGHTS POLICY REPORT INTERVIEWS 900 CEOs

A policy report initiated by Universal Rights Group, [The Road from Principles to Practice: Today's Challenges for Business in Respecting Human Rights](#), prepared by the Economist Intelligence Unit, analyses levels of respect for human rights among businesses around the world. The report contains the results of a global survey of nearly 900 CEOs, designed to understand their views, perceptions, strategies and actions in the area of human rights.

DOCUMENTED CRACKDOWN ON HUMAN RIGHTS DEFENDERS IN AZERBAIJAN

The Observatory for the Protection of Human Rights Defenders and FIDH have released a fact-finding mission [report](#), documenting the repression of eight emblematic human rights defenders in

Azerbaijan who have been arbitrarily detained, and details the series of legislative amendments recently adopted to silence independent voices in the country.

Merits Decisions

Husseini v. Denmark (2243/2013)

Denmark failed to take into account the right to protection of family life in ordering a resident's expulsion and permanent ban on re-entry

Summary

In October 2014, the Human Rights Committee was asked to consider whether Denmark had violated its obligations under the International Covenant on Civil and Political Rights in connection with its decision to expel an individual permanently.

The communication was submitted by an Afghan national under the Optional Protocol to the Covenant, both on his own behalf and on behalf of his son and daughter.

Background

The author, Mr Husseini, was born in Afghanistan on 7 March 1986. The author left Afghanistan with his father and four siblings and fled to a refugee camp in Pakistan after his mother and two sisters were killed in a rocket attack.

On 31 July 1999, the author entered Denmark where his father was living at that time. On 5 October 1999, the author was given a residence permit. The author's father, stepmother and five brothers and sisters live in Denmark.

In 2006, the author married Ms. A, a Danish national. The couple have a son and a daughter, born in 2008 and 2010 respectively, which live with their mother. At the time of submission of the communication, the author and Ms. A were divorced.

On 2 September 2002, the author was sentenced by the Copenhagen City Court to imprisonment for one year and six months, for robbery, theft, attempted fraud, criminal damage, unlawful possession of firearms and driving without a licence.

In view of the author's age, one year of the sentence was suspended subject to a probation period of two years. The Court did not order the author's expulsion having regard to article 8 of the European Convention on Human Rights.

On 1 March 2005, the author was found guilty by the Eastern High Court of several robberies. He received a sentence of imprisonment for five years and six months. The author was also expelled from Denmark and served with a permanent re-entry ban.

On 19 August 2005, the Supreme Court unanimously upheld the judgment of the Eastern High Court. As a consequence, the author's residence permit lapsed.

By letter of 23 January 2006, the author submitted an application for asylum, which was refused on 27 July 2006. On 27 October 2006, the Refugee Appeals Board upheld the decision and decided that the author could be forcibly returned to Afghanistan if he did not leave voluntarily.

By letter of 30 June 2006, the Commissioner of the Copenhagen Police submitted a request from the author for the revocation of the expulsion decision to the Copenhagen City Court. On 11 September 2007, the Copenhagen City Court ordered that the expulsion order was not to be revoked. By order of 22 January 2008, the Eastern High Court upheld the order of the Copenhagen City Court. The author appealed the decision to the Appeals Board of the Supreme Court which rejected the appeal on 11 June 2008.

On 24 July 2007, the author was released on parole but was subsequently remanded in custody to ensure his presence until the expulsion order could be enforced. On 6 February 2008, the author was released and accommodated at a departure centre for refused asylum seekers and expelled persons.

On 26 February 2008, the author stated that he did not want to cooperate in a voluntary departure from Denmark.

On 14 April 2010, the District Court of Glostrup convicted the author of a criminal offence on the grounds that he and his two brothers had seriously assaulted a man. The author was sentenced to imprisonment for four years and nine months. On 26 August 2010, the Eastern High Court upheld the judgment delivered by the District Court of Glostrup.

On 28 October 2011, the Danish National Police sent a request to the Afghan authorities for permission for the author to enter Afghanistan. On 14 January 2013, the National Police received acceptance from the Afghan authorities, confirming that the author could be present at the Afghan border control for the purpose of identification.

