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marriage for same-sex couples in the UK, France and New Zealand. But more often than not, the story is about gay bashing in Russia, draconian homophobic laws being enacted in various African countries, or the Indian Supreme Court re-criminalising consensual sexual conduct between men, after the Delhi High Court struck down the relevant provision of the *Criminal Code* four years ago. With 81 states still [criminalising homosexuality](#), the plight of LGBTI persons in many parts of the world is dire.

In light of an apparent increase in the intensity and frequency of LGBTI rights violations, it is appropriate to ask: What is the UN doing in response? And what more could it be doing? There are three UN bodies that it is particularly useful to consider, namely the Human Rights Committee, the Human Rights Council and the Office of the High Commissioner for Human Rights.

Opinion

LGBTI RIGHTS AND THE UN: WHERE TO FROM HERE?

Paula Gerber

In 2014, one can barely read the news without coming across a story concerning lesbian, gay, bisexual, transgender or intersex (LGBTI) persons. Invariably these stories relate to violence, discrimination or other human rights violations inflicted on individuals because of their sexual orientation or gender identity/expression. Occasionally, a good news story creeps in, like the recent legalisation of

Human Rights Committee

As the body responsible for monitoring State Parties' compliance with the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Committee has an important role to play in promoting and protecting the rights of LGBTI persons. There are three ways in which it can do this, namely, in its Concluding Observations, in its General Comments and in its Views on individual communications. The degree to which it has succeeded in raising LGBTI rights through

these different avenues is variable. The Human Rights Committee's approach to raising violations of the rights of LGBTI persons in its Concluding Observations has been patchy.

Although it has improved in recent times, there have still been instances where the Human Rights Committee has failed to explicitly address the fact that a state continues to criminalise homosexuality in clear breach of the ICCPR. In 2014, 18 states will be reviewed by the Committee. Of those, Sierra Leone, Malawi, Sudan, Burundi and Sri Lanka still criminalise homosexuality.

Of course, many of the states where homosexual conduct is legal also have significant LGBTI rights violations, because, for example, there is no anti-discrimination legislation that protects sexual minorities. One only has to look at recent events in Russia, where homosexuality was legalised in 1993, to know that decriminalisation is only the start of the journey towards dignity and equality for LGBTI persons, not the end. The HR Committee should therefore include recommendations not only about decriminalising homosexuality in its Concluding Observations for these 18 states, but also other reform measures necessary to ensure that LGBTI persons can be free and equal.

The HR Committee has a woeful record when it comes to including LGBTI persons in its General Comments. To date the Committee has published 34 General Comments and not one of them has mentioned LGBTI rights. This is in stark contrast to other treaty committees which have all made explicit reference to sexual minorities in at least one General Comment. There may be signs that the Human Rights Committee is ready to catch up. General Comment 35 on Article 9 (liberty and security of person) is currently being drafted and does include a reference to sexual minorities. Let's hope this language is retained in the final version.

The Human Rights Committee has considered five communications from LGBTI persons and in four of those cases found there had been breaches of the ICCPR. Most recently, it found that Russia's gay 'propaganda' laws are inconsistent with the right to freedom of expression, read in conjunction with the right to freedom from discrimination (*Fedotova v Russian Federation*, 2012).

Thus, while the Human Rights Committee is making good progress with promoting and protecting the rights of LGBTI persons in its Concluding Observations and Views, there is definite room for improvement in its General Comments.

Human Rights Council

The Human Rights Council is also making a positive contribution to the UN's efforts to promote and protect the rights of LGBTI persons, most particularly through its landmark resolution on sexual orientation and gender identity in 2011 (SOGI Resolution) and through comments and recommendations made during the Universal Periodic Review Process (UPR).

The SOGI Resolution was the first ever passed by a UN body on LGBTI rights. It is now imperative that the Council build on this success by adopting a follow up resolution further condemning the ongoing discrimination and violence against LGBTI persons, and establishing a mechanism or process to ensure that the Human Rights Council can identify and respond to violations of LGBTI rights in a systematic, coordinated and ongoing manner.

