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Opinion

MICHELLE EVANS CALLS ON THE UN TO ENHANCE PROTECTIONS FOR HUMAN RIGHTS DEFENDERS

By Michelle Evans, New York Manager and Advocacy Coordinator, International Service for Human Rights

As published in the [UNA-UK New World](#) on 17 June 2014:

Despite knowing the huge risks human rights defenders face in their work, the news still came as a shock to our global community. On 14 March, Cao Shunli, a prominent human rights lawyer, died in hospital after being detained by the Chinese authorities for several

months. She was arrested while travelling to participate in a training session on the UN human rights system set up by the International Service for Human Rights. Cao's supposed 'crime' was having campaigned for greater civil society participation in the UN Human Rights Council's review of China's human rights record.

Civil society has always played a crucial role at the UN, from those present at the Organization's founding conference in San Francisco to the 10,000 NGO representatives at Rio+20 in 2012. Human rights defenders have made an exceptional contribution, shaping the international system of protection we recognise today, exposing state misconduct and insisting on accountability.

In recent years, human rights defenders have used the UN system to shine spotlights on grave situations in Syria, Belarus, Iran, Eritrea, Sri Lanka and North Korea, to name just a few, and have worked diligently to promote the universality of human rights in all UN fora, such as by defending women's rights against regressive forces.

Human rights defenders who engage with the UN face serious challenges. They and their families often endure intimidation, harassment, defamation, arrest, fabricated charges, loss of employment, forced relocation, and physical attacks, including torture and killings. They also encounter numerous laws and regulations that criminalise and restrict their work.

Cao Shunli paid the ultimate price for her work and beliefs, and her death represents one of the most egregious cases of reprisals being taken against human rights defenders cooperating with the UN. Scores of other examples of alleged reprisals are recorded in communications to UN experts and in an annual report of the UN Secretary-General, some of which have even been committed on UN premises. Many more cases, however, go unreported.

Notwithstanding the growing recognition of the seriousness of these reprisals, the response of the international community often remains inadequate. Member states have yet to investigate many of the known cases. The General Assembly is in deadlock over a resolution requesting that the Secretary-General appoint a high-level, anti-reprisals focal point. And too frequently, members of the UN Committee on NGOs, the body that regulates civil society accreditation to and participation at the UN, continue to hinder and harass numerous human rights defenders by arbitrarily and discriminately blocking access.

Despite certain states' attempts to quell the growing influence and presence of human rights defenders, civil society in countries all over the world continues to promote and protect human rights for all. Indeed, the participation of civil society organisations is growing, both in terms of those inputting into the Human Rights Council's review of states' human rights records, and the number of human rights organisations applying for consultative status via the Committee on NGOs, despite the many barriers to entry.

Reprisals against human rights defenders are not only incompatible with the very rights these individuals are seeking to defend, but they also undermine the authority, credibility and independence of the UN system itself. It is time for the international community to stop equivocating and take concrete steps to protect the civil society activists who form the backbone of the UN system.

Among other measures, member states must appoint a UN focal point who can hold perpetrators to account for attacks against human rights defenders and end discriminatory procedures in UN accreditation processes.

The international community must enhance these protections or risk damaging a human rights system that has been carefully constructed over more than 60 years, which will, one hopes, last for many more.

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Human Rights Defenders' Profiles

PROFILES OF REPRESENTATIVES OF NON-GOVERNMENTAL ORGANISATIONS FIGHTING TO OBTAIN ECOSOC CONSULTATIVE STATUS TO THE UN

ISHR is publishing a series of profiles of representatives of non-governmental organisations fighting to obtain Economic and Social Council (ECOSOC) consultative status to the UN through the ECOSOC Committee on NGOs.

Consultative status is required to attend and participate in many UN meetings, including those of the Human Rights Council. We hope these profiles will help expose the Committee's dysfunction, share the struggles of human rights defenders that are repeatedly blocked from bringing their experiences and insights on critical issues to policy-making at the UN, and ultimately help secure consultative status to the UN for these credible NGOs carrying out important and valuable human rights work.

GISSOU NIA, THE IRAN HUMAN RIGHTS DOCUMENTATION CENTER

The Iran Human Rights Documentation Center is an international NGO based in Connecticut, USA that aims to establish responsibility for patterns of human rights abuses in Iran by developing a comprehensive and objective historical record of human rights abuses in Iran that is accessible to the public. Founded in 2004 by a group of human rights scholars and lawyers, IHRDC ultimately aims to promote accountability and respect for human rights in Iran at the international level.

IHRDC submitted its application for special consultative status to the Committee on NGOs in 2010. Since its application, IHRDC has been deferred 8 consecutive sessions and has received 38 questions from the Committee on NGOs.

‘Even the UN Special Rapporteur on the human rights in Iran is denied access to the country’

In Iran human rights work is met with suspicion from government authorities and those who work on human rights are often the targets of political pressure. Over the past decade, independent civil society inside Iran has effectively been dismantled. Thus the main challenge for the Center is the inability to physically travel to Iran to carry out field investigations in a transparent manner.

However this has not prevented the Center from gathering credible evidence through secure electronic transmissions from witnesses and other sources inside the country. Additionally, the Center carries out field missions to neighboring countries that have large number of refugees fleeing Iran on grounds of political, religious and socio-cultural persecution.

While Iran prevents NGOs and UN human rights mechanisms from entering the country, some member states of the Committee on NGOs, namely China, Russia and Cuba, play a role in curbing the interaction between civil society and the UN on behalf of Iran.

‘We receive many questions which have been asked and answered before, but are nonetheless repeated, often by the same small group of Committee members’

Members of the Committee on NGOs have repeatedly asked the organization why it focuses solely on Iran, how it can gather information without having physical access to Iran, how it can operate independently if it garners government funding, and to provide detail on how it has actively participated in UN activities without consultative status.

In January 2012, Ms. Nia attended the Committee on NGOs and participated in the question-and-answer session. She noted that the focus of the NGO, like other country-specific initiatives, was due to the Center’s founders concern about the deteriorating human rights situation in their homeland. She also highlighted the Center’s role in accurately reporting human rights violations through the collection of witness testimony, public source documents, and secure electronic correspondence. Furthermore, it was emphasised that no government reviews or participates in any way with the organisation’s work.

Over the past 8 sessions, these answers have also been provided in writing time and time again. However, the Committee continues to defer the organisation’s application by asking similar questions each session.

‘We wonder how a group that has a ten-year track record of producing credible human rights reporting that is heavily relied on by the international community, academics and the media is somehow continually deferred with little to no explanation’

Fortunately, the lack of consultative status has not completely prevented the Center from engaging with the UN in its aim to raise awareness and advocate for human rights in Iran.

IHRDC advocates for broader support of the annual UNGA country-specific resolution on the human rights situation in Iran. Additionally, IHRDC has led multiple delegations of Iranian human rights defenders, including Nobel Peace Prize laureate Shirin Ebadi, to Geneva to hold briefing sessions with UN member states on the human rights situation in Iran. Finally, the organisation participated in the first-ever Universal Periodic Review of Iran in 2010 and will again do so in 2014.

However, participation has been limited by the lack of ECOSOC consultative status. To attend sessions and panels in Geneva, the organization must be invited by UN-accredited NGOs and thus must make statements under the banner of the accredited NGO.

NGOs like IHRDC would be able to give statements, submit reports and interact with the UN human rights system in a much smoother manner and with far less of a drain on their already limited resources if consultative status were granted.

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For more information on the work of IHRDC see <http://iranhrdc.org>

VERONICA YATES, THE CHILD RIGHTS INTERNATIONAL NETWORK

The Child Rights International Network (CRIN)¹ is an international organization that focuses on research, policy and advocacy for children’s rights inspired by the UN Convention on the Rights of the Child. It was registered in 2008 in London, England and strives to bring children’s rights to the forefront of the international agenda.

CRIN submitted its application for special consultative status with the Committee on NGOs in 2010. Since then, the Committee has repetitively deferred the application by posing 15 questions – 7 of them coming from one Committee member: China. For the past 4 Committee sessions, China has repetitively asked CRIN to change content on the organisation’s website regarding Tibet, noting that the correct UN terminology (‘Tibet, Autonomous Region of China’) should be used to reference the geographic region.

Over a year ago, CRIN addressed this issue by noting that the organisation had updated all of its own material to reflect correct UN terminology. However, they highlighted the fact that a section of the CRIN website is dedicated to hosting archived reports submitted to the UN Committee on the Rights of the Child by a wide variety of NGOs, not all of which are endorsed by CRIN. Language in those reports cannot be changed by CRIN as a host site, but CRIN informed the Committee on NGOs that they had added a disclaimer on the site stating the inclusion of such reports in no way implies CRIN endorsement or agreement. This has not satisfied the delegation of China and it continues to defer the organisation’s application by asking the same question each session.

¹ The name of Child Rights Information Network was recently changed to ‘Child Rights International Network’

'We strongly believe that our role is in monitoring violations that are perpetrated against children, and if and when States are the perpetrators, then we will say so'

CRIN works with governments and at the international level to help achieve recognition, respect and enforcement of children's rights. In addition to monitoring and advocacy, CRIN maintains an online database of alternative reports submitted by NGOs to the UN Committee on the Rights of the Child. This is as a result of CRIN's strong belief that information should be freely available and easily accessible. These activities are the main stumbling block in the organisation's accreditation process because China does not approve of all of the NGOs that have archived reports on the CRIN website.

'The restrictions and crackdowns against human rights defenders, including children's human rights defenders, seems to be on the rise everywhere, including at the United Nations'

CRIN itself as well as grassroots organizations and individuals that provide CRIN with information have repetitively been the target of political pressure. While NGOs are increasingly expected to do the job of the government in providing basic services, they are less and less able to challenge governments on how they are carrying out their responsibilities.

In an attempt to curb the interaction of human rights defenders with the UN, governments turn the NGO Committee into a politicised forum by indefinitely deferring applications of NGOs that do not suit their political agenda, even if the NGO, such as CRIN, meets all criteria for accreditation as laid out in UN resolution 1996/31.

Despite this increased pressure, CRIN remains dedicated, through engagement with the UN and its human rights bodies, to raise awareness and advocate for children's rights.