On 8 April 2013, the author was interviewed by the National Police on the matter of his return to Afghanistan, where he stated that he did not want to cooperate in a voluntary return to Afghanistan as he had a wife and children in Denmark. The author was subsequently informed that he would be presented to the border control authorities in Afghanistan as soon as possible. On the same day, the author was brought before the District Court of Hillerød and remanded in custody to ensure his presence until the expulsion order could be enforced.

On 17 April 2013, the author's counsel was informed by telephone that the Afghan authorities had accepted that the author be presented to the Afghan border control authorities at Kabul International Airport for the purpose of identification. The author's counsel was also informed that the author's return to Afghanistan was scheduled for 13 May 2013.

On 7 May 2013, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that Denmark had violated his and his children's rights to: (i) freedom from discrimination, (ii) due process in expulsion proceedings, (iii) protection of the family, and (iv) special protection of children (under articles 2, 13, 23 and 24 of the Covenant respectively).

The Committee's decision

Regarding the admissibility of the author's claims, the Committee noted the author's claim under article 2(I) of the Covenant and recalled its jurisprudence that the provisions of article 2 lay down only general obligations for State parties. Accordingly, article 2(I) did not afford a separate individual right that could be invoked in a communication under the Optional Protocol. The Committee therefore considered that the author's claims under article 2(I) were inadmissible under article 3 of

the Optional Protocol for incompatibility with the provisions of the Covenant. The Committee found the author's claims under articles 13, 23 and 24 of the Covenant to be admissible.

On the merits, the Committee recalled its jurisprudence that a State party's refusal to allow one member of the family to remain in its territory may constitute interference in that person's family life in breach of article 23(1) of the Covenant. However, the mere fact that one member of the family is entitled to remain in the territory of a State party does not necessarily mean that a State party has breached article 23(1). In the present case, the Committee considered that Denmark's decision to deport the father of two small children from a divorced family, coupled with a permanent re-entry ban, constituted "interference" with the family, at least in circumstances where substantial changes in family life would follow. The Committee observed that although the author's family life had been subject to significant restrictions during his incarceration, he had been able to maintain a close relationship with his family through regular visits to and from his children and ex-wife.

The Committee then considered whether such interference had been arbitrary and therefore contrary to article 23(1) of the Covenant. The Committee observed that the decision to expel the author was upheld by the Eastern High Court on 22 January 2008, but could not be implemented until 13 May 2013, during which time the author's children were born. The Committee recalled that even interference by the law should be in accordance with the provisions, aims and objectives of the Covenant and should be reasonable in the particular circumstances. The Committee reiterated that in assessing whether the specific interference with family life can be objectively justified the Committee must consider, on the one hand, the significance of the State party's reasons for the removal of the person concerned and, on the other hand, the degree of hardship that the family and its members would suffer as a consequence of such removal.

The Committee noted that Denmark had justified the author's removal from the country on the basis of his previous convictions for several serious offences which can lead to expulsion in the case of aliens who have been lawfully residing in Denmark. Denmark was furthermore of the view that "the expulsion decision is necessary in the public interest and to protect [public] safety from further criminal activity by the author and [is] thus in furtherance of a legitimate State interest". The Committee took note of the author's argument, on the other hand, that his children could not be expected to follow him to Afghanistan, as they were Danish nationals who did not speak Pashto, had no ties with the country and had been living with their mother since the divorce. The Committee also noted that, if the author were to be deported to Afghanistan, the nature and quality of his family relationships could not be adequately maintained through regular visits, due to the permanent re-entry ban that had been imposed on him.

The Committee noted that the communication was submitted on behalf of the author as well as his children, who were born after the decision to expel the author had become final. It also noted that Denmark had not reviewed those new circumstances and, in particular, had never examined the extent to which the author's deportation was compatible with the right of his children to such measures of special protection (in accordance with article 24 of the Covenant). The Committee found that the material before it did not allow it to conclude that due consideration had been given by Denmark to the right of the family to protection by society and the State or to the right of children to special protection.

In the light of the above, the Committee considered that the author's removal to Afghanistan, without reviewing his new personal circumstances, would violate his and his children's rights under article 23(1), read in conjunction with article 24 of the Covenant. Having found a violation of article

23 read in conjunction with article 24, the Committee did not find it necessary to consider the author's claims under article 13 relating to the same facts.