The ongoing criminalisation of homosexuality has been raised with a number of states during the UPR and many have accepted recommendations that they repeal these laws, including Mauritius, Nauru and Seychelles. That LGBTI issues are being raised as part of the UPR is pleasing, particularly as 11 of the 47 current members of the Human Rights Council are states where homosexuality is still

a crime (Algeria, Botswana, Kenya, Kuwait, Maldives, Morocco, Namibia, Pakistan, Saudi Arabia, Sierra Leone and United Arab Emirates). It is hoped that in 2014, the HRC will consistently raise LGBTI issues within the UPR, whether it be about the criminalisation of homosexuality, the absence of anti-discrimination legislation or violence against sexual minorities.

Office of the High Commissioner for Human Rights

The [Free & Equal campaign](#) launched by OHCHR last year is a standout achievement, but by no means does it represent the extent of the Office's work to promote LGBTI rights. High Commissioner Navi Pillay has been a vocal critic of recent moves to oppress LGBTI people in Africa even further. Recently, in relation to draconian Nigerian anti-gay legislation, she said:

Rarely have I seen a piece of legislation that in so few paragraphs directly violates so many basic, universal human rights. Rights to privacy and non-discrimination, rights to freedom of expression, association and assembly, rights to freedom from arbitrary arrest and detention: this law undermines all of them.

Another OHCHR achievement is the drafting of the [first UN report](#) documenting discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. This 2011 report was prepared pursuant to a request by the HRC in the SOGI Resolution.

Finally, in 2012, OHCHR published a very helpful [booklet](#) that sets out the core obligations that states have towards LGBTI persons, and describes how various UN mechanisms have applied international human rights law to LGBTI persons.

Fortunately, we can be confident that OHCHR will continue its work to increase respect for the rights of LGBTI persons, because the High Commissioner has said as much in her [annual report](#) to the General Assembly.

If the Human Rights Committee, Human Rights Council and OHCHR build on some of the important steps they have taken on LGBTI rights in the recent past, it may prove to be an antidote to the increased levels of violence and persecution we are witnessing being inflicted on LGBTI people in many parts of the world.

Dr Paula Gerber is an Associate Professor at Monash University Law School and Deputy Director of the Castan Centre for Human Rights Law.

Annual Report

We are delighted to present our 2013 Annual Report. Thank you for being part of ISHR's work to support human rights defenders, strengthen human rights systems and achieve human rights change. Download our [Annual Report here](#).

Human Rights Defender Profile

ROLANDO JIMÉNEZ PEREZ: CHILEAN HUMAN RIGHTS DEFENDER

‘I wanted to fight for human rights in order to help lesbians, gays, bisexuals and transsexuals and to put an end to any brutality for reasons of sexual orientation and gender identity.’

During the dictatorship of Augusto Pinochet, Rolando Jiménez Pérez was a member of the Communist Party driven, along with his fellow party workers, by the goal of restoring democracy.

Despite the fact that Rolando was united with the ideals of the Communist Party his sexuality was used by the party as a means to belittle him. This forcefully brought home to Rolando just how strong a role a person’s sexual orientation or gender identity could play in the way they were treated. He made up his mind that once the dictatorship was over he would turn his attention entirely to human rights and in particular towards ensuring that lesbian, gay, bisexual and transgender (LGBT) people did not face any attacks or stigmatisation on the basis of their sexual orientation or gender identity.

As soon as the dictatorship ended, he co-founded Movilh (Movement for Homosexual Integration and Liberation) in 1991. Movilh is a non-profit organisation defending the human rights of LGBT people. Its objectives are, among others, to make visible the reality of LGBT persons and to end violations of their rights.

Rolando Jiménez is now the President of Movilh. On a day-to-day basis his activities range across multiple roles. He is involved in developing the organisation’s advocacy work, which includes working with parliament, government and municipalities to lobby for legislative change and implementation. He also deals with the majority of the cases of discrimination that are reported to the organisation. This includes giving legal advice and counselling to those affected. Rolando also trains civil servants and private sector employees on the rights to sexual diversity and how to respect them in practice.

‘In Chile the State lags far behind what the majority of Chileans think. The challenge is to bridge this gap.’

The mentality of the Chilean population when it comes to LGBT rights has evolved much faster than the policies of the State. For example, while Chile sets different ages of sexual consent depending on sexual orientation, at the level of the general population there is increasing support for equality of rights. The challenge is to bridge the gap between the rapid nature of social and cultural change and the slower nature of change at the political level. This challenge is complicated by the fact that there is a lack of State resources to confront discrimination. On an international level Chile is perceived as economically stable, but this gives a false impression to the world that there are no pressing problems. Unfortunately this is not the case, and State funding for promoting and supporting sexual diversity rights is non-existent.

