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Opinion

5 WAYS TO A SUCCESSFUL HUMAN RIGHTS CAMPAIGN

Jo Becker, Human Rights Watch

The human rights movement has helped bring down dictators, reversed longstanding government practices, and transformed public perceptions on fundamental issues. But as with any social movement, some efforts have succeeded, while others have failed.

What are the secrets of successful human rights campaigns? How did families in Muammar Gaddafi’s Libya overcome intimidation by security forces to demand

accountability for a prison massacre? How did African and international groups ensure that the former Liberian president Charles Taylor stood trial for war crimes? How did activists in California challenge decades of ‘tough on crime’ legislation?

In many cases, even the most persistent efforts and creative campaigning aren’t enough to overcome powerful state authorities determined to engage in oppressive practices. However, some key strategies increase the chances of success.

1) Multiple points of leverage

Campaigns are more likely to succeed if they don’t put all their eggs in one basket. For example, the Campaign Against Impunity—uniting organizations across Africa with international groups like Human Rights Watch and Amnesty International—used multiple strategies to ensure that Taylor stood trial for war crimes related to his support for rebels in Sierra Leone’s brutal civil war.

When his own presidency of Liberia became embattled in 2003, Taylor was offered asylum by Nigeria to induce him to step down. Despite international acquiescence in the deal, the campaign engaged national and international media, the United Nations Security Council, the European Parliament,

and individual governments (notably the US) to urge that Taylor be brought to justice. Activists filed court cases in Nigeria challenging Taylor's asylum, pushed President Olusegun Obasanjo to hand Taylor over for trial, and urged the newly elected Liberian president, Ellen Johnson Sirleaf, to request Taylor's transfer. When Taylor disappeared from his Nigerian villa on the eve of a scheduled meeting between Obasanjo and US President George W. Bush in 2006, activists and members of Congress pressured Bush to cancel the meeting unless Obasanjo apprehended Taylor and turned him over for trial.

The strategy worked. Taylor became the first former head of state since Nuremburg to be convicted of war crimes by an international tribunal. In 2012, Taylor was convicted of war crimes and crimes against humanity for his role in Sierra Leone's war and was sentenced to 50 years in prison.

2) Broad-based alliances

Campaigns are more likely to succeed when they bring together a broad range of individuals and groups as a unified voice, with each using its comparative advantage. They are even stronger if they engage unlikely allies that broaden the campaign's appeal. For decades in California, for example, criminal sentences had grown tougher, with decreasing regard for the nature of the crime or the offender. But in 2012, a coalition won a new law providing juvenile offenders sentenced to life imprisonment without parole a chance for eventual release. In contravention of international law, the United States is the only country in the world that imposes life-without-parole sentences for crimes committed before the age of 18. Across the country, approximately 2,500 inmates are sentenced to die in prison for crimes committed before they were considered mature enough to vote.

Fair Sentencing for Youth pulled together not only human rights groups, law professors, religious leaders, and students, but also former prosecutors, the state prison wardens union, and families of murder victims who were killed by juveniles. Campaign leaders were able to persuade the prison wardens that inmates with no hope of release were more likely to become dangerous to other inmates and to prison guards. While some families of murder victims were outspoken against changing the law, other murder victims' families expressed the view that the juvenile offenders should have a chance at redemption.

One of the most unlikely allies was the conservative former US House Speaker Newt Gingrich. Gingrich wrote an op-ed article that appeared in a San Diego paper, arguing that while young people are more likely to act on impulse, they often change for the better, and that sentencing juvenile offenders to life without parole was an overuse of incarceration.

The broad range of individuals and groups involved in the campaign brought diverse perspectives and in some cases political 'cover' for legislators. After narrow defeats in 2010 and 2011, the campaign won passage of new legislation in 2012, allowing juvenile offenders sentenced to life without parole the chance to petition for their release after serving 25 years.

3) Opportunistic advocacy

Many of the best campaigns take advantage of specific events or developments that offer unique advocacy opportunities. In some cases, activists work to keep an issue alive for years, waiting for the right moment to secure change. One dramatic example was the courageous organizing in Libya by family members of 1,200 prisoners who were massacred by security forces at the Abu Salim prison in 1996.

Under Gaddafi, dissent could bring life imprisonment or execution. Virtually all human rights activism was prohibited. In 2004, the prisoners' families began taking advantage of modest political reforms. They started to speak out about the massacre and press for the truth about what had happened to their loved ones in a way not possible just a few years earlier. They filed complaints in Libyan courts, used newly emerging social media to publicize their demands, and beginning in 2008 organized the first independent demonstrations in Libya in 40 years.

They won unexpected concessions from the Gaddafi government, including an acknowledgement of the massacre, offers of compensation, and official death certificates for the deceased. In 2011, as the Arab Spring began to sweep the Middle East, the families' spokesman, Fathi Terbil, was arrested. Bolstered by years of organizing and public demonstrations, the families protested Terbil's arrest, sparking large-scale demonstrations across Libya. Those protests helped bring about the six-month armed uprising that brought down the Gaddafi regime.

4) Solid research

Research, investigation, and documentation are among the most powerful tools of human rights advocacy. No movement can succeed without facts to back up its claims. The campaigns for treaties to ban anti-personnel landmines, cluster munitions, and the use of child soldiers, among others, depended on solid research to demonstrate the harmful effects and scale of violations.

As just one example, when activists began in the late 1990s to campaign for a UN treaty to ban the use of children under age 18 as soldiers in armed conflict, they found that some diplomats were skeptical about the severity of the problem. To make their case, advocates undertook research showing that hundreds of thousands of child soldiers were being used in wars in nearly 30 countries. They also provided compelling case studies of children forced to fight in wars not of their own making, as part of a broad-based, global campaign.

The UN subsequently adopted a treaty banning the use of child soldiers that has now been ratified by 150 countries. Since the campaign began, both the number of child soldiers worldwide and the number of countries where they fight has dropped by half.

5) Leadership by those most affected

Not surprisingly, those most affected by human rights violations often make the most effective and credible leaders for change. Some of the world's most exploited workers won one of the most significant—though under-recognized—human rights victories in recent years. Domestic workers—housekeepers, nannies, and caregivers employed in private homes—number 50 to 100 million globally, but are often excluded from the protections of national labor laws. They face a range of abuses, from long working hours with no days off to sexual harassment or violence from their employers. Some work for months without being paid or get trapped in situations of forced labor and trafficking.

Although the International Labor Organization had recognized as early as 1965 the need for global labor standards for domestic workers, it was only after domestic workers themselves began mobilizing for a minimum wage, rest days, overtime pay, and other rights enjoyed by other workers that laws began to change. Forming their own unions and associations, they won national labor protections in countries like Bolivia, Peru, Tanzania, and South Africa, and in June 2011, secured an overwhelming vote from governments for an international labor rights treaty that assures domestic

workers the same labor rights as other workers. The Domestic Workers Convention went into force in September 2013.

No human rights effort succeeds with a single strategy. The most effective use all of the above. Even then, there is no guarantee of success. But the victories of the human rights movement have offered useful lessons about how to achieve real change and protect the rights of the most vulnerable.