'If international NGOs that already work closely with the UN cannot get access, what chance do the grassroots and national NGOs have?'

CRIN works closely with UNICEF and OHCHR as well as with the UN Committee on the Rights of the Child. They make regular submissions to the treaty bodies, the Universal Periodic Review and the Secretary-General's thematic reports. They also work closely with the Special Representative on Violence against Children.

This close relationship with UN mechanisms allows CRIN to inform its partners about opportunities to participate and contribute to achieving a genuine systemic shift in how governments and societies view children.

Despite this already-established close relationship, accreditation would allow for greater access and participation in the work of the United Nations. Without ECOSOC consultative status, CRIN cannot attend UN sessions or side events without getting a specific invitation from an already accredited NGO, sign joint statements (except as a footnote), or make their own statements.

'We now believe we are unlikely ever to get accreditation, or at least not as long as the States that make up the Committee continue to block human rights organizations overall'

CRIN is releasing an open letter to the Committee on NGOs regarding its application as well as running a campaign highlighting all communications between CRIN and the Committee on NGOs in the spirit of being completely transparent about the process. Though this course of action will likely garner greater political pushback from Member States of the Committee, CRIN believes that it is

necessary to address a greater issue than that of their singular application - the transparency and legitimacy of the UN accreditation system.

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For more information on the work of CRIN see <http://www.crin.org>

Our Work to Support Human Rights Defenders

HUMAN RIGHTS COUNCIL SESSION ENDS WITH CALL TO PROTECT FREEDOM OF EXPRESSION AND HUMAN RIGHTS DEFENDERS

The 26th session of the UN Human Rights Council closed with a reminder that human rights defenders in many parts of the world continue to be arrested and imprisoned for exercising their rights to freedom of expression and a statement of regret that States within the Human Rights Council itself are seeking to stifle debate and promote resolutions that are incompatible with international human rights standards... [more](#)

In a [closing statement to the Council](#) delivered on behalf of a coalition of 18 NGOs, ISHR's Michael Ineichen said, 'We are mindful of human rights defender colleagues in many parts of the world who are facing threats to their safety, and restrictions to their work through the misuse of legislation to silence dissent. In particular, we recall [seven women human rights defenders recently arrested in Egypt](#) for exercising their right to peaceful protest and call for their immediate and unconditional release, as well as that of the three Al-Jazeera journalists. We are also concerned about yesterday's arrest of Samuel Mohochi in Kenya, and the closing of Salmmah Women's Resource Centre in Sudan this week.'

Mr Ineichen also expressed concern about the 'use of [procedural motions by some States to stifle debate](#)' within the Council, saying that 'States who prevent such discussion abdicate their responsibility as members to engage in dialogue on the universal promotion and protection of human rights'.

On the issue of [business and human rights](#), the NGO signatories to the statement 'broadly welcomed the adoption of both resolutions' and called on all stakeholders to 'work together in a positive spirit to ensure both the effective implementation of the UN Guiding Principles and the development of a treaty on business and human rights that strengthens corporate accountability for human rights violations and access to justice for victims'.

This session has again demonstrated the importance and impact of the work of the Council, despite its limitations. Reflecting on this, Mr Ineichen said, 'the release of Belarusian defender Ales Byalyatski just six days before the vote on the resolution renewing the mandate of the Special Rapporteur on Belarus shows the relevance of international pressure on governments that restrict freedoms and refuse to engage with international mechanisms. The Council remains a relevant forum to address such situations. We regret however that the Council has again failed to act on country situations where there are worsening restrictions on civil society space, freedom of expression, association and assembly, including Egypt and [Bahrain](#).'

Closing the statement, Mr Ineichen called on the Human Rights Council, its President and all States to [support stronger action to combat reprisals](#) during the current session of the UN General Assembly, thanked the outgoing High Commissioner Navi Pillay for her outstanding work, and said

that NGOs 'look forward to working with incoming [High Commissioner Zeid Ra'ad Zeid Al-Hussein](#) to support human rights defenders and promote and protect all human rights for all.'

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HUMAN RIGHTS COUNCIL ADOPTS MAJOR RESOLUTIONS ON BUSINESS AND HUMAN RIGHTS BUT MISSES OPPORTUNITY TO PROTECT DEFENDERS

(Geneva, 27 June 2014) – The UN Human Rights Council has missed a significant opportunity to strengthen the protection of human rights defenders who work to promote corporate respect for human rights and corporate accountability for human rights violations, the International Service for Human Rights said today.

During its current session in Geneva, the Council has adopted two resolutions on the topic of business and human rights. One resolution, led by [Norway, Argentina, Ghana and Russia](#), focuses on national implementation of the UN Guiding Principles on Business and Human Rights, renewing the mandate of the [UN Working Group on Business and Human Rights](#), and examining ways in which to enhance access to justice for victims of corporate violations. That resolution was adopted by consensus. The other resolution, led by [Ecuador and South Africa](#), establishes an inter-governmental process to begin the development of a treaty 'to regulate, in international human rights law, the activities of transnational corporations and other business enterprises'. That resolution was adopted by 20 votes to 14 (with 13 abstentions).

While both resolutions contain paragraphs which recognise the valuable role played by civil society organisations in promoting corporate respect for human rights and exposing and seeking remedy for corporate violations, they both fall well short of [NGO calls](#) to recognise the worsening risks and attacks that human rights defenders who work on issues of business and human rights face, and the obligations of States to protect and support them in this regard.

'We welcome the acknowledgment in both resolutions of the positive and constructive role that human rights defenders play in promoting corporate responsibility and working with business to identify and mitigate human rights risks and impacts,' said ISHR Director Phil Lynch.

'However, with increasing attacks against human rights defenders who work on issues of corporate accountability, the vast majority of which are perpetrated with impunity, it is deeply regrettable that neither of the resolutions on business and human rights adopted at this session recognises the risks they face nor the legal obligations of States to prevent, investigate and pursue accountability for these attacks. This failure is a victory for impunity and fundamentally incompatible with the purported commitment of the sponsors of both resolutions to protect and support victims of business-related human rights abuses,' Mr Lynch said.

While broadly welcoming the adoption of both resolutions, ISHR regrets that the sponsors of each were not able to negotiate a single consensus-based text and, in particular, that Ecuador and South Africa pushed for a decision on their resolution while negotiations were still ongoing.

'While the negotiation of these resolutions has been difficult and, at times, divisive, it is imperative that all stakeholders now work together in a positive spirit to ensure both the effective implementation of the UN Guiding Principles and the development of a treaty on business and human rights that strengthens corporate accountability for human rights violations and access to justice for their victims,' said ISHR's Director of Human Rights Council Advocacy, Michael Ineichen.

'In relation to the Guiding Principles, States should develop National Action Plans which include policies and measures to protect and support human rights defenders. In the elaboration of a treaty, the process should ensure the full participation of human rights defenders and communities affected by business operations, particularly energy, extractive and resource industries and major development projects,' Mr Ineichen said.

Mr Ineichen also said that while ISHR supports the development of a treaty on business and human rights, such a treaty should complement and build on the Guiding Principles and not dilute or undermine them in any way. 'In this regard, ISHR regrets that the process initiated by Ecuador and South Africa purports only to regulate transnational corporations and not domestic enterprises. States that are serious about business and human rights should impose the same standards on domestic corporations, including State-owned enterprises, as they seek to impose on corporations headquartered abroad,' Mr Ineichen said.

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EGYPT: END SYSTEMATIC MISUSE OF ASSEMBLY LAWS AGAINST PEACEFUL PROTESTORS AND RELEASE WOMEN HUMAN RIGHTS DEFENDERS

(Geneva, 23 June 2014) – A group of seven women human rights defenders, arrested on 21 June 2014 in Egypt for conducting a peaceful protest against the country's deeply flawed public assembly bill, must be released immediately and unconditionally, the International Service for Human Rights said today.

In an [open letter to President Abdel Fattah el-Sisi](#), ISHR expressed its concern over the systematic misuse of Egypt's assembly law (Law 107/2013) and other related legislation to silence dissent by disproportionately targeting human rights defenders, journalists, political activists and opposition figures.

'The assembly law is extremely restrictive and falls far short of meeting international human rights standards', said Pooja Patel, who leads ISHR's work on women human rights defenders.

'There is an undeniable pattern in Egypt where these laws are used systematically and disproportionately to stop people from exercising their basic rights to freedom of expression, assembly and association,' Ms Patel said.

The seven women defenders (Yara Sallam, Sanaa Seif, Hanan Mustafa Mohamed, Salwa Mhriz, Samar Ibrahim, Nahid Sherif and Fikreya Mohamed) were arrested in Heliopolis, Cairo where unknown actors threw stones and glass at the defenders, which was followed by the use of tear gas and bird shots by the police to disperse them. The women defenders were arrested along with several others and were being held at Heliopolis police station, before being referred to prosecution.

'We are extremely disturbed to hear that today there was a decision to hold the group for a further 4 days in pre-trial detention pending investigation', said Ms Patel.

‘Prolonged detention without charge is incompatible with Article 9 of the International Covenant on Civil and Political Rights. The prosecution should either drop their charges if no evidence can be found against them, or release the group immediately,’ Ms Patel said.

One of the defendants, Yara Sallam, was not in the protest at the time of the arrest yet is being held in custody only after admitting that she works as a researcher at the Egyptian Initiative for Personal Rights, a partner organization of ISHR.

Many women who participate in Egypt’s political transition have faced particular threats and vulnerabilities, including sexual harassment and sexual violence against women protestors and women detainees. A resolution at the current session of the UN Human Rights Council calls on States to ensure that women are protected from all forms of violence and discrimination, including when seeking to participate in political processes to strengthen democracy and the rule of law.

Furthermore, the [UN expert on extrajudicial executions reported to the Council on 12 June 2014](#) that the primary function of law enforcement officers during public assemblies should be to facilitate and not interfere with such gatherings.

Earlier during the current June 2014 Human Rights Council session, ISHR joined with ten other leading international and regional human rights organisations in [calling on the Council to take action to address the deteriorating situation in Egypt](#).

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STATES MUST SUPPORT STRONGER ACTION ON REPRISALS AT UN GENERAL ASSEMBLY

(Geneva, 23 June 2014) – States must support stronger action to combat intimidation and reprisals against those who cooperate with the UN by pushing for the endorsement of a Human Rights Council resolution on the issue by the UN General Assembly in New York, the International Service for Human Rights said today.

