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Opinion

HUMAN RIGHTS COUNCIL MUST RESPECT AND UPHOLD THE RIGHTS OF NGOS

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

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 and uncontested. This is particularly the case at

the UN Human Rights Council, the world’s peak body for human rights debate and dialogue, the mandate of which includes promoting and protecting the right to freedom of expression.

It is deeply regrettable then that the current 27th session of the Council has seen numerous attempts by delegations to silence NGOs within the Council and to delete or dilute modest and previously agreed language on the rights and role of civil society actors in a number of draft resolutions which speak to that issue.

Within the chamber, delegations including China, Cuba, Egypt and Iran have repeatedly interrupted NGOs that have deigned to mention the human rights situations in those countries; a practice which is clearly incompatible with the call in General Assembly resolution 60/251 for the Council to ‘ensure the most effective contribution’ of NGOs and others. In a statement under Item 2, for example, the organisation I represent, the International Service for Human Rights (ISHR) received a point of order from Egypt for mentioning ‘the increasing repression of civil society’ in that country, ironically proving our point. Iran, meanwhile, interrupted Sudwind in a statement under Item 6 when that NGO criticised Norway for the alleged forcible deportation of an asylum seeker to Iran.

Compounding this worrying trend in the use of what Ireland's Ambassador to the UN, Patricia O'Brien, has referred to as 'spurious' points of order, has been the failure of the Council Presidency and Bureau to overrule them.

The Council's longstanding practice is that speakers can refer to country situations under any of the General Debates in order to contextualise their statements. Under Item 2, for example, there is nothing unusual in referring to a country situation covered by the High Commissioner's report, nor in citing a situation that provides an example or is illustrative of a theme or issue discussed.

This established practice should, self-evidently, have permitted NGOs to mention Egypt given the High Commissioner's focus on protecting civil society space. In the context of statements made under Item 6 following the adoption of a state report under the Universal Periodic Review (in this case, the report of Norway), the case is even clearer. It is clearly inappropriate for Iran to interrupt a discussion about human rights in Norway and the issue of non-refoulement, merely because Iran was mentioned.

In addition to being a departure from established practice, the failure of some presiding officers at this session to safeguard NGO participation is incompatible with relevant UN documents that should guide and indeed bind their behaviour; namely, the Universal Declaration on Human Rights and the Declaration on Human Rights Defenders (both of which were adopted by consensus by the General Assembly, the body which itself mandates the Council). For members of the Bureau to ignore and even to act contrary to the principles and standards set down in these two documents, including by restricting freedom of expression, reflects badly on the Bureau as a whole and on the Council.

If the Council is to uphold the basic rights to freedom of expression and unhindered access to and communication with the UN, it is imperative that its President and Vice-Presidents take a more principled and vigilant approach to safeguarding NGO participation. It is also important that a greater diversity of States be prepared to take the floor when NGOs are silenced. It remains disappointing that civil society continues to rely on only a handful of delegations, such as France, Germany, Ireland, the Netherlands, Norway, Switzerland, the UK, and the US, to speak up for them. NGOs would welcome more support from non-Western States like Cote d'Ivoire and Mexico (both of which recently enacted significant national laws on the protection of human rights defenders), Tunisia and Chile (both of which are supporting a resolution on protecting civil society space at this session), or Indonesia and the Maldives (both of which are core sponsors of a resolution on freedom of association and assembly).

The Human Rights Council should be a place where NGOs are safe and free to advocate, agitate and, at times, irritate. That is our role, our responsibility, and our right. Mature delegations should recognise and respect this, and it is incumbent on Members, the President and Bureau to ensure it.

Phil Lynch is Director of the International Service for Human Rights (www.ishr.ch). Follow him on Twitter: @PhilALynch. This piece was commissioned and first published by the Universal Rights Group [here](#).

Human Rights Defenders Profiles

KHARTINI SLAMAH: MALAYSIAN LGBTI RIGHTS DEFENDER

Khartini Slamah is a Malaysian transgender human rights defender working on HIV/AIDS and the rights of lesbian, gay, bisexual and transgender (LGBT) people. She has more than 27 years' experience in HIV/AIDS work at the national, regional and International levels, working closely with

the transgender and sex worker communities. She currently works with ISEAN Hivos Program, PT Foundation as the transgender program manager in Malaysia.

A former trainee of an ISHR human rights training, Khartini participated in advocacy activities at the current 27th session of the Human Rights Council. ISHR asked her about her activities, her views on the situation of LGBT rights defenders in Malaysia, and her opinion on whether and why the Council should pass a Sexual Orientation and Gender Identity (SOGI) Resolution at this session.

'I felt I was being treated like rubbish, and that made me desire to change things'

Khartini began her work as a human rights defender when the Malaysian authorities charged her for 'cross-dressing', under the Sharia law. After a painful two-year legal battle, which she lost, Khartini decided to keep on fighting. She did so not only for her personal sexual orientation, but also for the more 'holistic purpose' of advocating LGBT rights in her country.

'The government in Malaysia has progressively fostered hatred and violence among citizens against LGBTI people. These issues are not just religious ones: they have become over-politicised. As a consequence, all human rights groups in Malaysia are now silenced'

In Malaysia LGBT people face numerous challenges. Sharia law imposes strong - depending on the district in which the law is applied - restrictions to the freedom, and even to the existence, of LGBT people. However, it is not just Islamic law that is responsible for this. Since 2012, Khartini says the Malaysian government has used zero-tolerance in its discourses and practices against LGBT communities, and it is frequent to witness cases of hatred crimes such as harassment, beating and even raping of LGBT people.

Additionally, NGOs specialised in LGBT and HIV issues find a lot of interference by religious organisations, normally financed by the government. These organisations, while pursuing the objective of making LGBTs 'repent' from their identity, leave other NGOs without funds.

The overall situation clearly makes it very difficult for activists like Khartini to promote and protect LGBT rights: defenders in Malaysia need to keep a very low profile. Publicising such activities, Khartini says, would push the whole LGBT community underground.

Ultimately, the main goal for LGBT activists in Malaysia is to achieve the recognition of basic rights such as equal job opportunities and access to healthcare. This would be possible, in Khartini's view, through the elimination of discriminatory legislation, and the end of violent practices to which the government and the local authorities are complicit. To achieve this, she says, it is very important to find new policy tools and means of communicating with policy makers about LGBT issues.

'It's time for transgender people in Asia to get together and reflect upon what doing advocacy means, and what we are advocating for. Moving issues, bringing them into the right fora, that's what I am trying to do'

In pursuing these goals, knowing the UN human rights system is, if not crucial, certainly an asset. 'It is very interesting to be in touch with the system directly, participating to negotiations and events, understanding how things actually work and how to better engage in order to be listened. Once I am back home, I can share all this information with my community. It is important not only for Malaysia, but also Asia as a region' states Khartini.

'The Human Rights Council should adopt a resolution on human rights, sexual orientation and gender identity at this session. Such action would have a worldwide impact and would help minimizing the dangers for LGBT groups including by simply recognising that they exist.'

The Human Rights Council's action can in her view have meaningful symbolic connotation, i.e. that of an authority with the ability of making the human rights of vulnerable groups be recognised globally. However, she notes, more needs to be done by the UN system.

'The Human Rights Council should put more pressure on countries, especially when it comes to implementation. In fact, many states like Malaysia are often inconsistent between what they sign and what they do'

For more information on the work of PT Foundation see: <http://ptfmalaysia.org/v2/>

Our Work to Support Human Rights Defenders

HUMAN RIGHTS COMMITTEE: CALL ON SRI LANKA TO END ATTACKS AND REPRISALS AGAINST HUMAN RIGHTS DEFENDERS

(Geneva, 3 October 2014) – Human rights defenders and others working to promote truth, justice and accountability in relation to a UN estimated 40,000 civilian deaths in Sri Lanka in 2009 alone face a systematic pattern of threats, harassment, intimidation and violence, according to a new report submitted to the UN by ISHR and FORUM-ASIA.

The report, which is being considered by the UN Human Rights Committee in the context of its review of Sri Lanka next week, has found that threats and attacks against human rights defenders who submit information to the UN are particularly acute and are overwhelmingly perpetrated with impunity.

'Human rights defenders working in Sri Lanka face an increasingly hostile climate, with threats ranging from legislative restrictions on the right to freedom of expression, through to enforced disappearances, torture and even murder,' said Ms Pooja Patel of ISHR.

The report documents over 20 cases where human rights defenders have been attacked by State and non-State actors in connection with their work to promote human rights and pursue investigations and accountability for gross and systematic human rights abuses perpetrated by both the government of Sri Lanka and the former Liberation Tigers of Tamil Elam (LTTE). Among those cases documented include:

The arbitrary arrest and detention of Ms Balendran Jayakumari, a human rights defender who works on cases of enforced disappearances, and her 13 year old daughter under the Prevention of Terrorism Act.

The murder of investigative journalist Mr Lasantha Wickramatunge and the abduction and serious beating of senior journalist and media rights activist Mr Poddala Jayantha, with lack of adequate investigation, prosecution or accountability in both cases.

A crackdown on the rights to freedom of expression and association, with a recent government directive prohibiting certain non-governmental organisations from conducting press conferences or issuing media releases.

Intimidation, threats and reprisals against human rights defenders, including Mr Sunanda Deshapriya and Ms Nimalka Fernando, who work to expose and seek accountability for human rights violations in Sri Lanka through the UN Human Rights Council.

The smearing and defamation of such human rights defenders as ‘traitors’ by government officials and government-affiliated news agencies, with one newspaper calling for such people to be ‘shot and thrown to the forest for the foxes to eat’.

‘Sri Lankan officials are both perpetrating and failing to protect human rights defenders from attacks, threats and reprisals,’ said FORUM-ASIA’S representative to the UN in Geneva, Mr Iniyani Ilango. ‘We are particularly concerned at the trend of impunity in relation to the overwhelming majority of such attacks.’