In accordance with article 2(3)(a) of the Covenant, the Committee observed that Denmark was under an obligation to provide the author with an effective remedy by reviewing its decision to expel the author with a permanent re-entry ban, taking into account Denmark's obligations under the Covenant. The Committee found that Denmark was also under an obligation to prevent similar violations in the future.

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

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

Griffiths v. Australia (1973/2010)

Australia found in breach of Covenant for its detention of a resident subject to extradition proceedings

Summary

In October 2014, the Human Rights Committee was asked to consider whether Australia had violated its obligations under the International Covenant on Civil and Political Rights in connection with its detention of an individual subject to extradition proceedings.

The communication was submitted by a British citizen with permanent residency in Australia under the Optional Protocol to the Covenant.

Background

The author, Mr Griffith, is a British citizen who had permanently resided in Australia since the age of seven. In Australia, he had been involved in an Internet group that made copies of software and computer games available to be downloaded by its members. The group was not motivated by profit and made no financial gain by their activities.

In 2000, the Customs Service of the United States of America started an investigation into Internet software piracy groups. On 11 December 2001, the Australian Federal Police seized the author's computer in connection with possible copyright infringement. On 12 March 2003, the United States District Court for the Eastern District of Virginia indicted him with criminal copyright infringement and conspiracy to violate copyright laws. The Court argued that the relevant acts entailing the breach of copyright occurred in the Eastern District of Virginia because it was where the material was downloaded by end users. On the same date, the Court issued an arrest warrant against the author in connection with the charges.

On 19 June 2003, the United States authorities requested the author's extradition from Australia. On 28 July 2003, the Australian Minister for Justice and Customs issued a notice of receipt and extradition request.

On 20 August 2003, a provisional arrest warrant was issued by the Australian authorities. On 22 August 2003, the author was arrested and placed in custody at the Gosford Police Station. He was

subsequently transferred to the Metropolitan Remand and Reception Centre at the Silverwater Correctional Complex. On 15 October 2003, the Central Local Court granted him bail and released him conditionally.

On 25 March 2004, the author successfully challenged the United States extradition application before the Australian Local Court of New South Wales. The Court found that the author did not satisfy the “double criminality” requirement under the Extradition Act, according to which a person is eligible for extradition if “the conduct constituting the offence” in the requesting country would have constituted an extradition offence “in the part of Australia where the proceedings are being conducted”.

The United States authorities submitted an appeal to the Federal Court of Australia. On 7 July 2004, the Court reversed the decision of 25 March 2004. On the same date, the Court ordered the author’s arrest.

On 10 July 2004, the author was placed in custody at the Metropolitan Remand and Reception Centre, pending extradition. On the same date, his bail application was denied.

The author appealed the decision of 7 July 2004 to the Full Court of the Federal Court of Australia. On 10 March 2005, the Court confirmed the decision of 7 July 2004 and ruled that the offence of conspiracy was a continuing offence that had occurred in the United States, notwithstanding the author’s physical presence in Australia.

On 2 September 2005, the author applied for special leave to appeal before the High Court of Australia, which rejected his application on 2 September 2005, on the basis that the arguments he had advanced had insufficient prospects of success.

On 6 September 2005, the Australian Attorney General invited the author to submit written submissions to the Minister for Justice and Customs. On 22 December 2006, the Minister made a final determination that the author should be extradited to the United States and issued a warrant for the extradition. On 9 February 2007, the author made a final application to the Federal Court of Australia, seeking the review of the Minister’s decision of 22 December 2006, which was rejected on the same date.

On 17 February 2007, the author was extradited to the United States from Australia and remanded in detention.

On 20 February 2007, the District Court in Alexandria, Virginia, charged him with the copyright offences. On 23 February 2007, his application for release on bail was denied.

On 20 April 2007, the author entered a guilty plea to one count of conspiracy to commit criminal copyright infringement, with the remaining count of copyright infringement having been dismissed. On 22 June 2007, the District Court in Alexandria found him guilty of conspiracy to commit copyright infringement and sentenced him to 51 months imprisonment. The Court took into consideration the time already served in custody in Australia, and ordered that he serve a total of 15 months in custody in the United States. On 26 January 2008, the author was released. On 2 March 2008, he returned to Australia.