Last September, the Human Rights Council passed an [important resolution](#) calling for the UN to appoint a high-level focal point with a mandate to prevent and promote accountability for threats and attacks against people in association with their engagement with the UN. Action on the resolution was deferred, however, by the UN General Assembly, which has given itself until September 2014 to decide whether such a focal point is necessary. In the meantime, a number of regional mechanisms have taken action to provide better protection to those who contribute to their work, including the African Commission on Human and Peoples’ Rights, which [resolved in May 2014](#) to appoint its own senior focal point on reprisals.

Delivering a statement to the Human Rights Council in Geneva today, ISHR’s Eleanor Openshaw said, ‘The African Commission on Human and People’s Rights has led the way in designating a reprisals focal point, while the [European Court of Human Rights](#) has developed strong jurisprudence which makes it clear that the prohibition against reprisals is absolute.’

‘A more robust, coordinated, comprehensive and systemic UN response to challenge reprisals is urgently needed. Simply put, the current ad hoc methods employed by different mechanisms and bodies do not adequately uphold the right to communicate with the UN in the field of human rights.

They tolerate impunity for those that perpetuate intimidation or reprisals, and undermine the integrity of this Council and the UN as a whole.’

A number of States also welcomed the African Commission’s leadership, with [Hungary](#) noting that they hoped this initiative would lead to similar initiatives by other regional organizations, and encourage States in supporting the establishment of a UN system-wide focal point.

Speaking after delivering the ISHR statement, Ms Openshaw said that the issue of intimidation and reprisals against human rights defenders remains pressing.

‘Over the last two weeks ISHR has been privileged to work with over 20 human rights defenders from all around the world who look to the Human Rights Council and the UN more broadly to provide protection and redress for human rights violations. Regrettably, many of them told us that, far from providing protection, their engagement with the UN can actually lead to further violations, as they face retaliation and reprisals from both State and non-State actors at home,’ Ms Openshaw said.

‘Several also spoke of colleagues who were not prepared to engage with the UN for fear of attack, and with good reason. We know of [egregious cases of reprisals against defenders](#) engaging with a range of mechanisms and bodies – the case of Cao Shunli is very much in our minds this session,’ Ms Openshaw said.

Ms Openshaw said that such cases and testimony are evidence that ‘Attacks against those that cooperate with the UN are an attack against the UN itself. Every defender deterred from engaging with the UN weakens the human rights system and betrays individuals seeking international human rights protection.’

‘Last September, the Human Rights Council agreed on the need for a UN system-wide focal point as a response to the inadequacy of current ad hoc methods employed by different mechanisms and bodies. The focal point will contribute to ensuring defenders and others can engage with the UN without fear of threat or attack. The UN’s integrity and credibility as an international human rights system is open to question if it fails to protect those that engage with it,’ said Ms Openshaw.

‘Every member State of the United Nations has an opportunity and responsibility during the current General Assembly session to show it is serious about ending violence and intimidation against that that struggle for human rights, by ensuring the UN significantly steps up its response to reprisals,’ Ms Openshaw said.

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NEW HIGH COMMISSIONER MUST CONTINUE TO PROTECT HUMAN RIGHTS DEFENDERS AND SPEAK TRUTH TO POWER

(Geneva, 16 June 2014) – The International Service for Human Rights has welcomed the appointment of Prince Zeid Ra’ad Zeid al-Husseini of Jordan as the next UN High Commissioner for Human Rights and called upon him to follow the outstanding example set by the current High Commissioner, Navi Pillay, in supporting human rights defenders, promoting accountability for human rights violations, and pursuing access to justice for victims.

Prince Zeid's appointment was today approved by the UN General Assembly following his nomination for the post by UN Secretary-General Ban Ki-moon. He will take up the position in September at the conclusion of Ms Pillay's term.

Prince Zeid comes to the post with a proven track record in international criminal law, having played a crucial role in the establishment and operation of the International Criminal Court. He also has an impressive diplomatic record, having served two terms as Jordan's Ambassador to the UN in New York and acted as President of the UN Security Council.

'Human rights defenders and the High Commissioner for Human Rights are essential partners in the struggle for human rights and against injustice. We look forward to working closely with Prince Zeid in his important new role,' said ISHR Director Phil Lynch.

'We also look forward to Prince Zeid continuing on the path set by Navi Pillay who, throughout her term, was accessible to civil society, provided protection and support to human rights defenders, stood up and spoke out for universal human rights and against discrimination in all of its forms, and was unafraid to confront privilege and power.'

In her [final speech to the Human Rights Council](#), delivered last week, Ms Pillay said that it is the role of the High Commissioner 'to speak truth to power; to confront privilege and entrenched hierarchy with an unshakeable belief in human dignity, equality and freedom.' States need to see OHCHR as 'a friend that is unafraid to speak the truth', to expose 'hidden abuses', and to 'ensure better governance and justice,' she said.

'Human rights defenders and civil society activists look to the High Commissioner both to protect them against risks and threats and to work with them to contribute to the promotion and protection of human rights on the ground,' Mr Lynch said.

'In order to fulfil this function it is vital that the High Commissioner be readily accessible to civil society and be unequivocally committed to protecting them from intimidation and reprisals. We shared an outstanding relationship with Navi Pillay and look forward to a similarly strong relationship with her successor in Prince Zeid.' Mr Lynch said.

Prince Zeid assumes the post at a time when the Office of the High Commissioner faces what the outgoing High Commissioner has warned of as significant 'financial and political constraints' and pressures.

'Prince Zeid can count on ISHR and other civil society actors to be vigilant in working to safeguard the independence and integrity of the Office and to advocate for an increase in its resources,' Mr Lynch said.

The new High Commissioner will assume his post in September.

'We look forward to working with Prince Zeid and pay tribute to Navi Pillay for an exemplary job,' Mr Lynch said.

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CÔTE D'IVOIRE: NEW LAW WILL STRENGTHEN PROTECTION OF HUMAN RIGHTS DEFENDERS

(Abidjan, Lomé, Geneva - 16 June 2014) – A new law enacted in Côte d'Ivoire will strengthen the protection of human rights defenders and should inspire other African States to develop similar legislation, the Côte d'Ivoire Coalition of Human Rights Defenders, the West African Human Rights Defenders Network and the International Service for Human Rights said today.

The Law on the Promotion and Protection of Human Rights Defenders was adopted by the National Assembly of Côte d'Ivoire on 11 June. It is the first time an African State has enacted a law with the specific purpose of protecting human rights defenders and comes at a time when many other African States are developing laws and policies which restrict rather than enable their work.

'The adoption of this landmark law is a recognition of the vital role played by human rights defenders in Côte d'Ivoire's national reconstruction,' said Marthe Pedan, Coordinator of the Côte d'Ivoire Coalition of Human Rights Defenders.

'The enactment of this law also reflects the good faith efforts being made by authorities to implement their international human rights commitments,' Mrs Pedan said.

In 2012, the African Commission on Human and Peoples' Rights recommended that the country adopt such legislation, while the UN Human Rights Council, of which Côte d'Ivoire is a member, has called on States to enact specific laws to support human rights defenders and protect them from intimidation and reprisals. [ISHR called on Côte d'Ivoire to enact and implement a law on human rights defenders](#) in the context of its recent Universal Periodic Review in April 2014.

'15 years on from the adoption of the UN Declaration on Human Rights Defenders, Côte d'Ivoire is the first African country – and one of only few in the world – to adopt specific legislation to enact it at the national level,' said Clement Voulé of the International Service for Human Rights.

'We hope that the example set by Côte d'Ivoire serves as an example to other African States, inspiring them to pass laws which support and enable the work of defenders and to rescind laws and policies which restrict or hinder their work,' Mr Voulé said.

The new law enshrines the right of human rights defenders to freedom of expression, the right to form associations and non-government organisations, the right to access resources, the right to submit information to international bodies, and the right to be protected from reprisals. The law also codifies the obligations of the State in this regard, including the obligation to protect human rights defenders, their families and their homes from attacks, and to investigate and punish attacks where they occur. The law also recognises the particular threats faced by, and protection needs of, women human rights defenders.

'This law recognises that human rights defenders – the work of whom is crucial to expose human rights violations, promote accountability, and uphold the rule of law – often face threats and risks because of this work,' said Diallo Gadiry, Coordinator of the West African Human Rights Defenders Network.

'The law also recognises that human rights defenders need a safe and enabling environment in which to undertake this vital work,' Mr Gadiry said.

While welcoming the adoption of the Law on the Promotion and Protection of Human Rights Defenders, the three organisations emphasised that it must now be implemented fully and promptly and, in this regard, called on the President of Côte d'Ivoire to issue a decree for its immediate implementation. The organisations also called on the international community to support Côte d'Ivoire in implementing the law.

A briefing paper on the situation of human rights defenders in Côte d'Ivoire, and the steps and measures necessary to support their work, is available [here](#). ISHR is also working on a project to develop a [model law on human rights defenders](#) to guide States in their implementation of the Declaration on Human Rights Defenders at the national level.

Note: This article is also [available in French](#).

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HIGH COMMISSIONER CALLS ON STATES TO COMBAT LGBT DISCRIMINATION AND REPRISALS

(Geneva, 10 June 2014) – Addressing the UN Human Rights Council for the last time in her term, High Commissioner Navi Pillay called on States to welcome and support the work of civil society activists and UN human rights mechanisms, saying they make an invaluable contribution to development and the resolution of conflict.

'Human rights violations are among the root causes of every type of instability and conflict, which means that every State has an interest in detecting gaps in its human rights protection,' Ms Pillay said.

The [High Commissioner's statement](#) drew particular attention to the work of human rights defenders and advocates in 'detecting gaps and assisting with solutions', saying that their role is to 'speak truth to power; to confront privilege and entrenched hierarchy with an unshakeable belief in human dignity, equality and freedom.'

'Effective human rights advocacy must necessarily open a Pandora's box of hidden abuses. It does so to let in light and air, so that work may begin to ensure better governance and justice,' she said.

Responding to the statement, which opened the 26th session of the UN Human Rights Council in Geneva, ISHR commended the 'invaluable work of the High Commissioner and her dedicated staff.'