ISHR’s Pooja Patel said, ‘In line with its obligations under both the International Covenant on Civil and Political Rights and the UN Declaration on Human Rights Defenders, Sri Lankan officials should refrain from all attacks and restrictions on civil society actors and investigate and pursue accountability where they occur’.

The joint report submitted by ISHR and FORUM-ASIA sets out a series of recommendations which the UN Human Rights Committee should make to the government of Sri Lanka to ensure compliance with its international human rights obligations, including:

Removing military oversight from the National Secretariat of NGOs and ensuring that NGOs can operate freely, independently and without government interference;

Respecting and upholding the right of all persons to access and communicate with UN human rights mechanisms, including the Human Rights Council-mandated international inquiry into Sri Lanka, without hindrance or fear of retaliation or reprisal; and

Ceasing the use of the Prevention of Terrorism Act against human rights defenders and journalists and repealing or amending the law so that it complies with international human rights law, including the ICCPR.

In addition to submitting a report, ISHR has also produced a video which documents cases of reprisals against human rights defenders, including Mr Sunanda Deshapriya of Sri Lanka.

The Human Rights Committee will review Sri Lanka on 7 and 8 October 2014 in Geneva and is expected to issue its findings and recommendations around 31 October.

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THE MALDIVES MUST WITHDRAW CHARGES AND END REPRISALS AGAINST NATIONAL HUMAN RIGHTS COMMISSION

(Geneva, 23 September 2014) - The Maldives must immediately withdraw charges of high treason levelled by the country’s Supreme Court against all five members of the Maldives Human Rights Commission, in connection with a report the Commission submitted to the UN in advance of the Universal Periodic Review of the country, ISHR said today.

‘The prosecution of members of the Maldives Human Rights Commission for submitting a report on the human rights situation in the country is a flagrant reprisal for cooperating with the United Nations,’ said ISHR’s Eleanor Openshaw.

'The UN Human Rights Council should immediately and unequivocally condemn this development in the Maldives, which is a Member State of the Council. We call on the Council's President and Bureau, together with other Member States, to publicly denounce this case and to call on the Maldives to issue a public response,' Ms Openshaw said.

ISHR formally brought the situation to the attention of the Council with a statement under Human Rights Council Agenda Item 8 today, expressing 'grave concern at reprisals against the Maldives Human Rights Commission for submitting a report for the UPR'. ISHR has also submitted its own [Briefing Paper on the situation of human rights defenders in the Maldives](#) to the UPR.

The five Commissioners were summonsed to the Supreme Court on 22 September and charged with high treason for allegedly undermining the Maldives' constitution, sovereignty and independence through the UPR report, which raised concerns regarding the rule of law and the independence of the judiciary. It is understood that the Commissioners will return to Court on 24 September, when it is expected that the case will move to trial.

'This is a grave attack against a national human rights institution,' said Ms Openshaw. 'Whilst the independence of the judiciary is an important principle, when the courts are employed to subvert international human rights law their actions need to be denounced and reversed,' she said.

A [draft resolution on national human rights institutions](#), tabled by Australia, will be voted on at the Human Rights Council later this week. The resolution contains provisions condemning 'any cases of alleged reprisal or intimidation against national human rights institutions and their respective members and staff', and calls on any such cases to be 'promptly and thoroughly investigated, with the perpetrators brought to justice'.

'The situation in the Maldives demonstrates the necessity and urgency of the Council adopting a resolution on national human rights institutions with strong language condemning and calling for accountability for reprisals against NHRIs and those who cooperate with them,' Ms Openshaw said.

While States including Russia, South Africa, India and Pakistan have previously sought to weaken the reprisals provisions in the draft resolution, Ms Openshaw said the situation in the Maldives should force them to re-think their position.

'All cases of reprisals should be condemned, but there should be a particular level of condemnation when that act is perpetrated in or by a State which is a member of the Human Rights Council. We call on States to unreservedly support language that denounces reprisals and to commit to comprehensive measures to prevent and respond to them,' Ms Openshaw said.

It is understood that the Maldives government has yet to make a public statement regarding the Supreme Court charges against the Commissioners, or to respond to an approach by the Commission to intervene on their behalf.

'NHRIs have the role and the right to submit information to the United Nations, including for the purposes of the Universal Periodic Review,' Ms Openshaw said. 'It is imperative that the various arms of government of the Maldives respect and uphold this right and safeguard the independence of the national human rights institution and their role as constructive critics of the State.'

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BAHRAIN CALLED TO END ILLEGAL DETENTION OF HUMAN RIGHTS DEFENDER

UPDATE: BAHRAIN ACTIVIST MARYAM AL-KHAWAJA RELEASED

After spending close to three weeks in jail, Maryam Al-Khawaja the daughter of activist Abdulhadi Al-Khawaja, was released on 18 September 2014. Maryam, who now has Danish citizenship, is faced with a travel ban which prevents her from leaving Bahrain. It is unclear how long it will take the courts to resolve the case. Maryam has been warned that speaking out human rights violations in the country could result in a worse punishment...[more](#)

(Geneva, 17 September 2014) - The continued detention of Maryam Al-Khawaja in Bahrain is a flagrant violation of international law and part of a pattern of systemic harassment and attacks against human rights defenders in the country, the International Service for Human Rights said today.

The statement comes as more than 150 non-governmental organisations from around the world wrote an [open letter to the King of Bahrain](#) calling for her immediate and unconditional release.

Al-Khawaja has been held in 'preventative detention' since 30 August when she was detained by Bahraini authorities while en route to visit her father in prison, whose own detention has been condemned by a UN Working Group on Arbitrary Detention as unlawful.

After appearing before a Bahraini court on 16 September, Ms Al-Khawaja's detention was extended until at least 1 October, purportedly to enable the further investigation of allegations that she assaulted police officers who denied her entry to the country to visit her critically ill father.

'Maryam's continued detention on charges which she vehemently denies is manifestly incompatible with the prohibition against arbitrary detention contained in Article 9 of the International Covenant on Civil and Political Rights, to which Bahrain is party,' said ISHR Director Phil Lynch.

'Even if one were to accept that the charges are not fabricated and vindictive, they are clearly not serious enough to justify continued detention for over a month,' Mr Lynch said.

ISHR has [previously expressed concern](#) that, in addition to being arbitrary, Ms Al-Khawaja's detention also raises serious questions as to Bahrain's compliance with Article 14 of the ICCPR, which protects the right to legal counsel and a fair trial, together with Articles 19, 21 and 22, which protect the rights to freedom of expression, assembly and association. There are also concerns about the impartiality of the prosecutor in the case, who has previously been accused by Al-Khawaja and others of targeting human rights defenders.

'Regrettably the trend of fabricated charges and judicial harassment against human right defenders in retaliation for their exercise of the basic rights to freedom of expression and peaceful protest is becoming more widespread,' Mr Lynch said.

'ISHR reiterates its call for the immediate and unconditional release of Maryam Al-Khawaja, together with all other human rights defenders being held in contravention of international law or in connection with the exercise of their fundamental rights to freedom of expression, association and peaceful assembly.'

'ISHR also [reiterates its call for the UN Human Rights Council and Members](#) - including the US, UK and other EU States - to increase pressure on Bahrain to release Al-Khawaja and to immediately end the detention and harassment of human rights defenders in the country,' Mr Lynch said.

‘Maryam is a clarion voice for human rights, democracy and the rule of law. It is incumbent on States that purport to hold those values dear to raise their voices more clearly and forcefully for her,’ Mr Lynch said.

For updates on the detention and condition of Maryam Al-Khawaja, follow her on Twitter @MARYAMALKHAWAJA.

Maryam Al-Khawaja is Co-Director of the Gulf Center for Human Rights and a Board member-elect of ISHR.

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NEW COMPILATION OF LGBTI RIGHTS VIOLATIONS SHOWS HUMAN RIGHTS COUNCIL MUST ACT

(Geneva, 11 September 2014) - A new [compilation of cases](#) of human rights violations against lesbian, gay, bisexual, transgender and intersex (LGBTI) people, prepared by ISHR, affirms the importance of the UN Human Rights Council taking action to address violence and discrimination at its current session.

The report compiles around 50 cases of violence, discrimination and other violations against people on the grounds of sexual orientation or gender identity based on reports of the Special Procedures of the UN Human Rights Council itself.

‘The UN can’t ignore the cases of human rights violations against LGBTI people that have been compiled by its own independent experts,’ said Pooja Patel of ISHR.

‘A look backwards over the three years since the UN Human Rights Council adopted the first-ever UN resolution on human rights, sexual orientation and gender identity in 2011 shows that the violence and discrimination against LGBTI individuals and groups continue, are widespread and are systematic,’ Ms Patel said.

The UN Special Procedures have responded to close to 50 allegations of violations, ranging from concerns relating to prohibitive laws against same-sex relations, to arbitrary arrests, harassment, assault and summary executions of people based on their sexual orientation and gender identity.

‘The cases compiled come from countries in every region of the world, from Belize and Bosnia and Herzegovina, to the United States and Uganda,’ said Ms Patel.

‘These cases are emblematic of broader, global trends of increased restrictions against LGBTI people, including LGBTI defenders and NGOs, as well as ongoing patterns of violence and discrimination’, she said.

The ISHR compilation comes as a group of States comprising Brazil, Chile, Colombia and Uruguay announced that they would pursue a new resolution on the issue of sexual orientation and gender identity during the current session of the UN Human Rights Council in Geneva.

‘This compilation shows the systemic nature of human rights violations against LGBTI persons and the need for the UN to develop a systemic response. We call on all States to support a resolution condemning violence and discrimination on the grounds of sexual orientation and gender identity and

the establishment of a UN mechanism to assist to ensure that violations are documented, perpetrators are held accountable, and victims receive justice,' Ms Patel said.