Jo Becker is the children's rights advocacy director at Human Rights Watch and the author of Campaigning for Justice: Human Rights Advocacy in Practice (Stanford University Press, 2013). Follow her on Twitter @jobeckerhrw. Read the article [online](#).

Human Rights Defender Profile

SULEIMAN HUSSEIN, ERITREAN HUMAN RIGHTS DEFENDER

Suleiman Hussein is an Eritrean human rights defender, and chairman of Citizens for Democratic Rights in Eritrea (CDRiE). Suleiman grew up during his country's 30-year struggle for independence and subsequently felt the frustration of many Eritreans when the new transitional Government failed to fulfil its promise of freedom for its people. Twenty-three years later, Eritrea is still ruled by the same transitional Government and there is no constitution, while the rule of law is non-existent. CDRiE is born out of the frustration of the Eritrean people. It came into existence five years ago when Suleiman and other like-minded individuals joined together to discuss the deteriorating conditions in the country and to explore more effective ways to contribute to the ongoing struggle for democratic change.

“Today Eritrea ranks among the top refugee exporters in the world as its citizens leave the country in their thousands to escape political repression and human rights violations.”

The Eritrean Government has continued to make life difficult for Eritreans inside the country while its foreign policies have isolated Eritrea internationally, Suleiman explains. Eritrea has been independent for only two decades, the past five of which it has been under UN sanctions.

CDRiE is part of the Eritrean people's efforts for democracy and strives to support the pro-democracy forces inside the country in any way possible. While the organisation has its headquarters in London it has members in other democratic countries. CDRiE's position outside Eritrea enables it to bypass the censorship within the country and voice the troubles of Eritrean people, exposing the gross human rights violations taking place within Eritrea.

“It is amazing how time flies. Five years ago no one thought the situation in Eritrea would remain the same, but here we are.”

During the long years of armed struggle for independence, there was a prevailing culture of violence that contributed to the establishment of dictatorship in post-independence Eritrea. Today, CDRiE counters that culture of violence by pursuing nonviolent means of struggle for democracy. Despite its limited resources, the organisation has significantly strengthened its internal organisational structure and has built a strong network of working relationships with many Eritrean and non-Eritrean organisations.

Recently, CDRiE partnered with World Alliance for Citizen Participation (CIVICUS) to take part in the 2013 United Nations' Universal Periodic Review (UPR) of Eritrea.

CDRiE's submission to the UPR raises concerns over Eritrean State agents' direct involvement in harassing, threatening, and attacking civil society activists and human rights defenders. Additionally, it protests against the Eritrean Government's continued censorship of already limited internet access in the country, and the persistent practice of arbitrarily arresting and detaining journalists.

“Censoring and arbitrary arrests are not signs of the Eritrean Government's strength. If anything, they show that people in Eritrea continue to be defiant and that nothing can succeed in silencing the voices of freedom or stop the inevitable march towards liberty.”

Suleiman remains optimistic, despite the Eritrean Government's continued violation of its people's liberties. He says that following the UPR of Eritrea, which will take place on 3 February 2014, CDRiE plans to work with its international partners as well as with other Eritrean civil society organisations to undertake effective awareness-raising campaigns around the recommendations Eritrea receives. Suleiman also explained that the Eritrean people, undeterred by the continued repression, will simply find even more creative ways to challenge those in power until the situation in Eritrea changes. As we speak, there are several short-wave radio programs that have large audience and are having success inside Eritrea, Suleiman says. There is also a new initiative by some dynamic youth in the Diaspora who make thousands of automated phone calls to Eritrea every Friday on a weekly basis. As of 2012, around 10,000 automated calls per week had been made to private households within Eritrea, with a message of non-violence, to empower and unify the Eritrean people. This initiative is hugely successful in Eritrea and is known as 'Friday Freedom'.

Suleiman hopes the Eritrean government will come to its senses and realise that its policies have brought Eritrea from a very promising young nation to where it is today. Suleiman says that Eritrean civil society and human rights organisations suffer not only from lack of resources but also the necessary expertise. Eritrean human rights organisations are relatively new and need more aid in terms of capacity building. Suleiman looks to the international human rights community, including the UN, to provide this assistance.

Tao Li is an Intern with the International Service for Human Rights.

For more information on the work of Suleiman Hussein and CDRiE see <http://cdrie.net/>.

Our Work to Support Human Rights Defenders

FORMER ISHR TRAINEE SUFFERS ATTACKS AND DEATH THREATS IN CÔTE D'IVOIRE

(Geneva and Lomé, 27 January 2014) – The government and officials in Côte d'Ivoire must take immediate steps to prevent and ensure accountability for attacks against those who defend the rights of gay, lesbian, bisexual and transgender persons, say the International Service for Human Rights and the West African Human Rights Defenders Network (WAHRDN).

ISHR and WAHRDN are deeply concerned at a series of threats and attacks against a former ISHR trainee, Mr Claver Touré, as a result of his work on LGBTI issues in the country.

Since 20 January Mr Touré and his colleagues have received numerous death threats. On 20 January, Mr Touré's home was attacked. On 22, 23 and 25 January, mobs of around 60 people surrounded the offices of Alternative – Côte d'Ivoire, the LGBT organisation where Mr Touré works, chanting homophobic slogans, throwing stones, and causing widespread damage.

ISHR and WAHRDN are deeply concerned at the coordinated and systematised nature of the attacks against Mr Touré and Alternative – Côte d'Ivoire, together with the large number of perpetrators involved in the attacks.

ISHR and WAHRDN are also deeply concerned that, although Mr Touré has alerted the police, he has not been given sufficient protection and remains fearful of returning home. Fearing for their lives, Mr Touré and his colleagues have suspended their activities and for the moment most of them remain in hiding.

'Attacks of this nature are a clear attempt to silence the voice of defenders who are working to secure the rights of the most marginalised groups in society. The government of Côte d'Ivoire should not only condemn these attacks, but ensure that they are promptly and thoroughly investigated and that perpetrators are held to account', said ISHR's head of LGBT rights, Dr Heather Collister.

Although, unlike many African nations, Côte d'Ivoire has never criminalised same-sex relationships, there is no legal protection against discrimination based on sexual orientation. There have also been [reports](#) of deliberate targeting of LGBT people by the police, while complaints are not filed for fear of reprisals.

'ISHR regrets that the Government has failed to take steps to counter stigmatisation and abuse of the LGBTI community in Côte d'Ivoire,' said Clement Voulé, Director of ISHR's Africa programme.

In its [2010 review at the Universal Periodic Review](#), State representatives agreed to take measures to ensure non-discrimination on grounds of sexual orientation and gender identity, but they rejected a proposal that they should start awareness-raising programmes, because it was not a "current priority".

'The government has an obligation to protect people from all forms of discrimination and violence, including on the grounds of sexual orientation or gender identity. Awareness-raising is an important step in this respect,' said Mr Voulé.

'It is also the government's responsibility to ensure that the rights in the UN Declaration on Human Rights Defenders are guaranteed. This means creating an enabling environment that ensures that defenders are able to carry out their legitimate work without fear,' Mr Voulé said.