‘The effective use of regional and international human rights mechanisms depends on NGOs working together in a coordinated, informed and realistic manner.’

Rolando was recently in Geneva for the Universal Periodic Review (UPR) of Chile. He identifies the main challenge faced by NGOs in these processes as ensuring that States implement in practice the recommendations they receive. Working towards implementation demands that NGOs treat their engagement with the international and regional human rights mechanisms as part of a medium- to long-term strategy. The success of the strategy requires consistent engagement with the mechanisms,

and close coordination with other NGOs. It is of little use to push for the UN to recommend a particular course of action if this is never put into practice by the State.

In the case of Chile, the change of government in 2014 will take place after the UPR has taken place in Geneva. Rolando believes that NGOs should be looking ahead and be prepared to re-evaluate the advocacy work they have done to date to take account of the different context in which they will be working after this change of government.

For Rolando one of the key factors for success is to work with and take advantage of the expert NGOs that have developed their work within the international human rights system. Creating strong alliances with these NGOs can assist with monitoring and follow-up within the various mechanisms. Movilh, for example, has worked closely with the International Gay and Lesbian Association.

‘Thanks to the attention drawn by the UN to its discriminatory laws, in 2012 Chile approved a law against discrimination which included sexual orientation and gender identity as a protected category.’

The passing of the 2012 law against discrimination which specifically protected against discrimination on the grounds of sexual orientation and gender identity was a significant step forwards for LGBT persons in Chile. Movilh engaged consistently from start to finish on the process of getting this law drafted and adopted. Movilh’s work included sending alternative reports to the UN’s treaty bodies, as a result of which Chile received criticism of its discriminatory laws and its lack of specific protections for LGBT persons. The calls from the UN helped to push and guide Chile towards the development of the 2012 legislation and the repeal of its discriminatory laws.

‘The UN should have an office or a special program to teach human rights defenders to use the tools of the human rights system.’

Rolando believes that the UN could and should do more to support human rights defenders. In particular he suggests that the UN could create an office which has as one of its roles to teach human rights defenders how to use the tools of the UN’s human rights system.

Furthermore he believes that the UN has a debt towards the LGBT community, particularly in Chile. It was only after terrible hate crimes took place in Chile in 2012 that the Office of the High Commissioner spoke out. In all other cases the UN has said nothing and it has certainly not visited the country in order to fully understand the scope of these homophobic attacks and killings.

‘Russia’s project to draft a resolution on traditional values at the Human Rights Council seeks to make human rights less relevant than traditional values. This is unacceptable.’

Since 2009 Russia has led a resolution on traditional values at the Human Rights Council, which represents a huge threat to universal human rights standards and in particular the rights of women and LGBT persons.

Rolando’s message for the governments who support this initiative is that ‘human rights are universal, they ought to be respected at all times and in all places. So-called “traditional values” go in precisely the opposite direction, being authoritarian, hierarchical, anti-democratic and abusive and failing to acknowledge diversity of beliefs, opinions or identities’.

Camille Marquis is an Intern with the International Service for Human Rights. For more information about Rolando Jiménez Pérez and the work of Movilh see <http://www.movilh.cl/>

Our Work to Support Human Rights Defenders

HUMAN RIGHTS COUNCIL MUST DEMAND RELEASE OF DETAINED CHINESE HUMAN RIGHTS DEFENDER

(Geneva, 26 February 2014) – The UN Human Rights Council should demand the release of detained Chinese human rights defender Cao Shunli when it meets in Geneva next week, the International Service for Human Rights said today. It should also press China to ensure that Cao receives access to specialist medical treatment following a critical deterioration in her health while in detention.

‘It is imperative that the Human Rights Council President and States speak out on the detention and ill-treatment of Cao Shunli and hold China to account for its obligations under international law and as a member of the Council,’ said Michael Ineichen, ISHR’s Director of Human Rights Council Advocacy.