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BANGLADESH SHOULD INVESTIGATE AND PREVENT ATTACKS AGAINST WOMEN HUMAN RIGHTS DEFENDERS

(Geneva, 1 September 2014) - The Government of Bangladesh should investigate a violent attack against Hana Shams Ahmed and act to protect other women human rights defenders in the country, ISHR and the [Women Human Rights Defenders International Coalition](#) (WHRDIC) said today.

Hana Shams Ahmed is a leading advocate for women's rights and indigenous rights and serves as coordinator of the [International Chittagong Hill Tracts Commission](#) (CHTC). CHTC works to monitor the human rights situation in the Chittagong Hill Tracts, a highly militarised region in Bangladesh which is home to a large indigenous population. In 1997, a Peace Accord was reached in relation to conflict between the indigenous people and Bengali settlers in the region, although [land grabbing, deforestation and land degradation](#) associated with intensive logging and business agriculture continue to create tensions.

According to information obtained by WHRDIC, Hana Shams Ahmed was violently attacked by up to 10 people allegedly associated with a Bengali ultra-nationalist group, Bangalee Somo Odhikar Andolon. The attack occurred at around 6.30pm on 25 August after a police unit which had been detailed to protect her from such attacks disappeared.

'The attack against Hana Shams Ahmed is yet another attempt to intimidate human rights defenders in Bangladesh, particularly those working with the Chittagong Hill Tracts Commission,' said Ms Pooja Patel of the International Service for Human Rights.

'We are especially concerned over the seeming failure of the police to prevent or take immediate action to stop the attacks,' Ms Patel said.

A recent CHTC report on violence against indigenous women and girls in Chittagong Hill Tracts found that impunity is the single most important factor contributing to sexual and gender based violence in the region.

According to the WHRDIC, 'this violent attack is part of a trend of increasing attacks on women human rights defenders due to the failure of authorities to take effective legal actions to protect human rights activists. CHTC members have been repeatedly targeted with intimidation and violence for carrying out their human rights work.'

The most recent attack occurred on 5 July 2014, when four human rights defenders were [injured while conducting a fact-finding mission](#) on behalf of the CHTC, according to Front Line Defenders.

'During its Universal Periodic Review less than a year ago, Bangladesh accepted a number of recommendations in relation to combating impunity for human rights violations. The government must demonstrate its genuine commitment towards this end by ensuring that relevant authorities conduct an impartial and independent investigation into the allegations without delay, and bring perpetrators to justice,' Ms Patel said.

ISHR and the WHRDIC call on the Government of Bangladesh to:

1. Conduct an immediate and transparent investigation into the attack on Hana Shams Ahmed and bring all those responsible to justice;
2. Ensure the physical and psychological protection of the staff of CHTC and provide security to ensure they can continue their human rights work without constraint; and
3. Respect and protect human rights defenders and ensure they are able to conduct their legitimate work without fear of physical and psychological violence throughout Bangladesh.

A full statement from the WHRDIC, a resource and advocacy network for women human rights defenders comprising 29 leading non-governmental organisations is available [here](#).

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Our Work to Strengthen Human Rights Systems

ISHR AT THE UN HUMAN RIGHTS COUNCIL

Catch up on ISHR statements and side events at the UN Human Rights Council. [Visit our YouTube channel.](#)

RECOMMENDATIONS FOR SPECIAL PROCEDURES TO STRENGTHEN STATE COOPERATION AND COMBAT REPRISALS

(Geneva, 30 September 2014) - The UN's independent human rights experts have an obligation to protect those who cooperate with the UN from acts of intimidation and reprisal and should be more active in publicly exposing and pursuing States which engage in such acts, the International Service for Human Rights said today.

In a [submission to the annual meeting of the Special Procedure mandate holders of the Human Rights Council](#) - which includes Special Rapporteurs, Independent Experts and members of Working Groups - ISHR also made a range of recommendations as to how the mandate holders could become more accessible and responsive to victims of human rights violations and promote better State cooperation with the Human Rights Council.

'The Special Procedure mandate holders play a crucial role in the promotion and protection of human rights at both the international and national levels,' said ISHR Director Phil Lynch.

'At the international level, their invaluable reports and input to the Human Rights Council provide that body with the independent expertise necessary to understand and respond effectively to both thematic and country issues. At the national level, their country missions can provide expert guidance to States as to domestic implementation of international human rights obligations, while their communications in relation to individual cases can give voice to victims and help ensure that national level human rights violations are exposed at the international level,' Mr Lynch said.

Regrettably, a [recent report by the UN Secretary-General](#) exposes that individuals and organisations continue to face intimidation and reprisals for cooperating with and submitting information to the Special Procedures, ranging from arbitrary detention to ill-treatment and even torture.

'The Special Procedures have a moral, legal and institutional obligation to protect those individuals and organisations who contribute to their work,' said Mr Lynch. 'In this regard, we urge the mandate

holders to take all such preventative and precautionary measures as are necessary to reduce the risk of reprisals, and to play a more active role in investigating, following and promoting accountability in cases of reprisals,' Mr Lynch said.

The ISHR submission also sets out a range of recommendations aimed at increasing the level of State cooperation with Special Procedure mandate holders.

'All States have an obligation to cooperate fully with the work of the UN Human Rights Council's Special Procedures,' said Michael Ineichen, ISHR's Director of Human Rights Council Advocacy. 'This obligation is particularly pertinent in the case of States that are members of the Human Rights Council and, as such, pledge to uphold the highest human rights standards and cooperate fully with the Council's mechanisms.'

'It is unacceptable that States, including Member States, fail to respond either promptly or substantively to communications from the Special Procedure mandate holders. In this regard, the ISHR submission makes a number of recommendations aimed to creating incentives for States to do so and raising political costs for continued non-cooperation'.

The submission has been made to the [21st annual meeting of Special Procedure mandate holders](#), which is taking place from 29 September to 3 October in Geneva. ISHR will also present the submission to the mandate holders at a private briefing on 1 October.

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STATES SHOULD INVESTIGATE AND RESPOND TO ALLEGATIONS OF REPRISALS

(Geneva, 23 September 2014) - Continued cases of reprisals and failure to respond to allegations of reprisals amount to contempt of the Human Rights Council by States, according to a [statement made by ISHR](#) during a Council debate on the Secretary-General's annual report on intimidation and reprisals against those that cooperate with the UN.

'The range and brutality of reprisals is made evident in the [Secretary General's report](#), with cases cited of deaths, alleged attempted assassination, beatings, campaigns to intimidate, and threats against family members,' said Eleanor Openshaw from ISHR.

'The report shows that reprisals constitute a systematic and deliberate strategy to deter and punish civil society engagement with the UN.'

Several States took the floor to express concern at the alleged cases of reprisals contained in the report, with the UK highlighting the discriminatory denial of UN accreditation to certain NGOs - including those working on women's rights and LGBT rights - by the Committee on NGOs as an example of a reprisal.

Several States condemned the failure of States to respond to requests for information on alleged cases, which ISHR greatly welcomed. 'The number of cases that continue without investigation by States shows a remarkable lack of concern, and indeed contempt for the Council by these States,' said Ms Openshaw. 'Impunity in cases of reprisals remains the norm and of course fuels recurrence. The Council should demand that States respond to requests for information made to them by the Council and its mechanisms.'

In addition, several States spoke powerfully about the failure of General Assembly to bring to an end the period of uncertainty prompted by GA resolution 68/144, and to implement Human Rights Council resolution 24/24. Several States - including Botswana, Norway, Switzerland and the US -

called for Council resolution 24/24 to be implemented right away. In a strong statement, Botswana noted that States should 'hold ourselves accountable'. Hungary called on States to redouble efforts and to act in good faith to ensure the resolution is implemented.

'Several States have shown real commitment to developing more effective protections against and responses to intimidation and reprisals, principal amongst them Hungary, the main sponsor of resolution 24/24. We greatly appreciate these efforts,' said Ms Openshaw. 'Now is the time for States at the General Assembly to confirm the designation of a focal point on reprisals and live up to their obligations to protect civil society from attack.'

'The need for a more effective and coordinated response from the UN demonstrated compellingly and disturbingly by the cases outlined in the Secretary General's report,' said Ms Openshaw. 'The current paralysis over reprisals in New York should not prevent the Human Rights Council in Geneva from continuing to take action to address alleged cases.'

One of the cases cited by the Secretary General was the subject of a letter sent by ISHR, along with several NGOs, to the President of the Council and his Bureau and member States, registering concern about [ongoing reprisals faced by defenders and victims in Sri Lanka](#) who engage with the UN, including by cooperating with the OHCHR investigation mandated by the Council itself. Concerns were also expressed to the President regarding allegations of [reprisals against Vietnamese human rights defenders](#) who cooperated with the country visit of the Special Rapporteur on freedom of religion and belief.

'We call on the President and his bureau to immediately demand and support a full investigation of these allegations and a full account from concerned States and to publicise the results of such a process,' Ms Openshaw said.

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PROTECTING CIVIL SOCIETY SPACE AND PREVENTING REPRISALS: DEVELOPMENTS AND NEXT STEPS

(Geneva, 21 September 2014) - The enactment of specific laws and policies to protect human rights defenders at the national level, together with the appointment of a senior UN official to combat intimidation and reprisals at the international level, are crucial if civil society is to operate in a safe and enabling environment free from repression. This was the conclusion drawn by panellists at a [Human Rights Council side-event](#) hosted jointly by ISHR, FIDH, the East and Horn of Africa Human Rights Defenders Project and Russian NGO ADC Memorial.

'Increasing efforts by some States to silence civil society actors at both the national and international levels are a paradoxical testament to the increasing influence and effectiveness of human rights defenders and non-governmental organisations in those spaces,' said ISHR's Michael Ineichen, who moderated the panel.