ISHR and WAHRDN reiterates calls made on the authorities of Côte d'Ivoire by [Frontline](#) to:

- undertake an immediate investigation into the attacks on Mr Touré's home and the premises of Alternative – Côte d'Ivoire;
- take immediate measures to ensure Mr Touré's safety and that of his colleagues, and ensure that the threats cease immediately; and
- ensure that all human rights defenders in Côte d'Ivoire are able to operate without fear of reprisals in the exercise of their legitimate activities in defence of human rights.

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NIGERIA SHOULD REPEAL LAW TARGETING LGBT RIGHTS AND DEFENDERS

(Geneva, 13 January 2014) - A draconian law signed into force by the Nigerian President violates international law, will have wide-ranging and damaging impacts on the rights of lesbian, gay, bisexual and transgender persons, and must be repealed, the International Service for Human Rights has said.

It has been reported that the President of Nigeria, Goodluck Jonathan, signed the 'Same-Sex Marriage Prohibition Bill' into force in recent days. The law makes it a criminal offense to enter into same-sex relationships or to lobby, advocate for, or support LGBT rights.

'International human rights law prohibits discrimination on the grounds of sexual orientation and gender identity. It also protects the rights to freedom of association and expression. This law is manifestly incompatible with international human rights standards and must be repealed', said Dr Heather Collister of ISHR.

The law's broad provisions criminalise same-sex relationships (punishable by a 14 year prison term) and those who 'witness or abet' a same-sex union.

The law has previously been condemned by Nigerian human rights defenders, who said in a [statement](#) that the law will lead to an 'increased rate of harassment, witch-hunts and vindictive accusations which will impact on every Nigerian'.

'Laws such as this serve to stigmatise same-sex relations and increase the incidence of homophobic violence and harassment,' said Dr Collister.

A recent report released by the Coalition of African Lesbians and African Men for Sexual Health and Rights documented numerous cases of physical violence against LGBT persons and human rights defenders across Africa, including arbitrary arrest and detention, sexual violence, extortion and even killings.

The far-reaching law explicitly targets human rights defenders and non-government organisations who lobby, advocate for or support LGBT rights. Under its provisions, anyone who 'registers, operates or participates in gay clubs, societies and organisations', or who 'support' LGBT groups, processions or meetings, is liable to imprisonment for up to 10 years.

The law also contains a provision which makes it a criminal offence to advocate or lobby against the law itself.

'The bill is manifestly incompatible with the rights to freedom of expression, assembly and association, all of which are fundamental pillars of a safe, secure and democratic society,' said Dr Collister.

'In addition to targeting same-sex relations, the law targets the work of human rights defenders, effectively criminalising their work.'

'Human rights defenders play a crucial role in social and economic development and in upholding human rights and the rule of law. Attempts to silence their voice are attacks on the very foundations of a democratic and inclusive society,' Dr Collister said.

ISHR joins Nigerian human rights defenders and others in calling for the law to be repealed without delay

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STATES SHOULD STRENGTHEN LAWS AND POLICIES TO PROTECT HUMAN RIGHTS DEFENDERS: UN EXPERT

(Geneva, 17 January 2014) – Defending human rights is a critical but increasingly dangerous activity in many parts of the world, according to a [new UN report](#).

'The International Service for Human Rights welcomes this report, which explicitly endorses many of the key recommendations made by ISHR and our partners to protect defenders and support their courageous work,' said ISHR Director Phil Lynch.

The report finds that human rights defenders – especially journalists, lawyers, trade unionists and those who work to promote women's rights and the rights of gay, lesbian, bisexual and transgender persons – face 'extraordinary risks'. It highlights cases of defamation, attacks, detention, torture and even killings.

The report also documents an increased incidence of violations against people and communities opposed to mining, construction and development projects, with protesters attacked both by State and private security forces.

'Human rights defenders play a crucial role in exposing and seeking accountability for violations by both governments and corporations. Their work is crucial to transparency, good governance and justice for victims,' said Mr Lynch.

The report also documents the worsening 'use of legislation in a number of countries to refrain the activities of human rights defenders and to criminalise them', with cited examples including laws to ['curb the promotion of homosexuality'](#) and to [restrict NGO access to foreign funds](#).

'In the last four weeks alone, [Nigeria](#), [Russia](#), [Uganda](#), [Malaysia](#) and the Ukraine have enacted or applied laws to criminalise human rights defenders and to silence their critical voice,' Mr Lynch said.

The report will be officially presented to the UN Human Rights Council in March by the Special Rapporteur on Human Rights Defenders, Margaret Sekaggya.

In addition to documenting violations, the report makes a wide range of recommendations to ensure that human rights defenders are protected and can operate in a 'safe and enabling environment'. According to the Special Rapporteur, the key elements of such an environment include:

- a conducive legal, institutional and administrative framework;
- access to justice and an end to impunity for violations against defenders;
- a strong and independent national human rights institution;
- policies and programmes with specific attention to women defenders;

- effective protection policies and mechanisms paying attention to groups at risk;
- non-State actors that respect and support the work of defenders;
- safe and open access to international human rights bodies; and
- a strong, dynamic and diverse community of defenders.

ISHR made a [major submission to the UN Special Rapporteur](#) in October 2013 to inform the content of her current report. Many of the recommendations made by ISHR are explicitly incorporated in that report and will now be considered by the Human Rights Council in Geneva, including that:

- States should develop specific laws and policies to enact the UN Declaration on Human Rights Defenders at the national level and should review and repeal laws which restrict and criminalise defenders' work. This recommendation is also consistent with a major ISHR project currently underway to develop a [model national law](#) on the protection of human rights defenders.
- States should protect human rights defenders from attacks and reprisals, ensure prompt and thorough investigations when they occur, and hold perpetrators accountable.
- Acknowledgement of the invaluable and legitimate work of human rights defenders should be expressed at the highest political level and incorporated into educational programs.
- States should take specific measures to protect and support the work of women human rights defenders and those working to promote LGBT rights, including by guaranteeing rights to non-discrimination and freedom of expression, association and assembly.
- Corporations should consult and engage with human rights defenders to in order to avoid and mitigate adverse human rights impacts associated with business and should refrain from obstructing or impairing their human rights work.

The report also welcomes and notes the 'utmost importance' of two resolutions strongly advocated by ISHR during 2013, being a resolution on [combating reprisals](#) adopted by the Human Rights Council in September and a resolution on the [situation and protection of women human rights defenders](#) adopted by the UN General Assembly in December.

'This report reflects many of the key recommendations made by ISHR and our key partners to protect human rights defenders and ensure they can work in a safe environment free from violence and attacks. ISHR calls on States, corporations and the UN itself to prioritise and implement the recommendations without delay,' Mr Lynch said.

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MALAYSIA MUST REVERSE BAN AGAINST LEADING HUMAN RIGHTS COALITION

(Geneva, 12 January 2014) - Malaysian authorities should immediately reverse a ban issued against a leading coalition of human rights organisations, the International Service for Human Rights has said.

On 8 January 2014 the Malaysian Home Ministry issued a statement that it had declared the Coalition of Malaysian NGOs (COMANGO) to be illegal on the basis that it 'deviates from the Islamic faith' through its support for lesbian, gay, bisexual and transgender rights. The Ministry further justified the ban on the basis that members of the coalition are not registered under the Malaysian Societies Act 1966.

'The move to ban COMANGO is a clear violation of the rights to freedom of association and assembly,' said ISHR Director Phil Lynch.