On 22 February 2010, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that Australia had violated his rights to: (i) freedom from arbitrary detention, (ii) due process in extradition proceedings, and (iii) fair trial (under articles

9, 13 and 14 of the Covenant respectively), as well as claiming that Australia had failed to legislate to give effect to the rights protected under the Covenant (under article 2(2) of the Covenant).

The Committee's decision

Regarding the admissibility of the author's claims, the Committee noted the author's claim under article 2(2) of the Covenant and recalled its jurisprudence that the provisions of article 2 lay down only general obligations for State parties. Accordingly, article 2(2) did not afford a separate individual right that could be invoked in a communication under the Optional Protocol. The Committee also found the author's claims under articles 13 and 14 were inadmissible for lack of substantiation and that the author's claim under article 9(3) of the Covenant was inadmissible *ratione materiae*, as this provision did not apply in extradition proceedings. The Committee found that the author's remaining claims under article 9 of the Covenant were admissible.

On the merits, the Committee recalled its jurisprudence that under article 9 of the Covenant detention should not continue beyond the period for which the State party can provide appropriate justification. The Committee noted that the author had been detained for an uninterrupted period of over two years and five months, during which time he had pursued avenues for appeal. While Australia had advanced reasons to justify his detention, the Committee observed that it had failed to demonstrate that those reasons justified the author's continued detention in the circumstances. In particular, Australia had not demonstrated that there were not less invasive means of achieving the same ends. Australia had also failed to show whether due regard had been given to the author's arguments in support of his release, such as his compliance with previous bail conditions, his low flight risk, the absence of a past criminal record or his health condition. The Committee also noted that detention pending extradition was not limited in time under Australian law and that, as a general rule persons "are to be held in custody whether or not their detention is necessary".

With respect to the author's claim under article 9(4) of the Covenant, that there were no effective and available remedies for him to obtain a judicial review of his continuous detention, the Committee recalled that a judicial review of the lawfulness of detention under article 9(4) is not limited to mere compliance of the detention with domestic law, but must include the possibility to order a release if the detention is incompatible with the requirements of the Covenant. For the purposes of article 9(4), such a review must also be more than merely formal. In the present case, the author had been detained pending extradition for over two years, with neither any chance of obtaining substantive judicial review of the continued compatibility of his detention with the Covenant, nor of being released on this ground. In the circumstances, the Committee considered that the author had been effectively precluded from taking effective proceedings before a court to obtain a review of the lawfulness of his continuing detention. Such an inability to challenge a detention that was or had become contrary to article 9(1) constituted a violation of article 9(4) of the Covenant. The Committee also found that Australia had not demonstrated that the author had an effective remedy with regard to his claim under article 9(4) of the Covenant.

In the light of the above, the Committee considered that Australia had violated the author's rights under article 9(1 and 4) of the Covenant. In accordance with article 2(3)(a) of the Covenant, the Committee observed that Australia was under an obligation to provide the author with an effective remedy, including adequate compensation. The Committee found that Australia was also under an obligation to prevent similar violations in the future, including reviewing its legislation and practice.

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

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

Kozulina v. Belarus (1773/2008)

Belarus' detention and prosecution of a politician breached rights to liberty and security, fair trial and protection of the inherent dignity of the person

Summary

In October 2014, the Human Rights Committee was asked to consider whether Belarus had violated its obligations under the International Covenant on Civil and Political Rights in its detention and prosecution of an individual who had participated in peaceful political meetings.

The communication was submitted by a Belarusian national on behalf of her father under the Optional Protocol to the Covenant.

Background

The author's father, Mr Kozulin, is a former Rector of the Belarusian State University and a former Deputy Minister of Education. From 2005, he was the chair of the Belarusian Social Democratic Party (Gramada) and was a presidential candidate in 2006.

On 2 March 2006, Mr Kozulin attempted to participate in the All Belarusian People's Assembly as a representative of his party. While at the venue, Mr Kozulin was beaten by several unidentified people and later thrown into a police van, where he was placed between the seats with his legs against his head for an hour, choking on his own blood. During his subsequent detention at the police station, Mr Kozulin smashed a framed portrait of the Belarusian President.