'As civil society is gaining more power, its space is shrinking in many countries, facing multiple legal obstacles and repression,' said panelist Olivier de Frouville, a member of the UN Working Group on Enforced and Involuntary Disappearances, in a [paper delivered to the event](#).

By way of example, Stephania Kulaeva, Director of ADC Memorial, explained how Russian laws which restrict the ability of NGOs to receive foreign funding or engage in 'political activity', and which require NGOs which receive funds from abroad to register as 'foreign agents', forced ADC Memorial to cease official operations in that country. In [the case of ADC Memorial](#), the purported political activity was submitting a report on police brutality against minority groups in Russia to the

UN Committee against Torture; a clear example of a reprisal against an NGO for exercising its right to communicate with and submit information to the UN.

According to Mr de Frouville, however, the news is not all bad. 'More and more government officials understand that the state's role is to protect civil society actors and to create an enabling environment for them to express themselves and flourish,' he said.

To illustrate that point, ISHR's Clement Voule, who is also an expert member of the African Commission's Working Group on Human Rights and the Extractive Industries, pointed to the recent enactment of a specific [law to protect human rights defenders in Cote d'Ivoire](#), with Burkina Faso also contemplating such legislation. 'The enactment of a national law to recognise and protect human rights defenders, developed and implemented in close consultation with civil society, is an important element of creating a safe and enabling environment for their work,' Mr Voule said.

It is developments such as these that prompted Ireland to propose a resolution at the current session of the Human Rights Council which would, among other things, task the UN Office of the High Commissioner for Human Rights to compile a report on best practices in the protection of civil society space from around the world.

'The adoption of a resolution on civil society space at the current session would be a modest but important incremental step towards safeguarding and supporting civil society in its work to promote human rights, democracy and development,' explained Irish Ambassador to the UN, Patricia O'Brien. 'These best practices will give countries like Ireland an opportunity to learn from other States,' Ambassador O'Brien said.

In addition to discussing the importance of protecting civil society space at the national level, the panelists also discussed the importance of safeguarding civil society space at the international level, including at the UN. 'The system would not function without the work of non-governmental organisations; it would be an empty shell,' said Mr de Frouville.

Panelists identified two key threats in this regard: intimidation and reprisals - ranging from smear campaigns to murder - to deter or punish people for cooperating with the UN, and worsening efforts to silence NGOs at the UN itself, including within the Human Rights Council.

All panellists bemoaned the increasing threats towards civil society space within the Human Rights Council, with Ambassador O'Brien condemning an increase in 'spurious points of order' against NGOs. 'The Council should be a forum for open dialogue where freedom of expression can thrive,' she said.

Olivier de Frouville expressed similar views, saying 'Rules of procedures in the UN must be interpreted in the light of the Universal Declaration on Human Rights and of the Declaration on Human Rights defenders. And there must be clear rulings in this Council so as to enforce freedom of expression. It is a shame that this Council whose mission is to promote and protect human rights allows for undue limitations to freedom of expression during its debates.' This view was supported by former President of the Human Rights Council, Ambassador Laura Dupuy Lasserre of Uruguay, in an intervention from the floor.

In many cases, of course, attacks against human rights defenders for their engagement with the UN go far beyond attempted censorship within the Human Rights Council, with ISHR's Pooja Patel sharing the [testimony of Sri Lankan human rights defenders](#) who have been defamed, abducted, disappeared and even killed in connection with their engagement with the UN.

'The threats and attacks to which people are subject, and the lack of investigation and accountability in relation to such attacks in the overwhelming majority of cases, is both shocking and unacceptable,'

Ms Patel said. 'The level of impunity for attacks licences further attacks and undermines the integrity of the UN, with an increasing and understandable reluctance on the part of many people to report cases, participate or engage with UN processes. We need urgent action to ensure that the Human Rights Council and the UN more broadly are safe, sacred and victim-centred spaces.'

All panelists agreed that such action is necessary at both the national and international levels, with Ambassador O'Brien stating that allegations of intimidation and reprisals must be fully investigated and perpetrators made to 'feel accountable in a very real way'.

At the international level, all panelists noted the crucial need for the General Assembly to support Human Rights Council resolution 24/24 as a matter of priority and for the Secretary-General to appoint a high-level UN-wide focal point to follow up on cases of reprisals without delay. The recent [mandating of a senior focal point on reprisals by the African Commission on Human and Peoples' Rights](#) was highlighted as a positive development in this area, with credit also given to States including Botswana, Hungary, Tunisia, the US and Ireland that have kept the discussion on the table in New York.

MEMBER STATES OF THE HUMAN RIGHTS COUNCIL MUST COOPERATE WITH ITS EXPERTS

(Geneva, 16 September 2014) - Human Rights Council member States should respond promptly and substantively to allegations of human rights violations, the International Service for Human Rights said today in a [statement delivered](#) to the Human Rights Council.

In a [new report](#) presented to the Human Rights Council's 27th session, the United Nations human rights experts document a worsening trend of threats and attacks against civil society actors and human rights defenders.

In the most egregious examples, the report contains cases of defenders who were killed or died in connection with their work, including Chinese human rights defender Cao Shunli, who died allegedly in connection with her engagement with the Universal Periodic Review, and Gilbert Paborada, Elisa Tulid, Rolen Langala, Marcelo Monterona, Julieto Lauron and Sixto Bagasala, six defenders from the Philippines killed allegedly in connection with their work to promote corporate accountability and land and environment rights. The report also documents allegations of torture, ill-treatment, arbitrary arrest and detention, and other violations against human rights defenders and civil society actors.

In its statement, ISHR deeply deplored the documented violations, and called on the Human Rights Council to address them. To date, many of the allegations in the UN's report have not received a response by the concerned governments, or have not received a substantive response.

'We are particularly alarmed at the lack of response by several members of the Human Rights Council, despite their legal obligation to cooperate,' said Michael Ineichen, Director of Human Rights Council Advocacy at ISHR.

'We call on those 13 governments that have not yet responded to allegations of human rights violations - including Algeria, Argentina, Brazil, China, Cote d'Ivoire, India, Indonesia, Kenya, Mexico, Pakistan, the Philippines, Saudi Arabia, and Venezuela - to respond promptly and in a substantive manner,' Mr Ineichen said.

In its statement, ISHR also said that States in relation to which a communication has been addressed, but to which the State has not substantively responded, should be given the floor first during future interactive dialogues with relevant mandate holders with the expectation that a substantive response be provided directly to the Human Rights Council at that time.

'The absence of a response, or lack of an appropriate responses, to special procedures is plainly incompatible with membership in the Council, and we invite members of the UN's General Assembly to consider this when electing members to this Council,' Mr Ineichen said.

ISHR's statement is available [here](#).

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CONCERNING INCREASE IN ENFORCED DISAPPEARANCES OF HUMAN RIGHTS DEFENDERS

(Geneva, 12 September 2014) - Far from being a 'crime of the past', enforced disappearances are being perpetrated at alarming levels against human rights defenders, while lawyers, advocates and journalists who work to expose and seek accountability for such disappearances are themselves subject to worsening intimidation and attack, ISHR will tell the UN Human Rights Council today.

The Council is due to consider the [annual report](#) of its expert Working Group on Enforced or Involuntary Disappearances on 12 September, at which time ISHR will deliver its [statement](#).

'The Working Group report disturbingly documents that enforced disappearances continue to be used persistently and perniciously across the world. It makes clear that they continue to be perpetrated at alarming levels against human rights defenders, with States including Bangladesh, Bahrain, China and Sri Lanka cited by the Working Group in this regard,' said ISHR Director Phil Lynch.

The report also documents what appears to be a worsening incidence of intimidation and reprisals against victims, family members, witnesses, lawyers and human rights defenders working on cases of enforced disappearance. 'ISHR strongly supports the Working Group's call for States to 'take specific measures to prevent such acts, protect those working on cases of enforced disappearances, and punish the perpetrators',' Mr Lynch said.

'In many cases, of course, the State itself is the perpetrator and the UN has a responsibility to act. In this regard, ISHR also strongly supports the Working Group's call for the establishment of a UN-wide senior focal point to combat intimidation and reprisals,' said Mr Lynch.

A further issue highlighted in the report is the deeply concerning trend of short-term enforced disappearances, particularly of protesters, in States including Bahrain and Egypt. Equally concerning is the apparent targeting of human rights defenders working on issues of corporate accountability, with the disappearance of Russian environmental activist [Evgeny Vitishko](#), cited in the [Special Procedures joint communications report](#), a case in point.

'Human rights defenders who work to expose and pursue accountability for corporate human rights violations face the double jeopardy of enforced disappearances and other violations perpetrated by both State and non-State actors, including private military and security companies,' Mr Lynch said. 'It is crucial that both States and businesses see and value the role of human rights defenders in identifying, exposing, and working to mitigate and remedy the adverse human rights impacts of some business activities, rather than labelling them as 'economic saboteurs' or 'anti-development',' Mr Lynch said.

ISHR will also take the opportunity in its statement to highlight some examples of good practice identified in the Working Group's report.

'We welcome the Philippines' recent enactment of legislation to criminalise enforced and involuntary disappearances,' said Mr Lynch. 'ISHR also positively acknowledges the ongoing efforts in States such as [Cote d'Ivoire](#) and Colombia to provide specific protection measures to human rights defenders at

risk. We urge these States to strengthen implementation and other States to adopt such measures,' he said.

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HIGH COMMISSIONER CALLS FOR SAFETY AND ACCESS TO THE UN FOR CIVIL SOCIETY

(Geneva, 9 September 2014) - In his [inaugural address](#) to the Council, Zeid Ra'ad Al Hussein, the new UN High Commissioner for Human Rights, emphasised the role of human right defenders, pointing out that they are prepared to risk their lives in defence of others or to end injustice and therefore 'we must do everything we can to protect them and celebrate them'. He called for action to guarantee access for civil society actors to the United Nations' mechanisms and to tackle the scourge of reprisals referred to in the [latest report](#) of the Secretary-General.