ISHR is particularly concerned at reports that the ban was issued in response to COMANGO submitting a report to the UN Human Rights Council on Malaysia's human rights record in March 2013.

'Reprisals against human rights defenders and NGOs in retaliation for their efforts to expose and seek accountability for national-level human rights violations on the international stage is a clear breach of international law,' Mr Lynch said.

The UN Declaration on Human Rights Defenders, adopted with the support of Malaysia in 1998, explicitly protects the rights to freedom of expression and association and the right to communicate without interference with the UN.

ISHR is also deeply concerned that the ban has been justified on the basis that COMANGO advocates for LGBT rights and has been critical of Malaysia's human rights record in this regard.

'The right to non-discrimination on the grounds of sexual orientation and gender identity, like the right to non-discrimination on the basis of religious beliefs or practices, is a fundamental principle of international human rights law. It is incumbent on Malaysia to extend the same rights and protections to LGBT persons as it does to adherents to the Islamic faith.'

In addition to calling on Malaysian authorities to immediately reverse the ban issued against COMANGO, ISHR also calls on Malaysia to:

1. Ratify the International Covenant on Civil and Political Rights and ensure that the rights to freedom of association, expression and non-discrimination are enshrined in domestic law;
2. Cease and desist from any acts of reprisal or intimidation against persons or organisations cooperating with the UN and enact specific legislation which enshrines the right to communicate with the UN and to be protected in doing so; and
3. Recognise the right to non-discrimination on the grounds of sexual orientation or gender identity and protect and support human rights defenders and organisations which advocate for LGBT rights.

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RUSSIA MUST END UNPRECEDENTED CRACKDOWN ON HUMAN RIGHTS DEFENDERS

(Geneva, 23 December 2013) - Russia must end its unprecedented crackdown on human rights defenders and civil society organisations, the International Service for Human Rights has said.

The call comes as one of Russia's most celebrated human rights defenders, Pussy Riot member Maria Alekhina, bravely labelled her release from jail on Monday as a 'public relations' stunt.

'The Kremlin's moves in recent days to release prominent dissidents will continue to be seen as a cynical effort to ease international pressure in advance of the Winter Olympics without more fundamental reform of laws restricting human rights defenders and civil society organisations,' said ISHR Director Phil Lynch.

Over the last year, Russia has engaged in what Human Rights Watch has labelled an 'unprecedented' crackdown on civil society organisations.

Since March 2013, more than 1000 non-governmental organisations have been scrutinised, raided or shut down under Russia's notorious 'foreign agents' law, which seeks to restrict and stigmatise the work of NGOs which receive funding from foreign sources and undertake advocacy to influence public opinion. In practice, the law applies to almost all human rights organisations.

Human rights defenders have also been criminalised under Russia's so called 'homosexual propaganda law', which makes it a criminal offence to 'promote' or even speak positively about homosexuality. The law has been linked to a disturbing increase in homophobic attacks and harassment.

Human rights defenders who have sought to speak out about the crackdown on the international stage have been especially targeted. One of Russia's most prominent NGOs, Anti-Discrimination Memorial, has recently been prosecuted and ordered to register as a 'foreign agent' for submitting information to the UN Committee against Torture.

'The persecution and prosecution of non-governmental organisations for providing information to UN human rights bodies is a clear violation of international law,' said Mr Lynch.

'Reprisals against human rights defenders are manifestly incompatible with the Declaration on Human Rights Defenders and with recent resolutions of the UN Human Rights Council,' Mr Lynch said.

The UN Committee's Chairperson, Claudio Grossman, similarly expressed deep concern 'with any measure that undermines the independence and activities of non-governmental organisations'.

'The actions by the Russian prosecutors against Memorial reflect a worrying shift in the legislative environment governing the enjoyment of the freedoms of assembly, association, speech and information,' Professor Grossman said.

Human rights defenders who work on issues of corporate accountability have also been targeted in Russia, where there are strong links between State officials and many large enterprises. Just last week, Russian activist Yevgeny Vitishko of Environmental Watch on the North Caucasus was sentenced to three years in prison for activities associated with his efforts to highlight environmental damage associated with Olympics constructions.

'ISHR condemns the prosecution of Yevgeny Vitishko. Human rights defenders who work to expose environmental destruction and other corporate human rights violations should be protected rather than persecuted by the State,' Mr Lynch said.

'ISHR calls on Russian authorities to repeal all laws and policies which criminalise and restrict the invaluable work of human rights defenders and civil society organisations. Human rights defenders have the right to, and Russia has the obligation to provide, a safe and enabling environment for their work,' he said.

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UGANDAN PRESIDENT MUST VETO DRACONIAN 'ANTI-HOMOSEXUALITY-LAW

(Geneva, 20 December 2013) - A draconian 'anti-homosexuality' bill passed by the Ugandan parliament flagrantly violates international law and should be vetoed by the Ugandan President, the International Service for Human Rights has said.

'The Anti-Homosexuality Bill would have wide-ranging and devastating impacts on the rights of lesbian, gay, bisexual and transgender persons. It must not be signed into law,' said ISHR Director Phil Lynch.

The Bill criminalises a wide range of activities that are expressly protected by international law, including same-sex relations and the 'promotion of homosexuality'. Entry into a same-sex marriage is punishable by life imprisonment.

'This Bill is manifestly incompatible with international human rights law, which prohibits discrimination on the grounds of sexual orientation and gender identity. The bill is also clearly incompatible with the rights to freedom of expression, assembly and association, all of which are fundamental pillars of a safe, secure and democratic society,' Mr Lynch said.

ISHR is particularly concerned that, if allowed to stand, the Anti-Homosexuality Bill will lead to an increase in homophobic violence, discrimination and harassment. A recent report released by the Coalition of African Lesbians (CAL) and African Men for Sexual Health and Rights (AMSHer) documented numerous cases of physical violence against LGBT human rights defenders across Africa, including arbitrary arrest and detention, sexual violence, extortion and even killings.

'Bills such as this serve to stigmatise same-sex relations and increase the incidence of homophobic violence and harassment,' Mr Lynch said.

In a separate statement, Amnesty International's Deputy Africa Director, Aster van Kregten, said, 'This bill will institutionalise discrimination, hatred and prejudice in law against lesbian, gay, bisexual transgender and intersex Ugandans, who are already marginalised.'

ISHR is also deeply concerned at the Bill's provisions relating to the 'promotion' of homosexuality.

'In addition to targeting same-sex relations, the bill targets human rights defenders who take a stand for equality and against discrimination, effectively criminalising their work,' Mr Lynch said.

'Human rights defenders play a crucial role in advocating for the acceptance of human rights and freedoms, and attempts to silence their voices amount to attacks on the very foundations of a democratic and inclusive society.'

ISHR urges Ugandan President Yoweri Museveni to urgently veto the Anti-Homosexuality Bill.

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UN GENERAL ASSEMBLY TURNS ITS BACK ON HUMAN RIGHTS DEFENDERS

(New York, 19 December 2013) – In an unprecedented move, the African Group of States at the UN has led the General Assembly in a vote that puts on hold a Human Rights Council initiative to strengthen the protection of human rights defenders from attacks and reprisals.