Addressing the Council, ISHR Director Phil Lynch said, 'High Commissioner, throughout your term you have sounded the alarm bell on abuses, provided protection to victims, and pursued accountability for perpetrators. We thank you. We will miss you. And we look forward to your successor following the outstanding example you have set.'

ISHR's [opening statement](#) to the Council also addressed a number of other themes, including in relation to LGBT rights and the protection of human rights defenders against intimidation and reprisals, as extracted below:

*Discrimination and violence against people on the basis of their **sexual orientation or gender identity** remain a scourge.*

We join the High Commissioner in welcoming the African Commission on Human and Peoples' Rights resolution on this subject. The time has now come for this Council to follow up on its own Resolution 17/19 by

mandating a special procedure, or establishing a process, to systematically monitor and report on violations against LGBT persons and to advise States as to how best to respect and protect their rights.

*The High Commissioner's statement referred to **hate speech** 'being on the road to gross human rights violations'.*

This is particularly the case when hate speech is licensed by law. In this respect, we are alarmed at the reported increase in harassment and attacks against LGBT persons and their advocates in Nigeria, Uganda and Russia since the adoption of anti-homosexuality laws in those States. We implore other States which may be considering such bills – such as Kenya, Tanzania, Liberia and Kazakhstan – to desist from doing so.

*Madame High Commissioner, **civil society activists and human rights defenders** continue to experience intimidation and reprisals for engaging with the UN's human rights mechanisms.*

Since the last session alone we have received reports of reprisals against human rights defenders from Vietnam for their engagement with the UPR, and Russia and China for their engagement with the treaty bodies. We reiterate our call for the Presidency and Bureau, the Council itself, and all Member States to discharge their legal obligations to ensure that all persons can exercise the right to unhindered communication with the UN, and to protect against, investigate, and promote accountability for reprisals when they occur.

Madame High Commissioner, we thank you again for your outstanding support and service.

ENDS

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Our Work to Strengthen Human Rights Systems

HUMAN RIGHTS COUNCIL: PERSISTENT NON-COOPERATION FROM SOME STATES

(Geneva, 20 June 2014) – The lack of cooperation of some States with the Council's special procedures and other mechanisms was brought to the fore this week as the Council heard updates from the Special Rapporteurs on Belarus, the Democratic People's Republic of Korea, and Eritrea, along with the latest update from the Commission of Inquiry into the situation in Syria. In all cases the countries in question have refused access to the mechanism created by the Council to monitor and report on the human rights situation.

These mechanisms have to rely on information gathered from sources outside the country such as migrants, refugees, or in the case of DPRK, 'defectors'. Even this however is made difficult in some cases. The Special Rapporteur on Eritrea, Ms Sheila Keetharuth, added that not only had Eritrea refused her access to the country, but so had 14 other States in the region, making her work even more challenging.

There was strong support from many States for the work being carried out by these mandates, and condemnation of the lack of cooperation they had enjoyed from the State concerned. These States called for the countries concerned to open up access to the mandates and to cooperate fully with the UN's human rights mechanisms.

However, there were several States who, while also holding cooperation as an ideal, focused their condemnation for the breakdown of the relationship with the country concerned on the Council and

the mandate holders. Russia for example, speaking during the debate on Belarus, stated that ‘no progress can be achieved in the promotion and protection of human rights without mutually respectful dialogue, cooperation and support of member States’ efforts in fulfilling their human rights obligations’. However, rather than this being a criticism of Belarus, it was a criticism of the Council for having created a ‘biased and politically motivated’ mandate.

China, Venezuela, Sri Lanka, Nicaragua, and Cuba all made similar comments during the various debates. China’s view, expressed during the debate on Eritrea, is that the country is indeed cooperating with the human rights system, having for example submitted its reports to the UPR. China further noted that as a developing country Eritrea faces many challenges and the international community should bear this in mind if it is to provide a fair, objective and comprehensive view of the human rights situation in the country.

These States expressed strong support for the UPR as a ‘constructive, objective, impartial, and non-selective’ forum. China pointed out that Eritrea for example had participated in its UPR, while Russia said the same about Belarus. Even in the case of the DPRK, which during its first UPR cycle accepted none of the recommendations put to it, and has just participated in its second UPR with a [report](#) that utterly denies any human rights violations, the UPR was held to be the only appropriate forum for assessing the human rights situation in the country.

In response the Special Rapporteur on the situation in the DPRK stated that those States that preferred the UPR mechanism should demonstrate good faith by seizing the opportunity of the DPRK’s recent review to push for results that make a difference on the ground.

Unfortunately in all these countries UPR recommendations that would improve the situation on the ground are either not accepted or remain unimplemented. The Special Rapporteur on Eritrea for example noted Eritrea’s ‘poor performance’ and ‘lack of goodwill and commitment’ with regard to implementation of UPR recommendations.

Given as well that the UPR only takes place every 4 and a half years, there is certainly room for sustained monitoring and reporting on the situations in these countries. Reflecting this, there was strong support from most States and civil society for the mandates on Belarus and Eritrea, under consideration at this session, to be renewed.

Even though these mandates cannot access the countries concerned, and have a role primarily limited to producing reports and making recommendations, the reporting creates a valuable body of evidence that in the future could be useful to ensure that perpetrators are held accountable.

In the case of Syria for example the reports of the Commission of Inquiry will be extremely useful if and when the situation is brought before the relevant international justice mechanism. As the Commission of Inquiry said, ‘in over 3000 interviews we have collected detailed narratives indicating a massive number of war crimes and crimes against humanity. Patterns of violations have been established. The culpability of hundreds of alleged perpetrators is being determined. The result is a solid foundation of evidence that contains a resolute commitment to accountability’.

In the case of the DPRK, on the basis of the work done by the Commission of Inquiry that preceded the Special Rapporteur, the Council has requested OHCHR to create a field-based structure in the Republic of Korea. Work is currently underway to make this operational. Furthermore many Security Council members have expressed support for formal consideration of the Commission of Inquiry’s report and its referral to the International Criminal Court.

There were calls from some civil society organisations for a Commission of Inquiry to be created on Eritrea as an appropriate response to the evidence gathered by the Special Rapporteur. These calls were not however unanimous and the general emphasis from both States and civil society was for the Special Rapporteur to continue to gather information, with a view to establishing patterns of violations, and determining whether crimes against humanity are being committed.

However the Council has failed to do all it could in all cases. In the case of Syria, despite the overwhelming evidence, it has still failed to refer the situation to the International Criminal Court contrary to the repeated calls from the High Commissioner, Navi Pillay, to do so. The Commission of Inquiry emphasised that this failure had created the space 'for the worse of humanity to express itself'.

Heather Collister is a Programme Manager at ISHR

UN: SEIZE CRUCIAL OPPORTUNITY TO FURTHER STRENGTHEN TREATY BODIES

(Geneva, 12 June 2014) – A high-level meeting of UN human rights experts should focus on strengthening the functioning and accessibility of the human rights treaty bodies and protecting human rights defenders who submit information and complaints, the International Service for Human Rights said today.

The [annual meeting of Chairpersons](#) of the treaty bodies, which will convene in Geneva from 23 to 27 June, is the first since the UN General Assembly adopted a [significant resolution on treaty body strengthening](#) in April.

'This meeting presents a crucial opportunity for the treaty body chairs to discuss the effective implementation of this resolution, together with a range of other steps and measures that the treaty bodies should take to ensure that they become more accessible to human rights defenders and more effective in influencing human rights change on the ground,' said ISHR Director Phil Lynch.

In advance of the meeting, ISHR has joined 17 other NGOs in making a [submission and recommendations](#) to the Chairpersons as how the accessibility and effectiveness of the treaty bodies can be improved, including in relation to the review of 'non-reporting' States, accessibility to NGOs, and the protection of human rights defenders.

'States have been far less timely in their reporting to treaty bodies as compared to the Universal Periodic Review', said Mr Lynch. 'Although the General Assembly resolution allocates resources for capacity building for States that do not submit reports to the treaty bodies, we are concerned that lack of political will is a significant factor in non-reporting. States should not be able to avoid treaty body scrutiny merely by failing to submit a report. Treaty bodies should make every effort to ensure that States report in a comprehensive and timely way but should also be prepared to review and make recommendations on recalcitrant States in the absence of a government report.'

The submission says that treaty bodies could also improve how they work with NGOs, including by ensuring that all treaty bodies provide NGOs with the opportunity to formally brief committee members in private.

'Private briefings are imperative to ensure that NGOs have the space to represent their views frankly without fear of intimidation by the State,' Mr Lynch said.

In a separate [detailed submission on reprisals](#), ISHR sets out the legal obligation of the treaty bodies to ensure that they are accessible and that all persons who seek to engage with them are effectively protected from intimidation and attacks.

‘In recent months ISHR has received reports of reprisals against human rights defenders from [China](#) and [Russia](#) for submitting or seeking to submit information to the treaty bodies. It is imperative that all treaty bodies develop comprehensive and effective policies, and establish a focal point or rapporteur, to investigate and address such cases,’ Mr Lynch said.

‘The meeting of Chairpersons represents a key venue for bringing together the critical experience and perspectives of the entire treaty body system. The Chairpersons should seize this crucial opportunity to further strengthen the treaty bodies’ vital work.’

The [treaty body Chairpersons will meet in Geneva from 23-27 June](#). The Chairpersons will hold an informal consultation with NGOs on 26 June from 11:30 to 13:00 in Palais Wilson.

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AFRICAN COMMISSION ADOPTS GROUND-BREAKING RESOLUTIONS

(Luanda, 6 June 2014) – The highlight of the resolutions adopted by the African Commission on Human and Peoples’ Rights at its 55th session was that on [‘protection against violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender identity’](#). This is the first time a resolution on sexual orientation and gender identity has been adopted by the Commission and marks a huge step forwards in the African and global context.

The resolution condemns the increasing violence and other violations against persons on the basis of their imputed or real sexual orientation or gender identity. It calls on States to end these acts, by State or by non-State actors, as well as to ensure that human rights defenders can carry out their work in an enabling environment, including when advocating for the rights of sexual minorities.