Vital role of civil society

The new High Commissioner strongly encouraged the Council to strengthen engagement with civil society and stressed that the valuable work done by the Treaty Bodies, Special Procedures and the Council itself could have never been possible without the support and contributions of civil society.

'We must acknowledge the value of civic contribution, build the capacity of marginalised voices, ensure a place at the table for civil society actors, and safeguard their activities,' he said, adding that restrictions to freedom of expression, association and peaceful assembly are stopping progress by preventing the spread of information and ideas intended to help the Council and States to take the right decisions regarding human rights developments.

Several States - including Austria, France, the UK and Italy on behalf of EU - joined the High Commissioner in recognising the importance of ensuring a safe environment for civil society to engage without fear of reprisals. The Ambassadors of Uruguay and Botswana, along with their Swiss counterpart, all expressed support for combating the issue of reprisals, with Botswana underlining the necessity that the General Assembly soon take note of Human Rights Council Resolution 24/24 in order to allow for its effective implementation to tackle the issue.

Ireland spoke out for civil society space at the Council itself, Ambassador Patricia O'Brien said that 'to shut down debate in this Chamber goes against one of the fundamental reasons for our presence here,' adding that NGOs must be allowed to take the floor and make statements, whether or not States agree with their opinions. In a similar vein, Nigeria supported and encouraged the High Commissioner to continue to acknowledge and appreciate the work of human rights defenders and reminded Member States in the room that 'human rights defenders are also human rights advocates and we trust that Room XX is meant for human rights advocates no less'. Indonesia recalled a proverb saying that 'only together can we go far', whilst the US said that the 'shrinking space of civil society in many nations limits discussion and debate'.

Threats to civil society space within the Human Rights Council

Unfortunately, these statements of intent were immediately put to the test when Egypt called a procedural point of order to censor the intervention of ISHR's Michael Ineichen, who referred to the [recent repression of civil society](#) in that country.

The Council's long standing practice is that speakers can refer to country situations under any of the Council's General Debates to contextualise their statements. Under Item 2, this implies countries that are referred to in reports of the High Commissioner or where the situation is an example or illustrative of a theme or issues discussed by the High Commissioner. If NGO space is to be

safeguarded during this Council session, where a [resolution on civil society space](#) will be tabled, the Council's President and Vice-Presidents must uphold this rule in a more principled way.

It is also imperative the States be better prepared to safeguard NGO participation and that a greater diversity of States be prepared to take the floor on such issues rather than having to always rely on the likes of the US, UK, France, Ireland and the Netherlands.

Country situations and need to combat impunity

Violations and conflicts in the Middle East and North Africa headed the list of national concerns outlined by the High Commissioner in his update to the Council. He stated that the resolution of the conflicts in Iraq and Syria should be a priority for the international community, with protection of the most vulnerable - children, women and some religious and ethnic groups – requiring urgent attention.

High Commissioner Zeid urged all parties of the conflicts in Gaza, Libya and Ukraine to end violations and ensure compliance with international humanitarian law. He also raised concerns regarding the situation in the Central African Republic, South Sudan, the Democratic Republic of Congo, Sri Lanka and the Democratic People's Republic of Korea.

One challenge which he chose to highlight was impunity and reiterated that those responsible for crimes against humanity must be held accountable if it is to be ensured that such crimes will not be committed again. 'Impunity can only lead to further conflict and abuses, as revenge festers and the wrong lessons are learned,' he said. He stressed that it is not too early for the international community to assess the roots of recent crises and listed some of the factors which had accelerated the conflicts and hindered the development of 'tolerant and moderate civil society movements': patterns of violations, corruption, discriminatory political systems, a lack of promotion and protection of economic and social rights and civil and political rights, and the violent oppression of civil society actors.

Combating discrimination, including on the grounds of sexual orientation and gender identity

In addition, the High Commissioner shared his concerns about serious acts of discrimination in many regions. He affirmed that 'discrimination and inequalities of all kinds prevent people from achieving their full potential' whilst noting that the Sustainable Development Goals, which will replace the Millennium Development Goals in one year, must aim to eliminate such inequalities and include a human rights perspective in doing so.

In their responses to the High Commissioner's update, Chile, Colombia and Uruguay announced that they will submit a resolution on [sexual orientation and gender identity](#) similar to the one which was approved in 2011. They stated that their efforts aim to make visible, and help overcome, existing problems and flaws in laws and in practice around the world.

Marta Kolasinska is a Human Rights Advocate at the International Service for Human Rights

REPRISALS: UN AND STATES MUST ACT ON DISTURBING NEW REPORT

(Geneva, 6 September 2014) - An alarming [new report](#) by the UN Secretary-General documents a significant number of cases in which people have been arrested, detained, tortured and even killed for their work to expose and pursue accountability for human rights violations at the United Nations. Disturbingly, the report also reveals that in very few such cases are the threats and attacks properly investigated or perpetrators held to account.

'The cases documented in this new report are truly shocking,' said ISHR Director Phil Lynch.

‘From the murder in [Cameroon](#) of a human rights defender advocating for LGBT rights during the Universal Periodic Review, to the alleged torture and ill-treatment of a woman in [China](#) seeking justice at the UN for the demolition of homes, to the raid of non-governmental organisations in [Egypt](#) at gunpoint, to the de-registration of NGOs in Russia and [Malaysia](#) in association with their international advocacy, this report exposes the horrific human cost of cooperating with the UN,’ said Mr Lynch.

According to the Secretary-General, ‘the cases included in the report are only the tip of the iceberg. Some cases have not been included because of concern that the alleged victims might be subjected to further acts of harassment, intimidation or reprisal if their complaints were published.’

‘This report reveals that human rights defenders are not even safe at the UN in Geneva, with documented cases of activists from Cuba, China, [Sri Lanka](#) and [Viet Nam](#), among others, being subject to surveillance and harassment from State officials and State-controlled media and organisations while in Geneva and at the UN,’ said Mr Lynch.

‘The primary responsibility to prevent and redress reprisals lies with the State. In that regard we strongly support the Secretary-General’s calls for States to refrain from, prevent, investigate and ensure accountability for cases of alleged intimidation and reprisals, including by enacting specific laws and policies and appointing a national focal point to follow up on cases,’ Mr Lynch said.

The report, which will be presented to the Human Rights Council in Geneva next week, also reiterates calls for States to support the UN itself to mandate a high-level official to follow up on cases reprisals.

‘The ongoing incidence of reprisals, many of which are perpetrated by State actors, together with the impunity and lack of accountability in most cases, unequivocally evidences the need for a stronger and more coordinated response from the UN,’ said ISHR Program Manager Eleanor Openshaw.

The report comes as the General Assembly in New York is set to consider its response to [Human Rights Council resolution 24/24](#) and implores States to take positive action in that regard. ‘I welcome steps taken to address cases of reprisal in a coherent and systematic manner at the national, regional and international levels, including through the adoption of Human Rights Council resolution 24/24,’ says the Secretary-General in his report. ‘In that resolution, the Council reaffirmed the right of everyone to unhindered access to, and communication with, international bodies, and requested that a United Nations-wide senior focal point on issues related to reprisals be designated to engage with all stakeholders and encourage a prompt, effective and unified response. I commend the fact that the Council adopted a forward-looking resolution on reprisals and ask for your support to ensure that it is followed through at the General Assembly,’ the Secretary-General says.

‘In the absence of a coordinated international response, various [UN treaty bodies](#), Special Procedures and the [African Commission on Human and Peoples’ Rights](#) have appointed focal points or rapporteurs to combat reprisals. As the Secretary-General notes, these are welcome innovations but no substitute for the system-wide focal point called for by the Human Rights Council in resolution 24/24 and again by the Secretary-General himself in this report,’ Ms Openshaw said.

ISHR will host a [high-level side-event on protecting civil society space and preventing reprisals](#) in Geneva on 19 September.

ISHR has also produced a [fact-sheet on the human cost of cooperating with the UN](#).

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- In New York, Eleanor Openshaw, Program Manager, on e.openshaw@ishr.ch

A selection of the cases contained in the report are extracted below:

Cameroon

Reports were received by special procedures of the murder of a human rights defender and a journalist, and intimidation and reprisals against several others defending the rights of lesbian, gay, bisexual, transgender and intersex people, in relation to their participation in the second universal periodic review of Cameroon. On 5 July 2013, the Director of the Cameroonian Foundation for AIDS, who had contributed to the report of Human Rights Watch that had addressed recommendations to the second review of Cameroon, was found dead at his home in Yaoundé. Although the police opened an investigation, no crime scene investigation or autopsy had reportedly been carried out. Subsequently, three colleagues of the deceased were detained in relation to the investigation. In the month preceding the murder, a series of burglaries and arson attacks had been reported on buildings of persons and organizations working with the Foundation on lesbian, gay, bisexual, transgender and intersex rights, including Alternatives-Cameroun. At the time of finalization of the present report, no reply had been received from the Government to the joint communication sent on 13 August 2013 by a group of special procedures mandate holders.

China

On 5 May 2014, several special procedures mandate holders raised the case of Ge Zhihui. In early 2014, Ms. Ge, a petitioner assisting other petitioners in seeking justice for the demolition of their homes, participated in a training course outside China on United Nations human rights mechanisms. After her return, on 1 March 2014, Ms. Ge was arrested at her home in Beijing by agents of the Fengtai District Public Security Bureau, detained at Fengtai District Detention Centre and allegedly subjected to ill-treatment and torture, which led to her being hospitalized on two occasions. Although she had been charged with, inter alia, creating a disturbance, the interrogations in detention reportedly focused on Ms. Ge's visit to Ms. Cao in hospital and her participation in the training course. At the time of finalization of the present report, no reply had been received from the Government to the joint communication sent.