The Group, together with other States such as China, Cuba, and Russia, successfully put forward a resolution to defer the appointment of a senior UN official tasked with coordinating the protection of human rights defenders. This is despite the Human Rights Council overwhelmingly passing a resolution in September calling on the UN Secretary-General to appoint 'a United Nations-wide senior focal point' to combat reprisals and intimidation.

'Attacks, intimidation and reprisals against people who work to expose and seek accountability for human rights violations at the UN violate international law and undermine the UN itself,' said Madeleine Sinclair, Legal Counsel with the International Service for Human Rights.

'It is deeply concerning that the international community has not stood united in the fight against reprisals. It is particularly concerning that African States, home to so many courageous human rights defenders, actively opposed vital measures to improve their protection,' Ms Sinclair said.

The decision was taken with a narrow margin of only three votes, with 83 States voting to set aside the Human Rights Council resolution on reprisals and 80 States from all regions of the world other than Africa taking a stand to support human rights defenders.

'We welcome the principled stand taken by progressive States to support human rights defenders as essential partners in promoting human rights, democracy and the rule of law', Ms Sinclair said.

States strongly supporting immediate action to better protect human rights defenders from attacks and reprisals included Australia, Brazil, Costa Rica, the European Union, Korea, Norway, Switzerland, Thailand and the United States.

In the face of an African Group position, only two African States took a more principled stand and absented themselves from the vote: Chad and Morocco.

'Regretfully not a single African State - not even the ones that supported the Human Rights Council resolution on reprisals only a few months ago - stood up in support of human rights defenders and against reprisals', Ms Sinclair said.

'By setting aside the resolution of the Human Rights Council and deferring the appointment of the focal point, the General Assembly has signalled its reluctance to protect human rights defenders from attacks,' Nicole Bjerler, Deputy Representative of Amnesty International's UN office in New York, said.

'This resolution also directly challenges the authority of the Human Rights Council to effectively coordinate and mainstream human rights within the United Nations system' said Ms Bjerler.

Amnesty International and the International Service for Human Rights are now calling on the General Assembly to consider the appointment of the focal point without delay so that the UN may begin to coordinate a much-needed international response to reprisals and intimidation against human rights defenders.

'Non-governmental organisations and human rights defenders worldwide will look now to the General Assembly for leadership and protection. Let's hope they are not disappointed,' Ms Bjerler said.

Madeleine Sinclair, Legal Counsel, International Service for Human Rights, m.sinclair@ishr.ch, +1 (917) 544 6148

Nicole Bjerler, Deputy Representative, Amnesty International United Nations Office in New York, Nicole.bjerler@amnesty.org, +1 (347) 806 1077

Our Work to Strengthen Human Rights Systems

ISHR CALLS ON NEW COUNCIL PRESIDENT TO ENSURE SAFE CIVIL SOCIETY PARTICIPATION AT UN

(Geneva, 16 December 2013) – ISHR has called on the new President of the Human Rights Council, Gabon, to uphold the right of civil society and NGOs to participate safely and effectively in the work of the Council, free from hindrance, intimidation or reprisals. The call was made at the organisational session for the next cycle of the Human Rights Council. The transcript of the remarks follows:

Thank you Mister President,

We thank the outgoing President and bureau you for their dedication and commitment to the Human Rights Council, the role of human rights in the UN and the effective participation of civil society in the Council's work.

ISHR wishes to congratulate the Ambassador of Gabon and his newly elected bureau - it is a high honour and high responsibility to preside over the UN's peak multilateral human rights body. We join in paying tribute to Nelson Mandela - one of the world's great human rights defenders and a continuing inspiration to defenders in Africa and worldwide.

The participation of civil society and human rights defenders in the work of the United Nations and in particular in its main human rights body are critical ingredients to ensure the Council's deliberations are informed by and respond to pressing human rights concerns on the ground. Hearing the voices of victims of human rights violations is critical to piercing the "Geneva bubble" and to give practical meaning to the Council's important work. It is also a right enshrined in numerous UN documents and in the longstanding practice of this body.

As president of the Council, we look to you to uphold the right of civil society and NGOs to participate safely and effectively in the work of the Council, free from hindrance, intimidation or reprisals. We call on you to build on the efforts of several of your predecessors to prioritise and intensify efforts to end and ensure accountability for cases of reprisals if and when they occur.

We look forward to working constructively with you and your bureau to ensure the Council effectively fulfils its mandate of promoting and protecting all human rights for all.

Thank you.

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

Key Developments in the Promotion and Protection of Human Rights

HUMAN RIGHTS COUNCIL ACTS TO END VIOLATIONS AND PROMOTE ACCOUNTABILITY IN CENTRAL AFRICAN REPUBLIC

(Geneva, 21 January 2014) - The UN's Human Rights Council has unanimously adopted a resolution calling on all parties to end the violence in the Central African Republic (CAR) and appointing an Independent Expert to examine the situation in the country.

The Council's call for action came at its 20th emergency session – called at the initiative of the African Group of States (led by Ethiopia) and with the support of the CAR – on the deteriorating security situation in the CAR.

Prior to the emergency session, the Security Council had adopted a resolution in December 2013 to provide technical and financial support to MISCA, the African Union's peacekeeping force currently deployed in the CAR.

At the session, Representatives of the Secretary-General, High Commissioner, and Chair of the Coordinating Group of Special Procedures stressed that the CAR is in a state of free-fall and that 'more than half the population now needs humanitarian assistance'. The representatives collectively condemned the 'unspeakable and widespread human rights violations,' and declared 'there will be no reconciliation without accountability'.

State participants also pointed to the need for immediate action and accountability for human rights violations.

France, Italy, and Ireland noted that the atrocities committed in the CAR may amount to war crimes and hence fall under the jurisdiction of the International Criminal Court. The US specifically called for any national accountability process to make provision for female victims.

Russia, China, and Cuba, who have opposed emergency sessions of the Council in the past, also joined the consensus. However, they emphasised their concurrence was due to the special session being called with the support of both the country concerned and the African Group. Russia stated that the appointment of the Independent Expert should not be taken as a precedent. Both China and Cuba stated their preference for States to resolve their own issues, with Cuba adding that the outcome of the special session must be implemented fully within the mandate given and should not be used to justify violations of state sovereignty.

In conjunction with the Council's emergency session on Monday, the European Union (EU), international donors, and the CAR's transitional parliament have also taken positive actions.

The EU has agreed to send up to 1,000 soldiers to help stabilise the CAR in what will be the EU's first major army operation in six years. French Foreign Minister Laurent Fabius estimates that a battalion-sized force of 500 would likely be deployed toward the end of February.

The international donors' meeting in Brussels on Monday also yielded a total of \$496 million which will contribute to the 100-day plan to stabilise the situation in the CAR.

Finally, the CAR's transitional parliament has elected Catherine Samba-Panza, mayor of Bangui, as interim president. As the CAR's first female head of state, Ms Samba-Panza made an immediate call for the disarmament of Seleka rebels and 'anti-balaka' militia.

'The situation in the CAR has been a wakeup call and the Council is now more aware of the immediate need for action,' said Clement Voule, ISHR's Program Manager and African Commission Advocacy Coordinator.