The Commission also adopted a text which [designates a focal point within the Commission](#) to gather information on and effectively address cases of reprisals against civil society stakeholders. The responsible Commissioner should maintain a database of reprisals and provide guidance to the Commission when urgent measures need to be adopted to protect someone who faces reprisals. At each session of the Commission they are to report on the cases brought to their attention. The focal point function has been placed with the Special Rapporteur on human rights defenders.

Aside from these two resolutions, which mark significant steps forward, there is relatively little overlap between the resolutions proposed by NGOs and those adopted by the Commission.

The Commission also adopted a resolution on the [right to peaceful demonstration](#), which condemns the ‘serious restrictions’ imposed by some States to rights to freedom of expression, to information, and peaceful demonstration. It calls on States to refrain from arbitrary arrests of demonstrators and from the disproportionate use of force, and to ensure that any legislation governing the exercise of fundamental human rights fully complies with the relevant regional and international standards.

The Commission also adopted resolutions on:

[The extension of the deadline for the study on transitional justice in Africa](#)

[Drafting of a protocol to the African charter on human and peoples' rights on the right to nationality in Africa](#)

[The situation of women and children in armed conflict](#)

[Climate change in Africa](#)

[Drafting of principles and guidelines on human rights and countering terrorism](#)

[Terrorist acts in Africa](#)

[Elections in Africa in 2014](#)

[The suppression of sexual violence against women in the Democratic Republic of Congo](#)

[The situation in the Sahrawi Arab Democratic Republic](#)

UN TAKES FORWARD STEP ON LGBT RIGHTS AND BACKWARD STEP ON SEXUAL AND REPRODUCTIVE RIGHTS

(New York, 2 June 2014) – In a significant move, the UN Committee on Non-Governmental Organisations, which acts as the gatekeeper to NGO access to the UN, has accredited an organisation working on lesbian, gay, bisexual and transgender rights.

In a backward step, however, the same committee denied access to a youth group working to advance sexual and reproductive rights.

'The decision by the Committee on Non-Governmental Organisations to recommend consultative status to [ARC International](#), a leading NGO working to advance LGBT rights and equality, is a triumph in the ongoing struggle to provide access to the UN for LGBT persons and advocates,' said Michelle Evans of the International Service for Human Rights.

'By contrast, the Committee's decision to block the [Youth Coalition for Sexual and Reproductive Rights](#), a youth-led organisation working to promote and protect the sexual and reproductive rights of young people, is both disappointing and incompatible with the UN Convention on the Rights of the Child and the international Declaration on Human Rights Defenders,' Ms Evans said.

'Young human rights defenders are entitled to have their voices heard in international negotiations and discussions, including in decisions that affect their bodies and lives,' said Ms Evans.

'The Committee is obstructing this organisation on grounds not linked to the criteria for NGO accreditation described in UN ECOSOC Resolution 1996/31, the legal framework for the work of the Committee,' Ms Evans said.

Consultative status provides non-governmental organisations the opportunity to participate formally in UN meetings, including speaking on the record publicly at UN meetings, and organising events on UN grounds.

'Unfortunately, the outcome on the application of YCSSR is not unusual; it represents one of many times the Committee has blocked applications of NGOs that work on human rights,' Ms Evans said.

The application of ARC International was successful in a 7-6 vote. Of the 19 member Committee, several States attempted to block the application - including China, Morocco, Mozambique, the

Russian Federation, Senegal and Sudan - but were outnumbered by supporters of ARC International, including Belgium, Bulgaria, Israel, Peru, Turkey, the US and Venezuela. Other Committee members either abstained (India) or were absent (Burundi, Cuba, Kyrgyzstan, Nicaragua, Pakistan).

The YCSRR application failed as a result of a tied vote of 6-6, which meant the application was again deferred. Belgium, Bulgaria, India, Israel, Peru, Turkey and the US supported the application, while China, Morocco, Nicaragua, Pakistan, Russia, Senegal and Sudan voted against. Burundi, Cuba, Mozambique and Venezuela were absent, while Kyrgyzstan abstained.

The positive result for ARC International reflects that the Committee has heard the repeated messages sent by the UN Economic and Social Council (ECOSOC)--the body that oversees the Committee's work--that it must stop blocking LGBT groups from participating in the UN.

'In previous years, ECOSOC has overturned numerous negative recommendations from the Committee on LGBT groups from various regions. It is time for the ECOSOC to send the same message to the Committee concerning human rights groups, including those working on sexual and reproductive rights: that it must not shut out from the UN credible NGOs that do important and valuable work,' said Ms Evans.

'We expect the ECOSOC to finally grant consultative status to YCSRR in its session in July. With consultative status, this group can better serve their community by sharing information and analysis of the abuses and discrimination faced around the world, and by advocating for their rights in UN spaces,' Ms Evans said.

Background

(Updated - 30 July 2014) The Committee on NGOs is tasked with considering the applications of NGOs for consultative status with the UN as well as the quadrennial reports submitted by NGOs already in consultative status. Consultative status provides NGOs with access to a range of fora at the UN, including the Human Rights Council, ECOSOC and its subsidiary bodies, UN conferences, and special events organized by the President of the General Assembly. The Committee makes recommendations to the Economic and Social Council (ECOSOC), which can either approve or overturn a decision.²

At the recent resumed session in New York, from 19 to 28 May and 6 June 2014, the Committee approved 158 NGOs for consultative status to the UN, but deferred a further 182 applications under review to the next session held in January 2015. While the rate of approval for new applications was higher than ever before with 67% receiving a recommendation for consultative status, the Committee regrettably recommended status for a mere 30% of those NGOs whose applications had been deferred from previous sessions.

Of these repeatedly deferred applications, a majority are NGOs that work on sexual orientation and gender identity issues, women's rights, reproductive and sexual rights, minority rights, caste, and human rights more generally. Belgium's delegate noted in his closing remarks that 'many human rights organizations, especially those that work on sexual and reproductive rights, gender equality,

² ECOSOC (54 States) meets annually in July, alternatively in Geneva or New York. In 2014, ECOSOC will meet in New York.

minority rights and women's rights, have once again been blocked unrelated to the criteria of NGO accreditation outlined in UN Resolution 1996/31.'

It is widely accepted that State membership of the Committee lies at the root of this problem, and with a number of repressive States set to take seats on the Committee beginning next session, NGOs will face an even more difficult process of achieving consultative status. Azerbaijan, Iran and Mauritania are a few of the repressive regimes that will start their four-year terms in January 2015.³

Some of the organizations whose applications were once again blocked by the Committee (in addition to the Youth Coalition) were: Collectif des Families de Disparu(e) en Algerie (CFDA),⁴ the Global Network for Rights and Development (GNRD),⁵ the Geneva Institute for Human Rights (GIHR),⁶ International Dalit Solidarity Network (IDSN),⁷ Iran Human Rights Documentation Center (IHRDC),⁸ Institute for Human Rights and Business Limited,⁹ Asia Center for Human Rights (ACHR),¹⁰ Freedom Now,¹¹ the Child Rights Information Network (CRIN),¹² and the Bureau International Pour le Respect des Droits de l'homme au Sahara Occidental.¹³

In more positive developments, the Committee recommended consultative status for a few NGOs that have been deferred from previous sessions, including: the International Federation of Liberal Youth,¹⁴ Grupo de Mujeres de la Argentina- Foro de VIH, Mujeres y Familia,¹⁵ The Generation Initiative for Women and Youth Network,¹⁶ and International Partnership for Human Rights (IPHR).¹⁷

The next regular session of the Committee on NGOs will be held in New York City from 26 January to 3 February and 12 February 2015.

³ <http://www.ishr.ch/news/civil-society-loses-repressive-states-win-election-regulate-ngo-access-un>

⁴ CFDA is a France-based NGO whose principal aim is to locate victims of forced disappearances and to shed light on all victims of forced disappearances in Algeria. CFDA has received 78 questions since its application for status in May 2008.

⁵ GNRD is a Geneva-based human rights organisation, focusing on the protection and recognition of society's most vulnerable, including women and children. Since 2011, it has received 30 questions.

⁶ The GIHR is a Geneva based non-governmental organization geared to train Arabs in the field of human rights and the laws as well as mechanisms of human rights. It has received 22 questions since its application in 2011.

⁷ IDSN is an NGO based in Denmark aiming to contribute to the elimination of caste-based discrimination worldwide. Since its application for consultative status in 2007, IDSN has received 62 questions.

⁸ IHRDC is a US-based NGO focusing on the human rights situation in Iran. Since 2010, it has received 38 questions.

⁹ The Institute for Human Rights and Business Limited is a UK-based NGO that seeks to raise corporate standards and strengthen public policy to ensure that the activities of companies do not contribute to human rights abuses. Since its application in May 2011, the Institute has received 10 questions.

¹⁰ ACHR, an NGO based in South Korea, campaigns for the establishment of a human rights protection mechanism in Asia. Since its application in 2008, ACHR has received 36 questions.

¹¹ Freedom Now is an NGO based in the US aiming to free prisoners of conscience through legal, political and public relations advocacy efforts. Since its application for consultative status in 2009, it has received 63 questions.

¹² CRIN, a British NGO, uses the United Nations Convention of the Rights of the Child as a basis for advocacy at the international level. Since its initial application in September 2010, CRIN has received 15 questions.

¹³ Bureau International Pour le Respect des Droits de l'homme au Sahara Occidental is a Swiss NGO aiming to bring to the attention of UN mechanisms of human rights violations in Western Sahara as well as campaign for missing persons and prisoners of conscience. It has received 49 questions since its initial application in 2010.

¹⁴ IFLY is a Belgium-based umbrella organization for liberal and student youth organizations oriented towards the promotion of active citizenship, respect for human rights and the rule of law. Between its application in 2006 and recommendation for status by the Committee, the IFLY received 43 questions.

¹⁵ Grupo de Mujeres de la Argentina- Foro de VIH, Mujeres y Familia is an Argentina-based NGO that unites organizations that work to combat injustice and to improve the welfare of vulnerable communities within the penal system by giving a voice to those LGBT individuals who have been historically marginalized. It first applied for consultative status in May 2012.

¹⁶ The Generation Initiative is a Nigeria-based NGO working to realize the full sexual and reproductive health and rights of all people. It first applied for consultative status in April 2013.