Egypt

On 24 December 2013, several special procedures mandate holders raised allegations of intimidation and reprisals by Egyptian State security forces against representatives of the Egyptian Centre for Economic and Social Rights, in the form of a raid and arrests, for their cooperation with the Committee on Economic, Social and Cultural Rights and the universal periodic review of Egypt. On 18 December 2013, around midnight, more than 60 police officers and security agents reportedly raided the offices of the Centre, holding staff at gunpoint. After damaging equipment and confiscating several laptops, officers arrested and blindfolded Mostafa Eissa, Head of the Documentaries Unit, Mahmoud Bilal, a lawyer at the Centre, Mohamed Adel, a volunteer, and three other staff members. The following morning, all of them, except Mr. Adel, were released and their property returned to them. It is alleged that during their detention, the men were blindfolded and handcuffed, were forced to stand and were beaten. On 22 December 2013, Mr. Adel was sentenced to three years' imprisonment and a fine of 50,000 Egyptian pounds (approximately US\$ 7,000), allegedly in relation to his participation in a peaceful protest on 26 November 2013.

Malaysia

On 22 January 2014, four special procedures mandate holders raised allegations of reprisals against the Coalition of Malaysian Non-Governmental Organizations (COMANGO), which had made submissions for the universal periodic review of Malaysia. Following the launch of an online forum entitled "Facing the threat of liberalism and Shi'ites" on 2 October 2013, COMANGO began to

receive threats daily, including from government officials. In November 2013, Ikatan Muslimin Malaysia allegedly distributed 70,000 leaflets on the “masterminds” behind COMANGO which included their images, and announced that it would launch a nationwide campaign against them. On 20 November 2013, the Minister for Islamic Affairs stated in an opening speech at the Forum on Universal Fundamental Rights that human rights as espoused by the Universal Declaration of Human Rights might cause discordance in the society. On 8 January 2014, the Ministry of Home Affairs issued a press statement declaring COMANGO illegal. The United Nations High Commissioner for Human Rights, through her spokesperson, expressed concern about what “appears to be an act of reprisal” and called upon the Government to ensure that civil society can conduct its legitimate activities without intimidation or harassment. At the time of finalization of the present report, no reply had been received from the Government.

Sri Lanka

Visuvalingam Kirupaharan, General Secretary of the Tamil Centre for Human Rights, was reportedly threatened during the twenty-fifth session of the Human Rights Council. On 21 March 2014, Mr. Kirupaharan participated in a side event on human rights in Sri Lanka, organized by the International Buddhist Foundation. After the event, a journalist, reportedly from the Sri Lankan newspaper *Divaina*, approached Mr. Kirupaharan, stating that he could not return to Sri Lanka and that he would face consequences if he did so. The journalist allegedly told Mr. Kirupaharan that photographs of him at the Council would be published in newspapers in Sri Lanka. At the time of finalization of this report, no reply had been received from the Government to a joint communication sent on 27 March 2014 by three special procedures mandate holders.

Viet Nam

On 19 May 2014, four special procedures mandate holders raised allegations of acts of intimidation and reprisal against Le Cong Cau, head of the Buddhist Youth Movement. Mr. Cau had participated by means of an audio message at a side event called “Banned civil society voices” on 4 February 2014, before the universal periodic review of Viet Nam had taken place. Mr. Cau had been under surveillance since March 2013 and had been detained on 1 January 2014 on suspicion of carrying terrorist materials as he was boarding a plane for Ho Chi Minh City and placed under house arrest. Although he had reportedly been told orally that he could travel freely within the country, Mr. Cau was rearrested on 16 February 2014 and taken to Truong An district police station, where he was interrogated about his audio message at the side event. On 14 April 2014, Mr. Cau was informed by an official of the Thua Thien-Hue police that he would remain under house arrest for the duration of the investigation of his case. At the time of finalization of the present report, no reply had been received from the Government.

Key Developments in the Promotion and Protection of Human Rights

Top UN human rights body condemns violence and discrimination based on sexual orientation and gender identity

(Geneva, 26 September 2014) - A United Nations Human Rights Council resolution adopted today (L.27/Rev.1) is a critically important step towards combating violence and discrimination based on sexual orientation and gender identity and upholding the principles of the Universal Declaration of Human Rights, 25 human rights groups have said.

The resolution builds on a resolution adopted three years ago in June 2011, when the Council passed the first ever UN resolution on human rights violations based on sexual orientation and gender

identity. The resolution condemns violence and discrimination against LGBT persons and calls for the Office of the High Commissioner to prepare a report on good practice in laws and policies to uphold their rights.

Brazil, Chile, Colombia, Uruguay, and 42 additional co-sponsors introduced the resolution. In its presentation to the Council, Chile stated that 'this resolution does not seek to create new rights...there are some whose rights are more violated and need more protection.' Colombia added 'the report that we request is part of existing international law.'

The resolution survived a total of seven hostile amendments, introduced by Egypt on behalf of ten States, seeking to strip the resolution of all references to sexual orientation and gender identity. Brazil stated that the proposed amendments would 'seek to radically change the purpose and focus of the resolution and changes its substance.' Ultimately, the resolution was passed by a vote of 25 in favor, 14 against, and 7 abstentions, with support from all regions and an increased base of support compared with 2011.

'The leadership of these Latin American states reflects strong commitment to human rights for all and follows the significant progress that is being made by governments and lesbian, gay, bisexual, transgender, transsexual, and intersex activists in the region,' said Andres Rivera Duarte from the Observatorio Derechos Humanos y Legislación, Chile.

The resolution asks the High Commissioner for Human Rights to update a 2012 study on violence and discrimination on the basis of sexual orientation and gender identity (A/HRC/19/41), with a view to sharing good practices and ways to overcome violence and discrimination. The resolution expresses grave concern at acts of violence and discrimination in all regions of the world committed against individuals because of their sexual orientation and gender identity. This resolution demonstrates that this issue remains on the agenda of the Human Rights Council and sends a message of support to people around the world who experience this type of violence and discrimination, said the 25 groups.

'While we would have preferred to see an institutionalised and regular reporting mechanism, the council has still sent a strong message of support to human rights defenders working on these issues. We look forward to States implementing the outcomes of these reports,' said Jonas Bagas, of TLF Share in the Philippines.

Advocates welcomed supportive remarks made by the newly appointed UN High Commissioner for Human Rights earlier in the Council session. 'There is no justification ever, for the degrading, the debasing or the exploitation of other human beings – on whatever basis: nationality, race, ethnicity, religion, gender, sexual orientation, disability, age or caste,' said Zeid Ra'ad Al Hussein. These comments follow on ground-breaking work by his predecessor, Navi Pillay, and UN Secretary General, Ban Ki-Moon, on issues of sexual orientation and gender identity.

'This pattern of human rights violations is global in nature, and therefore requires a global response. In all regions of the world, including in Europe, discrimination and violence on the grounds of sexual orientation and gender identity are a daily reality for many,' said Nori Spauwen from COC Netherlands.

'The Human Rights Council resolution is a significant moment for global LGBTI movements, and for people around the world who have worked tirelessly for human rights for everyone,' said Monica

Tabengwa, LGBT rights researcher and an ILGA Board Member, Kenya. 'We intend to press the Council to keep these concerns atop its agenda, and ensure sustained attention and action.'

The following groups support this statement:

- Amnesty International (Laura Carter +44-7771-796091)
- ARC International (Kim Vance +1-902-488-6404)
- Asociación Internacional de Lesbianas, Gays, Bisexuales, Trans e Intersex para America Latina y el Caribe (ILGALAC)
- CariFLAGS
- Centro de Estudios Legales y Sociales - CELS
- COC Nederland (Nori Spauwen +31-611-748008)
- Conectas Direitos Humanos
- Corporación Humanas
- Diverlex Diversidad e Igualdad a través de la Ley
- FOR-SOGI
- GATE
- Human Rights Law Centre (Anna Brown +61-917-594-4616)
- Human Rights Watch
- International Commission of Jurists
- International Gay and Lesbian Human Rights Commission
- International Lesbian, Gay, Bisexual, Trans and Intersex Association (Andre du Plessis +41-79-678-1229)
- International Service for Human Rights (Pooja Patel +41-76-787-3928)
- Iranti-Org
- MantiQitna Network
- Mulabi/Latin American Space for Sexualities and Rights
- Observatorio Derechos Humanos y Legislación
- Pan-Africa ILGA (Monica Tabengwa +254-788-736119)
- TLF Share
- United and Strong
- Victorian Gay and Lesbian Rights Lobby

Records of Vote on the resolution:

States supporting: Argentina, Austria, Brazil, Chile, Costa Rica, Cuba, Czech Republic, Estonia, France, Germany, Ireland, Italy, Japan, Mexico, Montenegro, Peru, Philippines, Republic of Korea, Romania, South Africa, The former Yugoslav Republic of Macedonia, United Kingdom, United States of America, Venezuela, Viet Nam

States against: Algeria, Botswana, Cote d'Ivoire, Ethiopia, Gabon, Indonesia, Kenya, Kuwait, Maldives, Morocco, Pakistan, Saudi Arabia, United Arab Emirates, The Russian Federation

Abstentions: Burkina Faso, China, Congo, Kazakhstan, India, Namibia, Sierra Leone

Absent: Benin

Co-Sponsors of the resolution: Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Canada, Chile, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France,

Germany, Greece, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

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HUMAN RIGHTS COUNCIL CALLS ON STATES TO PROTECT CIVIL SOCIETY SPACE

(Geneva, 26 September 2014) - States should adopt laws and policies to support civil society actors and organisations and end impunity for abuses and attacks against them, the Human Rights Council has said in an [important and timely resolution](#).