'The election of Ms Samba-Panza is the start of legitimate authority in the CAR. We hope the Council will work closely with the newly appointed Independent Expert, Ms Marie-Thérèse A. Keita Bocoum, and with Ms Samba-Panza to facilitate a democratic election process to promptly resolve the current crisis.'

Contact: Clement Nyaletsossi Voule, c.voule@ishr.ch.

GENERAL ASSEMBLY APPROVES FINAL UN BUDGET

On December 27, after weeks of intense negotiations, the UN General Assembly approved the 2014-15 budget for the Office of the High Commissioner for Human Rights (OHCHR), as part of the biennial \$5.53 billion UN budget. The new overall UN budget includes a 2 percent staffing cut, or 221 posts.

Despite these reductions, a crucial OHCHR post that had been targeted to go, the Head of Civil Society Unit, was saved. A coalition of NGOs including ISHR had [called on](#) Governments to retain this high-level post to ensure a continuation of OHCHR's crucial work on civil society cooperation.

The NGOs, together with a [renowned human rights expert](#), had also urged governments to do more to support and sustain the UN human rights budget, which has a disproportionately small allocation of the overall UN budget. However, despite being one of the three main pillars of the UN, the human rights 2014-15 budget will retain the same 3 percent share - a figure the High Commissioner for Human Rights has [called scandalous](#).

UN COMMITTEE CONFRONTS VATICAN CITY ON SEXUAL ABUSE OF CHILDREN

On 16 January 2014, the Holy See appeared in front of the UN Committee on the Rights of the Child (CRC) for the first time since the child abuse scandal broke. In a series of hard-hitting questions, the Committee pressed Vatican officials on their lack of concrete measures to prevent future abuse, promote transparency, and ensure restitution for victims.

Vatican officials repeatedly emphasised that their policies serve the 'best interest of the child' and do not encourage cover-ups of clerical sexual abuses. However, NGOs expressed their frustration at the lack of specific answer regarding the release of statistics to the public and restitution for victims... [more](#)

CAMBODIAN GOVERNMENT DEPLOYS PARATROOPERS AGAINST PROTESTORS

Thousands of Cambodian garment workers and monks joined in a week-long protest and strike to demand an increase in minimum wage for garment workers. In response to the protesters' request of \$160 per month, an elite unit of paratroopers was sent to suppress the protestors. Witnesses claim the clash began when a soldier outside a garment factory threw a water bottle toward a monk standing with the protestors. Protesters were angered by the rude gesture and retaliated by

throwing stones at the troops. The soldiers then responded by attacking protesters, monks, and photographers with batons and steel pipes.

Human rights groups said at least four monks and 10 other protesters were held by the military and others are receiving treatment in hospital... [more](#)

HIGH COMMISSIONER DENOUNCES NEW ANTI-HOMOSEXUALITY LAW IN NIGERIA

President Goodluck Jonathan signed the Same Sex Marriage (Prohibition) Bill into law earlier this January. The Act includes draconian provisions such as a 14-year prison term for anyone who enters into a same sex union, and a ten-year prison term for anyone who ‘administers, witnesses, abets or aids’ a same sex marriage or civil union ceremony.

‘Rarely have I seen a piece of legislation that in so few paragraphs directly violates so many basic, universal human rights’, the UN High Commissioner for Human Rights Navi Pillay commented. This law not only reinforces existing prejudices towards members of the LGBT community, but may provoke an upsurge in violence and discrimination... [more](#)

NEW CHILDREN’S RIGHTS COMPLAINTS MECHANISM OPENS

As of 14 January 2014, 10 countries have ratified the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure. This new development means that children or their representatives will soon be able to submit complaints to the Committee on Rights of the Child (CRC). If a violation is found, the CRC can then directly recommend to the State concerned to actively remedy the situation.

CRC Chair Kirsten Sandberg explains that this new complain procedure will allow children to more fully exercise their rights. It will also empower them to have access to international human rights bodies in the same way as adults under other human rights treaties. Ms Sandberg stressed that the Committee’s overriding concern in operation of the procedure would be the best interests of the child... [more](#)

HIGH COMMISSIONER EXPRESSES DISMAY AT INDIA’S RECRIMINALISATION OF SAME-SEX RELATIONSHIPS

Describing it as a violation of the right to privacy and to non-discrimination, Ms Navi Pillay, the UN’s High Commissioner for Human Rights, expressed her dismay at the Indian Supreme Court’s overturning of the 2009 High Court ruling that struck down section 377 of the Indian Penal Code, which provides for the punishment of those found guilty of ‘unnatural offences’.

The High Commissioner hopes that the Court might exercise its review procedure to rehear the case before a larger panel of judges, allowing judges to reconsider whether the Supreme Court’s initial decision took sufficient account of all relevant arguments... [more](#)

NEW LEGISLATION THREATENS FUNDAMENTAL HUMAN RIGHTS IN UKRAINE

In response to violent clashes in the centre of Kiev, UN High Commissioner for Human Rights, Navi Pillay, stressed the urgent need for constructive dialogue in Ukraine to prevent further unrest in the country. The High Commissioner expressed serious concern over new legislation that will potentially impose strict conditions for the exercise of fundamental rights such as freedom of association and assembly, and freedom of expression. One particularly concerning provision is the requirement on

NGOs that receive international funding to register as ‘foreign agents’, essentially stripping them of their non-profit status.

The High Commissioner stressed that the right to peaceful assembly is a fundamental human right and welcomed the Ukrainian Ombudsman’s intention to conduct an analysis of provisions of the laws from the point of view of potential threats to international human rights standards... [more](#)

RUSSIA’S RECORD ON LGBT ISSUES FACES SCRUTINY BY UN COMMITTEE ON RIGHTS OF THE CHILD

For the first time, UN Committee on the Rights of the Child (CRC) questioned the Russian governmental delegation on issues of children’s rights violations based on sexual orientation and gender identity. Despite their appearance at the CRC session, Russian representatives ignored the UN Committee’s questions on what measures the State has taken to prevent violence, a direct consequence of the laws on propaganda of non-traditional sexual relationships, against LGBT adolescents.

In response to the question of forced treatment of LGBT adolescents, Russian representatives insisted that the violent treatment of children is impossible, and guaranteed that treatment is only conducted with the consent of the patient or his or her parents... [more](#)

NORTHERN CYPRUS ABOLISHES THE LAST LAW IN EUROPE CRIMINALISING HOMOSEXUALITY

On 27 January 2014, in response to the legal action brought by Human Dignity Trust, lawmakers have voted to decriminalise homosexuality in Northern Cyprus and, effectively, in Europe. The final stage of the enactment process still requires the President’s assent, which is expected to be given within 15 days.

‘This is a historic day for gay people in Europe and a major victory for human rights, equality and the Human Dignity Trust’, the chief executive of the Human Dignity Trust said. ‘We are proud to say that we have played a significant role in bringing this shameful chapter in European history to an end’... [more](#)

Opportunities for NGO Engagement

HUMAN RIGHTS COUNCIL 25TH SESSION

NGOs wishing to submit [written statements](#) to the 25th session of the Human Rights Council must do so [online](#) by 16 February. The online sign-up system for oral statements will open on 28 February at 2pm Geneva time, and the link will be made available [here](#) (see Quick links section). NGOs can also participate by submitting a [video message](#). More information on NGO participation is available [here](#).