¹⁷ IPHR is a Brussels-based NGO committed to promoting human rights through monitoring, reporting, capacity-building and advocacy at the international level. Since its application for consultative status in May 2010, IPHR has received 16 questions.

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UN: IMPROVE TRANSPARENCY OF BODY WHICH REGULATES CIVIL SOCIETY

(New York, 2 June 2014) – A coalition of leading non-governmental organisations has successfully called on the UN to reinstate press coverage of UN meetings so as not to undermine the right to information and participation for civil society organisations. The UN Department of Public Information (DPI) had previously decided to suspend coverage of meetings of a UN body that regulates civil society access to the UN, the ECOSOC Committee on NGOs.

‘NGOs were deeply concerned regarding the DPI decision to discontinue meeting coverage of the Committee on Non-Governmental Organizations,’ ISHR’s New York Manager Michelle Evans said.

‘The availability and accessibility of public information on the Committee’s meetings is essential to ensure the transparency and accountability of the Committee, and of the process of review of NGOs seeking consultative status to the UN,’ Ms Evans said.

The [joint letter](#) - sent by ISHR on behalf of 11 NGOs including Amnesty International and Human Rights Watch - emphasises that the decision to halt coverage was particularly concerning as NGOs have criticised the Committee in the past for lack of transparency, fairness and due process in its work.

The joint letter also highlights that the coverage is particularly vital for NGOs that are not based in New York, including national and regional organisations working across the globe, which do not have resources to attend meetings of the Committee.

‘ECOSOC Resolution E/1996/31, which is the legal framework governing the work of the Committee on NGOs, calls on the Secretary-General to provide “wide and timely dissemination of information on meetings” and “distribution of documentation” in order to facilitate the broad-based participation of civil society,’ the letter says.

‘NGOs are clearly entitled to have access to information about the consideration of their applications for consultative status or the review of their status by the Committee. We therefore respectfully request that DPI reinstate consistent meeting coverage of the Committee on NGOs immediately.’

As a result of this letter, and member States’ expression of concerns, the DPI agreed to continue meeting coverage for the session in May, but only on an ad-hoc basis, and ‘to the best of our capacity.’ At the same time, the Department said it would be able to provide live webcast coverage of the work of the Committee, should the Committee require it.

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Key Developments in the Promotion and Protection of Human Rights

UN EXPERTS CALL ON SWAZILAND TO ENSURE FAIR TRIAL OF DETAINED HUMAN RIGHTS DEFENDERS

Thulani Maseko, a human rights lawyer, and Bheki Makhubu, a journalist, have been re-arrested in April and are still detained for expressing their views on a court case. They have never appeared before an open court. The experts called on the authorities to ensure fair judicial proceedings and to respect freedom of expression... [more](#)

POLITICAL ACTIVIST DISAPPEARED IN THAILAND

Kritsuda Khunasen, an opposition activist, has been disappeared by the Junta at the end of May. This case adds to a numerous list of political leaders, academics, journalists and activists who have been detained without access to a lawyer, or even held incommunicado by the military since the coup d'état... [more](#)

CIVIL RIGHTS ACTIVISTS CONDEMNED TO HEAVY JAIL SENTENCES IN CHINA

Civil rights activists Liu Ping and Wei Zhongping were sentenced to 6.5 years' imprisonment and Li Sihua was given a 3-year sentence. They are part of a movement calling on the authorities to publicly disclose their assets. All three of them are charged with the vague offence of 'creating a disturbance'... [more](#)

HARSH CONVICTION OF AL JAZEERA JOURNALISTS IN EGYPT

Three journalists have been condemned to jail sentences of between seven to ten years on 23 June. They are charged with the broad and vague offences of harming national unity and social peace, spreading false reports, and belonging to a 'terrorist organization'. This comes in a context where media and civil society activists are facing increasing harassment and attacks in Egypt... [more](#)

ENVIRONMENTAL ACTIVIST DETAINED BY MALAYSIAN POLICE

Australian activist Natalie Lowrey was arrested on 22 June and detained along with 15 Malaysian citizens protesting against a rare earth mining company. All Malaysian militants were released on bail but Natalie Lowrey faces up to a two-year jail sentence for allegedly infringing the Peaceful Assembly Act which requires 10 days' notice for protests to take place... [more](#)

JOINT LETTER TO THE ECOSOC COMMITTEE ON NGOS

As a part of the [campaign on transparency on ECOSOC Committee on NGOs](#), the Child Rights International Network has taken an action to write a letter to the Committee expressing concerns about tactics used by its Members to deny and defer accreditation to authorised NGOs. The letter was signed by a group of human rights NGOs all over the world and is [available here](#).

Opportunities for NGO Engagement

COMMITTEE ON THE RIGHTS OF CHILD

The 67th session of the Committee will take place from [1 to 19 September](#). The Committee will consider the State reports of Croatia, Fiji, Hungary, Morocco, and Venezuela. Hungary and Venezuela will be reviewed under the optional protocol on the sale of children ([CRC-OP-SC](#)). The Committee

will also review Hungary, Venezuela and Morocco, Singapore under the optional protocol on children in armed conflicts ([CRC-OP-AC](#)).

The 69th pre-sessional working group of the Committee will be held from [22 to 26 September](#). It will consider the State reports of Ethiopia, Ghana, Mexico, Nepal, and Netherlands. Cuba and Honduras will be reviewed under the CRC-OP-SC and Cuba, Honduras, Nepal and Netherlands will be reviewed under the CRC-OP-AC.

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

The Committee on the Elimination of Racial Discrimination will be in its 85th session from [11 to 29 August](#). The deadline for submitting information and register to attend the session is [25 July](#). The Committee will consider the reports of Cameroon, El Salvador, Estonia, Iraq, Japan, Peru and United States of America.

COMMITTEE ON ENFORCED DISAPPEARANCES

NGOs wishing to submit information on States parties to be examined at the upcoming 7th session of the Committee, to be held from [15 to 26 September](#), should do so by [22 August](#). The Committee will review the reports of Belgium and Paraguay and adopt the list of issues for Armenia, Mexico and Serbia. The registrations to attend the session will be open [until 5 September 2014](#).

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

The Committee on the Rights of Persons with Disabilities will meet in Geneva from [15 September to 3 October](#) for its 12th session. The Committee will consider the reports of Belgium, Denmark, Ecuador, Mexico, New Zealand and Republic of Korea and adopt the lists of issues for Croatia and Czech Republic. The deadline to submit information on the countries under review will be provided [as soon as it is available](#). The 13th pre-session of the Committee will be held from [7 to 10 October](#).

COMMITTEE ON THE PROTECTION OF THE RIGHTS OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

The deadline to submit information to the Committee's 21st session for any of the countries under review (Belize and Ghana) is [15 August](#). The Committee will meet in Geneva from [1 to 5 September](#). The deadline for registration to attend the session is [25 August](#).

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

The 59th session of the Committee on the Elimination of Discrimination against Women will take place from [20 October to 7 November](#). The Committee will consider the reports of Belgium, Brunei Darussalam, China, China (Hong Kong), China (Macau), Ghana, Guinea, Poland, Solomon Islands, Venezuela. The provisional agenda is available [here](#).

WEBCASTS OF THE TREATY BODY MEETINGS

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

UNIVERSAL PERIODIC REVIEW

The 20th session of the Universal Periodic Review (UPR) will be held from [27 October until 7 November](#). The order of review, timetables and list of troikas will be determined shortly before the session.

The deadline for UN Office of the High Commissioner for Human Rights to receive written contributions from the stakeholders of the countries to be reviewed during the 22nd session of the UPR is [15 September 2014](#). List of States under review: Belarus, Liberia, Malawi, Mongolia, Panama, Maldives, Andorra, Bulgaria, Honduras, United States of America, Marshall Islands, Croatia, Jamaica, Libya. Stakeholders' submissions should be sent using the new '[On-line UPR submissions system](#)'.

HUMAN RIGHTS COUNCIL

The Human Rights Council's [27th session](#) is scheduled for 8 to 26 September. ISHR will provide weekly updates through its [Human Rights Council Monitor](#). [The submission deadline](#) for NGO written statements will be posted as soon as it is available.

An organisational meeting for [the Council's 27th session](#), where States will announce planned initiatives for the session, will take place on 25 August.

INTERGOVERNMENTAL WORKING GROUP ON THE ACTIVITIES OF PRIVATE MILITARY AND SECURITY COMPANIES

The third session of the open-ended intergovernmental working group mandated to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies, which had to be rescheduled on short notice, will now be held from 21 to 25 July in room XX, Palais des Nations, Geneva. The provisional agenda and other relevant documentation related to the third session will be made available [here](#).

MEETING OF SPECIAL RAPORTEURS/REPRESENTATIVES/INDEPENDENT EXPERTS AND CHAIRPERSONS

The 21st session of the meeting of Special Rapporteurs, Representatives, Independent Experts and Chairpersons of Working Groups of the Human Rights Council will take place from [29 September to 3 October](#).

HUMAN RIGHTS COMMITTEE

The 112th session of the Human Rights Committee will take place from [7 to 31 October](#). The Committee will examine the reports and country situations of Israel, Sri Lanka, Haiti, Montenegro, Malta, and Burundi. It will also adopt lists of issues on the reports of Uzbekistan, Canada, Macedonia, Spain, UK and Venezuela. The Committee will also adopt the List of issues prior to reporting on Switzerland.

The deadline for information with respect to States upon which List of Issues and List of issues prior to reporting will be adopted is [25 July](#) to be provided in electronic form.

The deadline for information on State parties to be examined by the Committee electronically and in hardcopy is [12 September](#).

WORKING GROUP ON DISCRIMINATION AGAINST WOMEN IN LAW AND PRACTICE

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 [13 to 17 October](#).

COMMUNICATIONS PROCEDURE OF THE COMMISSION ON THE STATUS OF WOMEN

The Communications Procedure of the Commission on the Status of Women is a unique tool for individuals and organisations to use to raise awareness about injustice and discriminatory practices against women in any country in the world. Claims to the Commission on the Status of Women for consideration at its next session (9-20 March 2015) must be submitted by [1 August 2014](#).