The resolution - which was led by Ireland, together with Chile, Japan, Sierra Leone and Tunisia - emphasises the crucial role of a strong and independent civil society in promoting democracy, development and the rule of law, while condemning the continuing use of laws, such as those relating to counter-terrorism or limiting access to funding, to restrict and criminalise the vital work of activists and NGOs.

'Coming just days after the [arbitrary detention of Maryam Al-Khawaja](#) in Bahrain, the imposition of [travel bans against indigenous human rights defenders in Russia](#), the imprisonment of political dissidents in China, and the [criminalisation of accessing foreign funds](#) for non-governmental organisations in Egypt, this resolution is both timely and important,' said ISHR's Director of Human Rights Council Advocacy, Michael Ineichen.

'We particularly welcome the resolution's emphasis on protecting "persons belonging to minorities and vulnerable groups" and empowering people and organisations "espousing minority or dissenting beliefs and views",' Mr Ineichen said. 'This is especially important in the context of ongoing [attacks against women human rights defenders](#) and the [criminalisation of advocacy on LGBT rights](#) in many countries around the world,' Mr Ineichen said.

The resolution also urges States to ensure access to justice, accountability and an end to impunity for human rights violations and abuses against civil society actors, and welcomes recent initiatives by some States to enact specific laws and policies to protect and support human rights defenders and other civil society actors.

'Impunity for attacks against civil society actors amounts to a further assault on human rights and the rule of law. We urge States to consider enacting specific laws to protect civil society, such as the recently enacted [Côte d'Ivoire law on human rights defenders](#) which explicitly enshrines the State's legal obligation to investigate and pursue accountability for attacks,' Mr Ineichen said.

The resolution also includes a welcome emphasis on the positive role that civil society actors and organisations can play in diverse areas, such as achieving transitional justice, combating discrimination, countering corruption and promoting corporate accountability, particularly where they are able to effectively participate in the development of laws and policies on such issues. Speaking in favour of the resolution, States including Sierra Leone and Tunisia highlighted the crucial role of civil society actors in ending conflict, and promoting transitional justice and democracy in their countries.

'Mature governments see civil society as an indispensable asset, not a threat,' Mr Ineichen said. 'This is the case both at the national level, where civil society has a crucial role in the development of

public policy, and at the international level, where the participation of NGOs in bodies such as the Human Rights Council is axiomatic to their effectiveness.'

Reflecting this, the resolution calls on the UN High Commissioner for Human Rights to prepare a compilation of practical recommendations to States to ensure a safe and enabling environment for civil society, drawing on good national laws and policies in this regard.

In addition to the core group of Ireland, Chile, Japan, Sierra Leone and Tunisia, States that spoke strongly in support of the resolution included Austria, Brazil, Costa Rica, the Czech Republic, Estonia, France, Germany, Montenegro, South Korea, the United Kingdom, and the United States.

States that introduced hostile amendments or spoke against the resolution included Algeria, China, Cuba, India, Pakistan, Russia, Saudi Arabia, South Africa, Vietnam. A South African effort to remove a reference in the text to HRC Res 24/24 was strongly rejected, amounting to a strong reaffirmation of that landmark resolution on reprisals by the Council, despite efforts by some delegations in New York to undermine it.

Contact: Michael Ineichen, ISHR, on m.ineichen@ishr.ch, +41 78 827 77 86

RIGHTS AT RISK FROM MINING IN GUATEMALA

Communities in Guatemala have consistently disputed the presence of mining companies in their areas, due to fears of contamination of the local environment and that mining activities could negatively impact their livelihoods and the enjoyment of their human rights. In a recent report by Amnesty International, the Guatemalan authorities are urged to ensure that human rights safeguards are built into a proposed new regulatory framework for mining...[more](#)

NEW CYBERCRIME LAW IN QATAR THREATENS PRESS FREEDOM

In September, Qatar passed a new law that is seen as a threat to the freedom of expression. The Committee to Protect Journalists is concerned that the Anti-Cybercrime Law 'could be used to restrict press freedom and impose prison sentences on journalists inside the country.' In particular, it is said that the 'vague language' could be used to 'silence human rights defenders'... [more](#)

HUMAN RIGHTS DAY MARRED BY THREATS AGAINST DEFENDERS

Colombia recently celebrated human rights day. Unfortunately, on the same day there were alleged reports that more than 90 human rights defenders received death threats. These threats are not taken lightly, since the number of human rights defenders killed continues to increase each year. The threat made via email on 8 and 9 September said defenders 'will pay with their blood' and 'would be hunted'... [more](#)

RELEASE THAI ACTIVIST IMPRISONED FOR ALLEGEDLY INSULTING THE MONARCHY

Amnesty International has called for the release of Somyot Prueksakasemsuk, an editor and social activist in Thailand. He has been detained since 30 April 2011 for allegedly insulting the royal family. According to Amnesty International, the 'authorities in Thailand have in recent years increasingly used legislation, including the lèse majesté law, to silence peaceful dissent and jail prisoners of conscience'... [more](#)

Opportunities for NGO Engagement

AD HOC COMMITTEE ON THE ELABORATION OF COMPLEMENTARY STANDARDS

The 6th session of the Ad Hoc Committee on the Elaboration of International Complementary Standards is scheduled to take place in Geneva from 7 to 17 October, room XXI of the Palais des Nations.

NGOs wishing to participate are invited to indicate the names of their representatives to the Secretariat at fax +41 22 928 90 14 or email: registry@ohchr.org.

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

The Committee on the Rights of Persons with Disabilities will meet in Geneva for its 2nd pre-session of the Committee from [7 to 10 October](#). The Committee will adopt the list of issues for the Cook Islands, Croatia, Czech Republic, Dominican Republic, Mongolia and Turkmenistan.

COMMITTEE AGAINST TORTURE

The 53rd session of the Committee Against Torture will take place from [3 to 28 November](#). The Committee will consider the State reports of Australia, Burundi, Croatia, Kazakhstan, Sweden, Ukraine, the United States of America and Venezuela. It will adopt the list of issues for Armenia, Gabon, Qatar, Senegal and Togo.

NGOs may submit written information for the examination of the State party's report by 17 October. Click [here](#) for the tentative programme.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The 53rd session of the Committee will take place from [10 to 28 November](#). The Committee will consider the State reports of Finland, Guatemala, Montenegro, Nepal, Portugal, Romania, Slovenia and Vietnam.

The pre-sessional Working Group for the Committee's 54th session will take place from [1 to 5 December](#). The Committee will consider the reports of Chile, Ireland, Kyrgyzstan, Mongolia, Sudan, Thailand, Uganda and Venezuela.

All NGO [submissions](#) to the Committee must be done a month-and-a-half before beginning of the session with respect to States for examination, and two months before the pre-sessional working group with respect to States upon which list of issues will be adopted. Organisations may send representatives to attend the above events, however the accreditation [request form](#) must be submitted at least **ten days** before the beginning of the session or the pre-session.

COMMITTEE ON THE RIGHTS OF CHILD

NGOs are encouraged to send their submissions for the 70th pre-sessional Working Group to be held [February 2015](#). The Working Group will consider reports of Bangladesh, Brazil, Central African Republic, Chile, Eritrea, Kazakhstan, Poland, Timor-Leste and United Arab Emirates. Countries reviewed under the optional protocol on the sale of children ([CRC-OP-SC](#)) and the optional protocol on children in armed conflicts ([CRC-OP-AC](#)) will be Lao People's Democratic Republic and Latvia. NGOs can send their submissions to paolazzi@childrightsconnect.org by 1 November 2014.

WEBCASTS OF THE TREATY BODY MEETINGS

If you are unable to attend relevant treaty body meetings, you can now watch them live online. A group of Geneva-based NGOs, including ISHR, has coordinated to make this possible. The webcasts can be viewed at www.treatybodywebcast.org.

UNIVERSAL PERIODIC REVIEW

The 20th session of the Universal Periodic Review (UPR) Working Group will be held from [27 October to 7 November](#). The States under review are Italy, El Salvador, Gambia, Bolivia, Fiji, San Marino, Kazakhstan, Angola, Iran (Islamic Republic of), Madagascar, Iraq, Slovenia, Egypt, Bosnia and Herzegovina.

The tentative timetable can be found [here](#). The deadline for submitting [online requests](#) for NGO information meeting rooms is 13 October 2014. Please consult [this webpage](#) as well as a [Practical Guide](#) for Civil Society on the Universal Periodic Review for further information and guidelines.

The 21st session of the UPR Working Group will take place in Geneva from [19 to 30 January 2015](#). The States under review are Kyrgyzstan, Kiribati, Guinea, Lao People's Democratic Republic, Spain, Lesotho, Kenya, Armenia, Guinea-Bissau, Sweden, Grenada, Turkey, Guyana, Kuwait

WORKING GROUP ON DISCRIMINATION AGAINST WOMEN IN LAW AND PRACTICE

The next session of the Working Group will be held in Geneva from [13 to 17 October](#). The Working Group accepts information throughout the year on allegations of discrimination against women in law and practice.

CONTRIBUTE TO THE REPORT OF THE SPECIAL RAPPORTEUR ON ADEQUATE HOUSING

The UN Special Rapporteur on adequate housing invites interested civil society actors to share contributions, comments and information for her first report to the Human Rights Council on the issue of the responsibilities of governments at the sub-national level (state, provincial and municipal) in the implementation of the right to adequate housing. The report will be presented in March 2015, at the 28th session of the Council.

A [questionnaire](#) is available in English, Spanish and French. Submissions should be sent to srhousing@ohchr.org by 31 October.

FORUM ON MINORITY ISSUES

The 7th session of the Forum on Minority Issues will focus on 'Preventing and addressing violence and atrocity crimes targeted against minorities'. The meeting will be held from [25 to 26 November](#) in room XX of the Palais des Nations, Geneva. For more information on this Forum session, including practical and substantive information, please visit the Forum's [website](#).