GENERAL ASSEMBLY THEMATIC DEBATES AND HIGH LEVEL EVENTS

The General Assembly will hold thematic debates on water, sanitation and sustainable energy, 18 - 19 February; the role of partnerships and their contributions, 8 - 9 April; and ensuring peaceful and stable societies, 24 - 25 April. High-level events will also be held on contributions of women, the young and civil society, 6 - 7 March; and human rights and the rule of law, 17 - 18 June.

NEW DEADLINE FOR SUBMISSION TO 20TH SESSION OF THE UPR

The deadline for civil society to submit information for the [20th session](#) of the working group (to be held from 27 October to 7 November) has been changed to 15 March 2014. Submissions should be sent using the new [online UPR submissions system](#), which will open on 1 March.

HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

The 12th session of the Human Rights Council's Advisory Committee will take place from 24 – 28 February in the Palais des Nations, Geneva. NGOs are able to intervene under all [thematic agenda items](#). The programme of work will be published [here](#).

HUMAN RIGHTS COMMITTEE

The Human Rights Committee will meet in Geneva from 10 – 28 March. NGOs should [submit information](#) on any of the [countries under review](#) by 14 February.

COMMITTEE ON ENFORCED DISAPPEARANCES

NGOs wishing to [submit information](#) on any of the [countries to be reviewed](#) at the upcoming session of the Committee on Enforced Disappearances, to be held in Geneva from 17 – 28 March, should do so by 3 February.

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

The Committee on the Rights of Persons with disabilities will meet in Geneva from 31 March to 11 April. The [deadline to submit](#) information on any of the [countries under review](#) is 28 February.

COMMITTEE ON THE RIGHTS OF MIGRANT WORKERS

The deadline to [submit information](#) to the Committee on the Rights of Migrant Workers for any of the [countries under review](#) is 17 March. The Committee will meet in Geneva from 31 March to 11 April.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The Committee on Economic, Social and Cultural Rights will be in session in Geneva from 28 April to 23 May. The deadline to [submit information](#) on any of the [countries under review](#) is 17 March.

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.

WORKING GROUP ON BUSINESS AND HUMAN RIGHTS

[Submissions](#) to the Working Group on business and human rights, alleging violations of human rights in relation to the Working Group's mandate, are accepted throughout the year. The next session of the Working Group will be held in Geneva from 17 – 21 February 2014.

WORKING GROUP ON DISCRIMINATION AGAINST WOMEN

The Working Group on discrimination against women in law and practice [accepts information](#) on allegations of discrimination against women in law and practice throughout the year. The next session of the Working Group will be held in Geneva from 5 – 9 May.

FORTHCOMING COUNTRY VISITS BY SPECIAL PROCEDURES

United Arab Emirates	Special Rapporteur on independence of judges and lawyers 28 January – 5 February
New Zealand	Working Group on arbitrary detention 24 March – 7 April
United Kingdom	Special Rapporteur on violence against women 31 March – 15 April

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

New Resources

BELFAST GUIDELINES ON AMNESTY AND ACCOUNTABILITY

A new set of [guidelines](#) on amnesty and accountability aim to balance the competing demands for amnesty and accountability in conflicts and political transitions. The guidelines set out a framework to evaluate the legality and legitimacy of amnesties in accordance with the multiple legal obligations faced by States undergoing conflict or political transition.

EXPANDED CRIMINALISATION OF HOMOSEXUALITY IN UGANDA: A FLAWED NARRATIVE

Sexual Minorities Uganda (SMUG) has released an [important report](#) that examines some of the arguments that have been used to justify recent expansion of criminalisation of homosexuality in Africa. The myths examined include the idea that homosexuality is alien to Africa, and that criminalisation will prevent the spread of HIV and protect the traditional African family unit.

Case Notes on Decisions from International Human Rights Bodies

ALGERIA FOUND LIABLE FOR RIGHTS VIOLATED DURING CIVIL WAR

Faraoun v Algeria (1884/2009)

Summary

In October 2013, the Human Rights Committee was asked to consider whether an individual's enforced disappearance during the Algerian Civil War constituted a violation by Algeria of its obligations under the International Covenant on Civil and Political Rights.

The communication was submitted by three Algerian nationals under the Optional Protocol to the Covenant, on behalf of both themselves and the victim of the enforced disappearance, Mr Farid Faraoun (the authors' husband, father and son respectively).

Background

Mr Faraoun was a farmer in the Sidi-Bel-Abbès region. On 11 February 1997, he was arrested at his home by armed police agents, without any warrant. He was taken to the police station and never seen again.

On the same day, the police destroyed Mr Faraoun's family's farm. The next day, the police forced his wife and four children out of their home of 17 years, which was then also destroyed.

On 12 February 1997, Mr Faraoun's wife was able to meet secretly with a member of the army, who told her that her husband had been tortured. However, he advised her not to take any further action for fear of retaliation. In the following months, the family received information from various sources, according to which Mr Faraoun had been badly injured and had been seen in two different military hospitals.

From July 1997 to August 2006, the authors made numerous requests to the Algerian authorities to open an inquiry into Mr Faraoun's disappearance. Despite these requests, the authors had been unable to obtain any further information concerning his fate or whereabouts. Furthermore, since the implementation in 2006 of the Charter for Peace and National Reconciliation (the *Charter*), the authors had been prohibited from taking legal action in the Algerian courts for crimes committed during the Civil War.

On 7 July 2008, the authors filed this communication with the Committee under the Optional Protocol to the Covenant. The authors claimed that Algeria had violated its obligation to provide the authors with an effective remedy under article 2(3) of the Covenant, with respect to Mr Faraoun's rights to: (i) life; (ii) freedom from torture and cruel or degrading treatment; (iii) liberty and security of the person; (iv) humanity and respect for the inherent dignity of the human person; (v) recognition as a person before the law; (vi) freedom from arbitrary or unlawful interference with private life; and (vii) protection of the family (under articles 6, 7, 9, 10(1), 16, 17 and 23(1) of the Covenant respectively). The authors also claimed a violation of their own rights under article 2(3), with respect to articles 7, 17 and 23(1) of the Covenant.

The Committee's decision

Regarding the admissibility of the claims, the Committee rejected Algeria's argument that the authors had not exhausted domestic remedies. The Committee found that, notwithstanding their fear of retaliation, the authors had made numerous requests to the authorities to investigate Mr Faraoun's disappearance. Though the authors had not launched criminal proceedings in Algeria, the implementation of the Charter made any legal action impossible and the authors were entitled to doubt the effectiveness of such remedy. Moreover, it was the State's duty to initiate investigations and proceedings for such serious crimes. The Committee therefore concluded that all effective remedies had been exhausted and that nothing barred the admissibility of the claims.

On the merits, the Committee held that Algeria was not entitled to rely on the general context of the Civil War and the fight against terrorism to avoid the obligations it owed to each individual. The Committee also recalled its previous finding that the order implementing the Charter was contrary to the Covenant as it promoted impunity. With respect to each claim, the Committee noted that Algeria had not adduced any information to contradict the facts alleged by the authors.