On 25 March 2006, after participating in a meeting on Freedom Day, Mr Kozulin was beaten by officers in masks and brought to a police office. During the trip to the pre-trial detention centre, he was handcuffed and forced to remain on his knees; his eyes were covered and he was repeatedly hit over the head to prevent him from standing up. Mr Kozulin's family and counsel were contacted after 19 hours of detention, instead of the legally-allowed 12 hours.

On 30 March 2006, a procurator officially charged Mr Kozulin for hooliganism and the organisation of mass events aimed at severely breaching public order. During the trial, Mr Kozulin was held in a cage and denied fresh water. The court also rejected several requests to obtain additional evidence, failed to address several petitions and refused to call important witnesses. On 13 July 2006, the Court of the Moscow District in Minsk found Mr Kozulin guilty and sentenced him to five and a half years' imprisonment. While serving his sentence, he was not provided with adequate medical care and was not allowed to communicate with his counsel or independent doctor during his hunger strike when his health deteriorated.

On 18 February 2009, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that by its ill treatment of her father, Belarus had violated his rights to: (i) freedom from cruel and inhuman treatment, (ii) freedom from arbitrary

detention, (iii) respect for the inherent dignity of the person, (iv) fair trial, and (v) peaceful assembly (under articles 7, 9, 10, 14 and 21 of the Covenant respectively).

The Committee's decision

The Committee first considered Belarus' objection to the admissibility of the communication, on the ground that it had not been submitted by the alleged victim. The Committee noted that the conditions of his detention prevented Mr Kozulin from preparing a power of attorney and that Mr Kozulin had submitted duly signed comments regarding Belarus' observations, confirming his interest in the continuation of the case. The Committee therefore concluded that it was not prevented from examining the given communication. However, the Committee found certain parts of the communication relating to articles 10 and 14 of the Covenant inadmissible for lack of substantiation, including the author's claims: that Mr Kozulin was unable to see his parents before his transfer to a penitentiary colony; that the author's daughter had not been allowed to act as Mr Kozulin's representative (while he was represented by two attorneys); and that the court had, without explanation, failed to call several witnesses.

On the merits, the Committee emphasised that a State party is responsible for the security of any person that it detains. However, in light of the parties' submissions and the limited information and documents presented by the author, the Committee found that it was not in a position to conclude that Mr Kozulin's treatment had been inconsistent with article 7 of the Covenant or that his arrest amounted to a breach of his right of peaceful assembly under article 21 of the Covenant. Notably, Committee member Cornelis Flinterman expressed his disagreement with the Committee on its finding regarding article 7 in a separate opinion.

The Committee observed that, although Belarus had denied some of the author's allegations of ill treatment, it had admitted that its prison authorities had denied Mr Kozulin contact with his counsel and independent doctor during his 53-day hunger strike. In the circumstances, the Committee concluded that the prison authorities had not provided humane treatment to Mr Kozulin in violation of article 10 of the Covenant.

The Committee further noted that Belarus had failed to explain why it was necessary to keep Mr Kozulin in custody before and during the trial. The Committee recalled that judicial power must be exercised by an authority which is independent, objective and impartial within the meaning of article 9(3). The Committee was not satisfied that the public prosecutor could be characterized as having such institutional objectivity and impartiality and concluded that the facts as submitted demonstrated a breach of articles 9(1 and 3) of the Covenant.

The Committee also referred to the fact that Mr Kozulin had been placed in a cage during the trial and had been unable to communicate properly with his lawyers. Further, public statements by the Minister of Interior Procurator-General's Office affirming Mr Kozulin's guilt before the conclusion of the trial had violated Mr Kozulin's right to the presumption of innocence. Accordingly, the Committee concluded that Belarus had violated Mr Kozulin's right to a fair trial under article 14(1 and 2) of the Covenant.

In accordance with article 2(3) of the Covenant, Belarus was under the obligation to provide the author with an effective remedy, including adequate compensation. The Committee also held that Belarus should take steps to prevent similar violations in the future.

Belarus must now submit information about the measures taken to give effect to the Committee's views within six months of the Committee's decision and ensure that the Committee's decision is published widely.

Natia Lapiashvili is an international lawyer, based in London.



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