FORTHCOMING COUNTRY VISITS BY SPECIAL PROCEDURES

Honduras	Special Rapporteur on Violence Against Women, 1 – 8 July
Italy	Working Group on Arbitrary Detention, 7 – 9 July
Haiti	Independent Expert on the situation of human rights in Haiti, 13 – 22 July
Afghanistan	Special Rapporteur on Violence Against Women, 1 – 10 November

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

HUMAN RIGHTS COUNCIL ELECTIONS: A DISCUSSION OF CANDIDATES' ASPIRATIONS AND VISION OF MEMBERSHIP – 15 JULY 2014

In advance of the Human Rights Council elections set for November 2014, Amnesty International and the International Service for Human Rights are organising a [presentation and discussion](#) of the pledges and commitments made by candidates running for the term starting in 2015. The event is being held together with the support of the Permanent Missions of Uruguay and Tunisia, and is taking place on 15 July, from 11am to 1 pm in the UN HQ, New York, Conference Room 2.

MARTIN ENNALS AWARD FOR HUMAN RIGHTS DEFENDERS – 7 October

The 2014 Martin Ennals Award ceremony will take place on 7 October, from 6pm at Uni-Dufour in Geneva. The 2014 laureate will be announced from this year's three finalists: Ms Cao Shunli (China), Mr Adilur Rahman Khan (Bangladesh) and Ms Alejandra Ancheita (Mexico). The award ceremony is hosted by the Ville de Genève and the Martin Ennals Foundation. [Register to attend](#).

New Resources

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

ISHR has recently published a series of briefing papers on the situation of human rights defenders in [Turkey](#), [Kenya](#), [Laos](#), [Spain](#) and [Guinea](#) (for the 21st session of the UPR in January 2015). The papers are intended to assist States and other stakeholders to formulate questions and recommendations regarding the protection of human rights defenders during the UPR. ISHR has previously published briefing papers on the situation of defenders in Italy, Angola, Gambia, Kazakhstan, Iran and Egypt (for the 20th session in October 2014).

GUIDELINES ON THE PROTECTION OF HUMAN RIGHTS DEFENDERS

New [Guidelines for the Protection of Human Rights Defenders](#) have recently been published by the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights. The guidelines are based on OSCE commitments and universally-recognised human rights standards with which OSCE participating States have agreed to comply. The guidelines focus on the protection of the human rights of those who are exposed at risk because of their human rights activity.

Case Notes on Decisions from International Human Rights Bodies

Merits Decisions

FRANCE: STATE URGED TO REVIEW RULES ON PERMITS FOR ITINERANT RESIDENTS

Ory v France (1960/2010)

Summary

In March 2014, the Human Rights Committee was asked to consider whether France had violated its obligations under the International Covenant on Civil and Political Rights in imposing permit requirements on a member of the Traveller community.

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

Background

The author of the communication, Mr Claude Ory, is a member of the Traveller community (“gens du voyage”) and lives in a trailer in the area of Le Mans. As such, he is subject to Law No 69-3 of 3 January 1969, which requires him to present a travel permit (“carnet de circulation”) to the police every three months for stamping, failing which he incurs criminal sanctions.

On 29 February 2004, the police stopped the author on his way to work and found that he had not had his permit stamped by the authorities since 27 August 2003. He was summoned for trial at the police court but never received the summons. On 23 November 2005, he was tried in absentia and fined 150 euros for failure to hold valid travel documents.

On 11 March 2006, the author was again stopped by the police and taken to the police station for questioning. Upon being informed of the judgment that had been made against him in 2005, he sought to challenge it in the local courts. He requested the annulment of the prior proceedings on the basis of his right to liberty of movement and freedom of residence under Article 2 of Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms (the ECHR). On 20 December 2006, his request was rejected, though his fine was reduced.

On 28 December 2006, the author lodged an appeal, this time invoking the prohibition of discrimination under Article 14 of the ECHR. In his view, the obligation to regularly present travel documents to the authorities is discriminatory against persons exercising itinerant trades and activities. His appeal was dismissed by the Court of Appeal on the grounds that he had chosen this living situation and that the corresponding obligations were in the national public interest. The author’s subsequent appeal to the French Supreme Court was also rejected. On 22 December 2008,

the author filed an application to the European Court of Human Rights, but his claim was deemed inadmissible because it was filed more than six months after the last domestic court decision.

On 1 April 2010, the author filed this communication with the Committee under the Optional Protocol to the Covenant. He contended that the obligation for Travellers to hold travel documents and to present them regularly to the police, or face criminal sanctions, constituted a violation of his right to liberty of movement and freedom of residence under article 12 of the Covenant. He explained that he did not choose his itinerant lifestyle but had inherited it from a long family tradition and thus had never lived in a fixed residence. The author also claimed that France had breached its obligation under article 26 of the Covenant in failing to prohibit discrimination and guarantee equal protection of the law for all persons. Indeed, the author observed that the documentation requirements apply only to persons living in vehicles or mobile homes and not, for example, to persons who live in a fixed residence, in a boat or on the streets.

The Committee's decision

Regarding the admissibility of the claims, the Committee found that the prior dismissal of the author's application to the European Court of Human Rights on procedural grounds did not mean that the matter had been 'examined' under another procedure of international investigation or settlement for the purposes of article 5(2)(a) of the Optional Protocol. The Committee also considered France's argument that the author had not exhausted domestic remedies regarding his right to freedom of residence (specifically, by failing to seek to change his municipality of attachment). Since the author specified that he wished to invoke only his right to liberty of movement, the Committee held that the author's claim relating to freedom of residence was inadmissible. The Committee concluded that nothing barred the admissibility of the other claims.

On the merits, the Committee noted that article 12(3) allows certain restrictions to the liberty of movement, in particular for safeguarding public order. It recalled its General Comment No. 27, in which it had found that such permissible limitations must not nullify the principle of liberty of movement, and must be necessary and consistent with other Covenant rights. In the present case, the imposition of criminal monetary penalties on Travellers who fail to have their travel documents stamped on time clearly constituted a restriction on the liberty of movement. The Committee therefore had to decide whether such a restriction was authorised under article 12(3) of the Covenant.

The Committee recognised the necessity for French authorities to ensure that Travellers without a fixed residence remain identifiable and contactable, for the protection of public order and security. However, the Committee found that France had not shown why the obligation to have the travel booklet stamped at short intervals, and the imposition of criminal fines for failure to comply, were necessary and proportional to the desired result.

In light of the above, the Committee found that France had breached article 12(1) of the Covenant. In accordance with article 2(3)(a) of the Covenant, France is under the obligation to provide the author with an effective remedy, including the expunction of his criminal record, adequate compensation and the revision of relevant French legislation. France must also take steps to prevent similar violations in the future.

Given its findings in relation to article 12, the Committee did not find it necessary to examine the author's claims under article 26 of the Covenant. In a separate opinion, one member of the Committee nevertheless considered that France had breached article 26 because the documentation

stamping requirements imposed on Travellers were unreasonable, unnecessary and disproportionate. In his view, the relevant provisions were discriminatory and should be repealed.

France 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.

DENMARK: DEPORTATION TO ERITREA WOULD VIOLATE NON-REFOULEMENT OBLIGATIONS

X v Denmark (2007/2010)

Summary

In March 2014, the Human Rights Committee was asked to consider whether Denmark would violate its obligations under the International Covenant on Civil and Political Rights by deporting an individual to a country where he believed he would be subject to a risk of torture.

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

Background

The author was born in Ethiopia and raised there by his mother until the age of 13. In 1999, the author's mother was forced to leave Ethiopia due to the armed conflict between Ethiopia and Eritrea but the author remained in Ethiopia with his uncle.

In 2010, after the author's uncle was arrested on charges of helping the Eritrean Government, the author fled from Ethiopia to Denmark, where he immediately applied for asylum. The author asserted that in Eritrea all men and women between the ages of 18 and 40 are required to serve in the military and, as he belongs to a Christian minority that refuses to bear arms due to their religious beliefs, he will be subjected to incarceration without trial and torture in detention. Further, the author feared that if deported he will immediately be identified as a person who did not complete military service and subjected to interrogation by the Eritrean authorities on arrival. Exit permits are required to prevent the departure of persons that have not fulfilled the compulsory military service requirement. Having never lived in Eritrea, the author did not have an exit permit.

In July 2010, the immigration service rejected the author's application for asylum and denied him a residence permit. The author appealed the decision to the Refugee Appeal Board which rejected his appeal in October 2010 and ordered his immediate deportation. The Appeals Board held that it is unlikely that the author will face a risk of any irreparable harm because the Eritrean authorities are unlikely to know the author's religious affiliations as he has never resided in Eritrea. The Appeals Board also questioned the credibility of the author's claimed religious affiliation and observed that his knowledge was very limited, having failed to provide adequate details regarding his baptism.

On 23 November 2010, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author alleged that his deportation to Eritrea would violate the prohibition on torture under article 7 of the Covenant on the basis that torture towards conscientious objectors was applied routinely in Eritrea. He also alleged a violation of articles 14 and 18 of the Covenant with respect to his right to a fair trial and to freedom of religion.

On 25 November 2010, the committee through the Special Rapporteur on New Communications and Interim Measure successfully requested that Denmark refrain from deporting the author while his communication was being considered by the Committee.

The Committee's decision

Regarding the admissibility of the complaint, the Committee noted that the same matter was not being examined under another procedure of international investigation or settlement. For exhaustion of domestic remedies, the Committee noted that the author had unsuccessfully appealed the asylum decision before the Danish Appeals Board and that Denmark had not challenged the author's claims in this regard. The Committee rejected Denmark's contention of insufficient substantiation, noting that for the purposes of admissibility the author had provided sufficient and plausible arguments in support of the allegations under articles 7 and 18. However, the Committee found that the author's claims with respect to violations of article 14 of the Covenant were inadmissible pursuant to article 5(2)(b) of the Optional Protocol as proceedings related to the expulsion of aliens did not fall within the scope of article 14.