The Committee observed that Mr Faraoun's enforced disappearance had put his life at serious and constant risk. It noted Mr Faraoun's incommunicado detention and physical torture and recalled its General Comment No. 20 in which it recommended that State parties make provision against such detention. The Committee considered that the entry of government agents into the home of Mr Faraoun and his family and the subsequent destruction of their farm and home constituted an interference with private life. It also noted the mental torture and intimidation of his family,

particularly when they were forced to watch the destruction of their home and were left in a critical financial condition.

The Committee considered that Algeria had failed to provide appropriate judicial and administrative mechanisms for addressing the authors' claims, and that its failure to investigate allegations of violations was itself a violation of the Covenant.

In light of the above, the Committee found Algeria to have breached article 2(3) of the Convention, both read alone and in conjunction with articles 6(1), 7, 9, 10(1), 16 and 17, with regard to Mr Faraoun. The Committee also noted the anguish and distress caused to the authors by Mr Faraoun's disappearance and the destruction of their family home, and considered that Algeria had violated article 2(3) with regard to the authors' rights under article 7 and 17 of the Covenant. Given its findings in relation to article 17, the Committee did not consider it necessary to examine the authors' claims under article 23(1).

In accordance with article 2(3), Algeria was under an obligation to provide the authors with an effective remedy by, among other things:

- a) conducting thorough and impartial investigations into the disappearance of Mr Faraoun and informing his family of the results;
- b) releasing Mr Faraoun immediately if he is still detained incommunicado;
- c) handing over his remains if he is deceased;
- d) prosecuting, trying and punishing those responsible for the violations committed; and
- e) providing adequate compensation to the authors and Mr Faraoun if he is still alive.

The Committee also held that Algeria must take steps to prevent similar violations in the future.

Algeria 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.

Pauline Dépinay is an international lawyer, based in Paris.

CANADA REQUIRED TO RECONSIDER INDIVIDUAL'S REQUEST FOR ASYLUM

Choudhary v Canada (1898/2009)

Summary

In October 2013, the Human Rights Committee was asked to consider whether Canada would violate its obligations under the International Covenant on Civil and Political Rights in deporting an individual to Pakistan and denying their request for asylum.

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

Background

The author of the communication, Mr Naveem Choudhary, was born in Pakistan. He alleges that he was an active Shia member of the Imam Bargah community in Jhelum, Punjab, a group that has been targeted by the Sunni extremist group Sipah-Sahaba Pakistan for speaking out against Islamist fundamentalism and violence.

In 1999, SSP opened an office in the author's neighbourhood. The author alleges that between 2000 and 2002, he was a victim of attacks and death threats by SSP members. He also alleges that on one occasion, he and his wife, along with other members of his community were fired at by SSP members. The author further claimed that his complaints to the police authorities in Pakistan did not yield results. After SSP filed a complaint against him with the police, accusing him of insulting the Sunni faith in public, he decided to leave Pakistan.

The author claims that since leaving Pakistan, he learnt that the police had visited his house to arrest him under Pakistan's blasphemy laws, and that an arrest warrant had been issued against him. Blasphemy is punishable by the death penalty under Pakistani law.

In March 2002, the author fled to Canada with his wife via the United States of America, and claimed refugee status in Montreal on 15 April 2002.

On 14 December 2004, the Refugee Protection Division of the Canadian Immigration and Refugee Board rejected the author's claim for asylum, on the basis that he and his wife had not credibly established their identity. The Board believed that the author's identity document was a counterfeit. His wife's identity document bore the number belonging to a list of documents that the Government of Pakistan had declared to have been stolen. The Board concluded that, since neither the author nor his wife had established their identities, they had not established the central element of their claim.

On 24 March 2005, the author's application for leave for judicial review was rejected by the Federal Court and a subsequent request to reopen the case on the basis of additional documentation was rejected by the Board. On 29 May 2007, the author's demands for review of the decision on humanitarian and compassionate grounds and by pre-removal risk assessment (PRRA) were rejected. The author's request for judicial review of the PRRA decision was rejected in April 2008. The author also claims that his eldest son, who was left behind in Pakistan was kidnapped in November 2006 as an act of reprisal against him, and that a fatwa had been issued against him by a radical group of Sunnis in Jhelum.

On 31 August 2009, the author filed this communication with the Committee, claiming that: (i) his detention had violated his right to freedom from arbitrary detention (under article 9 of the Covenant); (ii) the domestic asylum procedures had been violated his right to the procedural guarantees under articles 13 and 14 of the Covenant; and (iii) his deportation would violate his rights to life and protection from cruel or inhuman treatment (under articles 6(1) and 7 of the Covenant respectively). He also claimed a violation of his wife and children's rights with respect to their rights to: (i) protection from arbitrary and unlawful interference with the family and home; (ii) protection of the family; and (iii) child protection (under articles 17, 23 and 24 of the Covenant respectively).

The deportation of the author and his family was scheduled for 8 September 2009. A motion for stay of deportation was still pending before the Federal Court at the time of submission of the communication to the Committee.

On 4 September 2009, pursuant to Rule 97 of the Committee's rules of procedure, the Committee requested that Canada not expel the author and his family while the communication was being examined.

The Committee's decision

In considering the admissibility of the author's claims relating to his deportation, the Committee observed that local remedies had been exhausted since the motion for stay of deportation pending before the Federal Court had no suspensive effect against the order for removal. Certain of the author's allegations relating to his detention were held to be inadmissible as these claims had not been raised before domestic courts. The Committee also held that the author's claims relating to the rights of his children under articles 17 and 23 were not admissible, since it was not envisaged that the family would be separated. With regard to the author's claim that the rights of his children under article 24 would be violated due to his children's educational needs not being met in Pakistan, the Committee held that these allegations had not been sufficiently substantiated and were therefore inadmissible.

On the merits of the case, the Committee observed that the author had not been given any further opportunity by the Board to have his refugee claim assessed on the grounds that he had failed to establish his identity at the initial stage of the procedure, despite his identity having subsequently been confirmed. While the author's claims had been examined during the PRRA procedure, such limited assessment could not form a substitute for the type of thorough assessment performed by the Board.

The Committee noted the recent reports that religious minorities including Shias continue to face fierce persecution and insecurity and that the Pakistani authorities are either unable or unwilling to protect them. It observed that the Pakistan government had dropped a proposed amendment to Section 295(C) of the Criminal Code which penalises blasphemy, and that there had been an upsurge of blasphemy cases in 2012. The Committee also noted that a case of blasphemy had been registered against the author, for which Pakistani law prescribed the death penalty. While death sentences for blasphemy appeared to be rarely carried out, there were several reported instances of extra-judicial killings of those accused of the offence.

In view of the above, the Committee held that the expulsion of the author and his family would constitute a violation of articles 6(1) and 7 of the Covenant, read in conjunction with article 2(3) of the Covenant. Given these findings, the Committee did not consider it necessary to examine the author's further claims.

The Committee held that in accordance with article 2(3), Canada was under an obligation to provide the author and his family with an effective remedy, including a full reconsideration of the claim.

Canada must now submit a written response within six months of the Committee's decision, including information about the measures taken to give effect to the Committee's views, and ensure that the Committee's decision is published widely.

Deepak Raju is an international lawyer, based in Paris.



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