FORUM ON BUSINESS AND HUMAN RIGHTS

The 3rd session of the Forum on Business and Human Rights will take place from [1 to 3 December](#). Statements and Submissions can be sent to forumbhr@ohchr.org and the online registration can be done [here](#).

FORTHCOMING COUNTRY VISITS BY SPECIAL PROCEDURES

| | |
|-------------|--|
| Afghanistan | Special Rapporteur on violence against women, its causes and consequences, 1 - 10 November |
| Nepal | Special Rapporteur on the Human Rights of Migrants, 4 – 11 December |
| Spain | Working Group on Discrimination Against Women, 9 - 19 December |
| Kazakhstan | Special Rapporteur on Freedom of Peaceful Assembly and Association, 19 – 30 January 2015 |

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

HAGUE TRAINING COURSE ON HUMAN RIGHTS DEFENDERS AND SECURITY

In December 2014, Justice and Peace (*Justitia et Pax*) will hold the first edition of the ‘The Hague Training Course on Human Rights Defenders and Security’. This advanced training course aims to support human rights defenders in strengthening their work and will focus on skills training, knowledge sharing and network building.

The deadline for application is 16 October 2014. For more information and an application form, please contact: janita.visser@justitiaetpax.nl

New Resources

ISHR REPORT: STRENGTHENING COOPERATION WITH THE SPECIAL PROCEDURES

ISHR has submitted a report to the 21st annual meeting of the Special Procedures of the UN Human Rights Council in which it has made a range of recommendations as to how the Special Rapporteurs, Independent Experts and members of Working Groups could become more accessible and responsive to victims of human rights violations and promote better State cooperation with the Council. Download the full submission [here](#).

WOMEN’S HUMAN RIGHTS APP UPDATED

The Women’s Human Rights App, developed by the Federal Department of Foreign Affairs of Switzerland, contains a substantial database of key texts on women’s human rights. In the updated version users can find new documents and paragraphs including: Security Council resolutions (2086, 2143), Human Rights Council resolutions (25th and 26th session), documentation from the Commission on the Status of Women (58th session) and more. Get the updated version [here](#).

FORUM-ASIA WORKING PAPER SERIES

FORUM-ASIA has published a paper entitled *Understanding the role of the Organisation of Islamic Cooperation in human rights*. It is divided into three main parts: human rights instruments and mechanisms within Organisation of the Islamic Cooperation (OIC); reaction of OIC to human rights violations; and thematic focus areas pertinent to OIC, with a particular focus on defamation of religions and sexual orientation and gender identity. Download the report [here](#).

UPR BRIEFING PAPERS ON THE SITUATION OF HUMAN RIGHTS DEFENDERS IN STATES UNDER REVIEW

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

HONDURAS: The Honduran Congress must incorporate civil society feedback and pass a proposed law to protect human rights defenders, journalists and justice operators... [more](#)

JAMAICA: The Government of Jamaica should enact and implement specific laws, policies and measures to recognise and protect human rights defenders, as well as immediately repealing section 76 of the Offences against the Person Act... [more](#)

LIBERIA: It is critical that the Liberian Government repeal out-dated laws on defamation and libel, strengthen its national human rights institution, and enact and implement specific laws, policies and measures to recognise and protect human rights defenders... [more](#)

LIBYA: The Government of Libya should reform restrictive laws on freedom of expression and peaceful assembly, as well as taking steps to tackle attacks by non-State armed groups... [more](#)

MALDIVES: There is grave concern about the increasing number of restrictions that hinder civil liberties such as freedom of expression, religion and assembly in the Maldives. This represents a significant backslide in the progress made towards democratisation and human rights protection in the country, which the State must be encouraged to reverse ... [more](#)

UNITED STATES: The United States Government should create a National Human Rights Institution which includes a focal point for human rights defenders, and reform national security legislation to guarantee respect for civil liberties... [more](#)

Case Notes on Decisions from International Human Rights Bodies

Merits Decisions

ARGENTINA: REQUESTED TO PROVIDE SUFFICIENT REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES IN DETENTION

Mr X v. Argentina (8/2012)

Summary

In April 2014, the Committee on the Rights of Persons with Disabilities was asked to consider whether Argentina had violated its obligations under the Convention on the Rights of Persons with Disabilities in its treatment of a disabled person serving a custodial sentence. The communication was submitted by an Argentine national under the Optional Protocol to the Convention.

Background

The author, Mr X, was held in pre-trial detention in connection with a criminal trial against him before the Federal Criminal Court No. 1 in Buenos Aires. On 27 January 2010, during his detention, he underwent spinal surgery to replace a cervical disc. On 28 January 2010, the author suffered a stroke which resulted in cognitive and sensory balance disorders and impaired visuospatial orientation. With the authorisation of the Federal Criminal Court, the author was then transferred to a rehabilitation centre in Escobar, a town on the outskirts of Buenos Aires, where his condition was stabilised and he began an in-patient rehabilitation programme.

On 7 April 2010, the Federal Criminal Court was informed by the rehabilitation centre that the author was fit to continue his rehabilitation programme as a day patient. On the same date, the author applied to have his pre-trial detention converted to house arrest. The author claimed that he continued to need rehabilitation treatment on a day-patient basis and that he needed a living space adapted to his disability. He claimed that house arrest was the mode of detention that was most compatible with his treatment, as he had a trusted person to help him with daily tasks at home, adequate facilities, and easy access to the rehabilitation centre.

On 6 August 2010, the Federal Criminal Court rejected the author's application for house arrest and ordered his transfer to the central prison hospital of the Buenos Aires Federal Penitentiary Complex. The Federal Criminal Court maintained that the author's pre-trial detention did not prevent him from undergoing appropriate rehabilitation therapy. The author submitted an application for review of the decision on the same day.

On 15 August 2011, the Federal Criminal Court again rejected the author's application for house arrest. It considered that the author's physical and medical condition were not such as to make it impossible for him to recover while in custody or to be adequately cared for in prison. The Court found no evidence that he could be suitably and effectively treated only if he were to serve his sentence under house arrest.

The author lodged an appeal against the Federal Criminal Court's decision with the Federal Chamber of the Criminal Court of Cassation. On 18 November 2011, the Federal Chamber upheld the appeal and sent the proceedings back to the Federal Criminal Court.

On 29 December 2011, the Federal Criminal Court again rejected the author's application for house arrest. On 5 January 2012, the author filed an appeal against the decision of the Federal Criminal Court with the Federal Chamber.

On 22 June 2012, the author filed this communication with the Committee under the Optional Protocol to the Convention. The author claimed that Argentina had breached its obligations under the Convention by ordering his detention under unsuitable conditions. Specifically, the author alleged that the conditions of his detention violated his right to: (i) live independently and participate fully in all aspects of life, (ii) the effective enjoyment of life on an equal basis with others; (iii) effective access to justice; (iv) provision of reasonable accommodation in detention on an equal basis with others; (v) freedom from cruel, inhuman or degrading treatment; (vi) respect for his physical and mental integrity on an equal basis with others; (vii) the enjoyment of the highest attainable standard of health without discrimination; and (viii) maximum independence and full inclusion and participation in all aspects of life (under articles 9, 10, 13, 14(2), 15(2), 17, 25 and 26, respectively). The author requested that he be placed under house arrest until such time as he is fit to undergo another operation on his spine and that he be authorised to complete the necessary rehabilitation as a day patient, subject to any appropriate security measures.

On 13 July 2012, the Federal Chamber rejected the author's appeal but ordered the prison authorities to ensure the regular assessment of the author's health and to take any measures that his condition required.

On 12 and 20 November 2012 and 16 January 2013, the author informed the Committee that, despite the Federal Chamber's orders, the Federal Criminal Court had not taken the necessary measures to ensure suitable, timely access to healthcare facilities.

The Committee's decision

On admissibility, the Committee partially upheld the admissibility of the author's complaint, finding that the author had not shown that he had exhausted domestic remedies with respect to his claim under article 13.

On the merits, the Committee observed that under article 14(2) of the Convention, persons with disabilities that have been deprived of their liberty have the right to be treated in compliance with the objectives and principles of the Convention, including through the provision of reasonable accommodation. On the facts before it, the Committee considered that the accommodation provided in the author's prison was not sufficient to ensure the author's independent access to certain facilities, including the bathroom, recreation yard and nursing service. Argentina's failure to provide sufficient accommodation in this respect resulted in a breach of its obligations under articles 9 and 17 of the Convention, as well as article 14(2).

The Committee rejected the author's claim under article 15 with respect to his accommodation, however, for lack of substantiation. It also rejected the author's claims under articles 10, 25 and 25 with respect to his rehabilitation treatment and the health risks posed by his travel to and from the rehabilitation centre for the same reason.

The Committee concluded that Argentina was under an obligation to provide the author with redress for these breaches of the Convention by providing accommodation in his place of detention that ensures access to prison facilities and services on equal terms to other prisoners. The Committee also found Argentina liable for the author's legal costs in bringing his complaint. In view of the author's condition, the Committee requested that Argentina ensure that the author be provided with access to suitable healthcare and rehabilitation therapy. The Committee also observed that Argentina was under an obligation to take steps to prevent similar violations in future. In particular, Argentina should:

- (a) adopt appropriate measures and provide sufficient reasonable accommodation to ensure that persons with disabilities in detention can live independently and participate fully in all aspects of life in their place of detention, including through full access to the on-site facilities and services;
- (b) adopt appropriate measures to ensure that persons with disabilities in detention have access to medical and rehabilitation treatments so that they are able to enjoy the highest attainable standard of health without discrimination;
- (c) ensure that the conditions of detention in which persons with disabilities are held do not undermine their physical and mental integrity or constitute cruel, inhuman or degrading treatment; and
- (d) provide sufficient, regular training on the scope of the Convention to judges, other judicial officers and prison officials, and healthcare personnel.

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

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