On the merits, the Committee recalled its General Comment No. 31 in which it observed that State parties are under an obligation not to extradite, deport or otherwise remove a person from their territory where it is foreseeable that their removal would result in a risk of irreparable harm. The Committee observed that the State party's assessment carries important weight provided that the evaluation is not arbitrary. The Committee also observed that in order to meet the high standard of proof relating to a risk of irreparable harm, all of the facts and circumstances regarding the human rights situation in the author's home country must be taken into account. In considering whether the author's removal to Eritrea would expose him to a real risk of irreparable harm, the Committee noted the author's contention that he will have to refuse to serve in the military due to his religious beliefs and that other credible sources also suggest that failed asylum seekers and conscientious objectors are more likely to be subjected to ill-treatment upon repatriation to Eritrea. Rejecting Denmark's contention that the author could avoid this risk by applying for an Eritrean passport in Denmark at the Eritrean embassy, the Committee concluded that Denmark had failed to recognize the author's potential status as an individual at risk of ill-treatment in contravention of the Covenant. Therefore, the Committee held that the author's deportation to Eritrea would be a violation of Article 7 of the Covenant.

Having found a breach of article 7 of the Covenant, the Committee found that it was not necessary to address the author's claim under article 18 of the Covenant.

The Committee recalled that under article 2(3)(a) of the Covenant, Denmark was under an obligation to provide the author with an effective remedy, including a full reconsideration of his claim. Denmark must now provide information within six months of the Committee's decision regarding the measures taken in light of the Committee's recommendations and ensure that the Committee's decision is published widely.

Sonal Sharma is an international lawyer, based in Paris.

ALGERIA: BREACH OF COVENANT REGARDING ENFORCED DISAPPEARANCES DURING CIVIL WAR

Lakhdar-Chaouch v Algeria (1899/2009)

Summary

In March 2014, 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 an Algerian national, Zineb Terafi, under the Optional Protocol to the Covenant, on behalf of both herself and her son, Ali Lakhdar-Chaouch.

Background

Mr Lakhdar-Chaouch was an orthopaedic surgeon at the Hospital of Kouba in Algiers. On 1 April 1997, he was arrested at his workplace by plainclothes agents of the military forces and taken for questioning. The author has not received any information regarding the fate of her son since that day.

From 1997 to 2006, the author continued to investigate her son's disappearance and filed numerous complaints with the local courts. None of her actions succeeded and in 2006 the Charter for Peace and National Reconciliation (the **Charter**) was implemented, prohibiting the author from taking legal action in the Algerian courts for crimes committed during the Civil War.

On 26 June 2009, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that Algeria had breached its obligation to provide her son with an effective remedy under article 2(3) of the Covenant, with respect to Mr Lakhdar-Chaouch's rights to (i) freedom from torture, cruel, inhuman or degrading treatment; (ii) liberty and security, and (iii) recognition as a person before the law (under articles 7, 9, and 16 of the Covenant respectively). The author also claimed that Algeria had violated her own rights under articles 2(3) and 7 of the Covenant.

The Committee's decision

Regarding the admissibility of the author's complaint, the Committee rejected Algeria's argument that the author had not exhausted domestic remedies. The Committee noted that the author had repeatedly requested that the Algerian authorities investigate her son's disappearance until 2006, when the implementation of the Charter made any form of legal action impossible. Moreover, the Committee recalled that it is the State's duty to initiate investigations and proceedings for such crimes. It therefore concluded that the author had indeed exhausted all effective remedies and that nothing barred the admissibility of the complaint.

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 decisions in which it ruled that the Order implementing the Charter was contrary to the Covenant because it promoted impunity. The Committee noted that Algeria had not adduced any evidence to contradict the facts provided by the author. It therefore examined Algeria's liability under the Covenant on the basis of such facts.

The Committee noted the degree of suffering caused by incommunicado detention and recalled its General Comment No. 20 in which it recommended that State parties make provision against such

detention. The Committee considered that the victim's arrest at his workplace by agents of the military forces and the lack of any contact with his family constituted a breach of his right to freedom from torture, cruel, inhuman or degrading treatment.

The Committee also considered that Algeria had failed to provide appropriate judicial and administrative mechanisms for addressing the author's claims, and that its failure to investigate allegations of violations was itself a violation of the Covenant. The Committee added that the victim's arrest and detention constituted a breach to his right to recognition as a person before the law.

In light of the above, the Committee found Algeria to have breached article 2(3) of the Covenant, with respect to Articles 7, 9 and 16 of the Covenant, with regard to Mr Lakhdar-Chaouch. The Committee also noted the anguish and distress caused to the author by her son's disappearance, and considered that Algeria had violated the author's rights under articles 2(3) and 7 of the Covenant.

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

- a) conducting thorough and impartial investigations into the disappearance of Mr Lakhdar-Chaouch;
- b) providing the author with detailed information regarding the results of such investigations;
- c) releasing Mr Lakhdar-Chaouch immediately if he is still being detained incommunicado;
- d) handing over his remains to his family if he is deceased;
- e) prosecuting, trying and punishing those responsible for the violations committed; and
- f) providing adequate compensation to the author and Mr Lakhdar-Chaouch 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.

Anne-Lise Ménagé is an international lawyer, based in Paris.

Australia: Required to provide remedy to victim of police misconduct

Horvath v Australia (1885/2009)

Summary

In March 2014, the Human Rights Committee was asked to consider whether Australia had violated its obligations under the International Covenant on Civil and Political Rights by failing to ensure that the author received an effective remedy for police misconduct. The communication was submitted by an Australian national, Corinna Horvath, under the Optional Protocol to the Covenant.

Background

On 9 March 1996, eight police officers arrived at the author's residence in Victoria, Australia, stating that they intended to arrest her for having assaulted Constables J and D earlier that night. Constable J kicked in the front door, pulled the author to the floor, punched her in the face and, despite her

bleeding nose, handcuffed her in a manner that restricted her from reducing the pain and blood flow from her nose or relieving her other injuries. She was then dragged out to the police van and taken to the police station. At the station the author was not provided with immediate medical treatment. She was discovered in pain by a police doctor and was taken by ambulance to hospital. The author suffered a fractured nose and facial injuries, including bruising and a chipped tooth, as well as some bruising, scratches and abrasions to other parts of her body, from which she recovered after some months. The author's injuries left her with scars on her nose, possibly aggravated hay fever, anxiety and depression.

The author initiated proceedings against four police officers and the state of Victoria. On 23 February 2001, the Victorian County Court held Constable J liable for assault and malicious prosecution, Sergeant C liable for negligence, and all four officers jointly liable for trespass, wrongful arrest and false imprisonment. Damages of \$270,000 were awarded.

On 7 November 2002, the Victorian Court of Appeal overturned the decision to the extent that the state of Victoria was liable to pay damages, limiting liability to that of the police officers and reducing the damages payable to \$143,525.

On 18 June 2004, the author's application for leave to appeal to the High Court of Australia was refused. The author filed a complaint with the Ethical Standards Department of Victoria Police and, after disciplinary proceedings were dismissed despite findings of serious misconduct by the Victorian County Court, made a complaint to the Police Ombudsman.

On 19 August 2008, the author submitted a communication to the Committee that alleged that:

- (a) she had not been provided with an adequate remedy in violation of article 2 of the Covenant as she had received no compensation and no disciplinary or criminal actions were taken against the police officers involved;
- (b) she had been subjected to cruel, inhuman and degrading treatment during the raid in violation of article 7 of the Covenant;
- (c) she had been subjected to arbitrary arrest and detention and denied an enforceable right to compensation, in violation of article 9(1) and (5) of the Covenant;
- (d) her assault, handcuffing, arrest, detention and delay in medical treatment had not respected her dignity and humanity, in violation of article 10(1) of the Covenant; and
- (e) the invasion of her house had been an arbitrary and unlawful interference with her home, family and privacy, and the malicious prosecution of her for assaulting Constable J had been an unlawful attack on her honour and reputation, both in violation of article 17 of the Covenant.

The Committee's decision

In considering the admissibility of the communication, the Committee noted that the author had successfully pursued an appropriate avenue of redress through domestic proceedings. The Committee considered that the fact that the judgment was not fully enforced despite the author's efforts was not attributable to her and she could not be expected to seek, in addition, symbolic compensation from the Victims of Crime Assistance Tribunal. Domestic remedies had therefore

been exhausted and as the matter was not being examined under another procedure of international investigation or settlement, the Committee declared the author's communication to be admissible.

The key issue on the merits was whether the author had obtained an effective remedy after the final decision of the domestic courts became enforceable. The Committee reaffirmed its earlier case law that article 2(3) does not impose an obligation upon State parties to provide any particular form of remedy, but that it could, when determining the effectiveness of the remedy, take into account the cumulative effect of several remedies of a different nature, such as criminal, civil, administrative or disciplinary.

The Committee considered that the Victorian disciplinary process did not meet the requirements of an effective remedy due to a number of deficiencies, including that neither the author nor other civilian witnesses had been called to give evidence, that the author had been refused access to the file, that there had been no public hearing, and that once findings of fault were made in the civil proceedings there had been no means of reopening or recommencing the disciplinary process.

It was further found that section 123 of the Police Regulations Act (Vic), which provided for state responsibility for the conduct of its agents only in very limited circumstances without providing an alternative mechanism for full compensation, was incompatible with article 2(2) and (3) of the Covenant. The Committee recalled that article 2(2) required States to take the necessary steps to give effect to the Covenant and make changes to domestic laws where necessary, and that article 2(3) required State parties to provide an effective remedy that included reparation, often in the form of adequate compensation. These obligations had not been fulfilled where the author's success in obtaining compensation through her civil suit had been nullified by the impossibility of having the judgment enforced due to factual reasons relating to the unavailability of the police officers' assets and legal reasons relating to the lack of alternative legal avenues.

The Committee concluded that the facts revealed a violation of article 2(3) in connection with articles 7, 9(1) and 17 of the Covenant. The Committee did not consider it necessary to determine whether there were separate violations of articles 7, 9(1), 9(5), 10(1) and 17. In light of this finding, Australia was under an obligation to provide the author with an effective remedy, including adequate compensation. The Committee also recommended that Australia review its legislation to ensure conformity with the Covenant.

Three Committee members issued an individual opinion (partly dissenting) that emphasised the need to find that the police officers' acts were clearly attributable to the State and that there had been a violation of article 7. Another Committee member issued an individual opinion (partly dissenting) due to the lack of nuanced analysis of article 2(3) by the Committee.

Australia must now submit its written response within six months of the Committee's decision, including information about measures undertaken to give effect to the Committee's recommendations, and ensure that the Committee's decision is published widely.

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