Cao Shunli was arrested at Beijing airport on 14 September 2013 and prevented from travelling to Geneva where she was to participate in an ISHR training program and undertake advocacy at the Human Rights Council. After being held incommunicado for more than five weeks she was charged with disrupting public order and detained in Beijing First Prison. The charges are understood to relate to her role in organising a series of peaceful demonstrations to demand greater participation in China’s Universal Periodic Review (UPR) by the Human Rights Council, which was held in October 2013.

After being denied access to proper medical care in prison, Cao Shunli was transferred to a Beijing hospital last week. She has been denied access to a lawyer and remains in a critical condition.

‘Cao’s detention for organising a peaceful protest is a flagrant violation of her rights to freedom of expression, association and assembly,’ Mr Ineichen said.

‘The denial of access to a lawyer and proper medical care is also incompatible with China’s obligations under customary international law to ensure a fair trial and under the International Covenant on Economic, Social and Cultural Rights to ensure Cao has access to adequate health care.’

The March session will be the first time the UN Human Rights Council has met since Cao was detained and is also the first session since China was elected as a member of the Council in November. Additionally, the Council is scheduled to adopt the report of October’s Universal Periodic Review on China on 19 March. A number of States made recommendations during that review urging China to end attacks on human rights defenders and prevent and ensure accountability for reprisals, including Tunisia, Switzerland, Ireland and the Czech Republic.

‘China has an obligation as a member of the Council to uphold the highest standards in the promotion and protection of human rights and to fully cooperate with its mechanisms. Cao Shunli’s detention in retaliation for her efforts to shine a light on China’s human rights record at the Council is flagrantly incompatible with these obligations,’ Mr Ineichen said.

‘Reprisals against human rights defenders for their efforts to expose and seek accountability for human rights violations on the international stage amount to an attack not only on the defenders themselves, but also on the rule of law and the integrity of the UN itself,’ Mr Ineichen said.

‘In circumstances such as this, the Council, its President and other Member States have an obligation to act. It is incumbent on these actors to uphold the right of everyone to unhindered access to and

communication with the United Nations, as guaranteed in the UN Declaration on Human Rights Defenders.’

ISHR calls on the President of the Human Rights Council, member and observer States, and the Council itself to unequivocally condemn the ill-treatment of Cao Shunli, push for full investigations into all cases of alleged reprisals, ensure perpetrators are held to account, and guarantee that human rights defenders are able to carry out their vital work in a safe and enabling environment.

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For further information on the case of Cao Shunli, see the [information provided](#) by Chinese Human Rights Defenders. Cao’s case has also been the subject of [a joint statement](#) by a number of leading UN human rights experts.

ISHR CONDEMNS UGANDAN PRESIDENT’S SIGNING INTO LAW OF ANTI-HOMOSEXUALITY BILL

(Geneva, 24 February 2014) – ISHR has condemned the signing into law of Uganda’s draconian ‘anti-homosexuality’ bill as a flagrant violation of the country’s international human rights obligations and an attack on universal rights and their defenders.

‘The Anti-Homosexuality bill will have wide-ranging and devastating impacts on the rights of lesbian, gay, bisexual and transgender persons. We condemn its signing into law,’ ISHR Director Phil Lynch said.

The signing of the bill comes in the face of fierce opposition to the legislation from [within Uganda, across Africa and around the world](#).

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

‘This is a major step backwards not only for LGBT Ugandans, but for all Ugandans. In signing this bill into law President Museveni has shown scant regard for international human rights law, including the rights to freedom of expression, assembly and association, all of which are fundamental pillars of a safe, secure and democratic society,’ said Dr Heather Collister of ISHR.

ISHR is particularly concerned that the Anti-Homosexuality Act will lead to an increase in homophobic violence, discrimination and harassment.

‘We are deeply concerned that this legislation not only criminalises same-sex relations and institutionalises discrimination, but also implicitly condones homophobic violence and harassment,’ Dr Collister said.

Even before the final assent by the President on 24 February, the bill was already linked to an increase in the arrest, harassment and assault of suspected LGBT persons in Uganda.

ISHR is also deeply concerned at the Act’s provisions relating to the ‘promotion’ of homosexuality, which make it an offence to stand up or speak out for LGBT rights.

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

‘Human rights defenders play a crucial role in the promotion and protection of human rights and fundamental freedoms for all. Their work is vital to developing an inclusive, healthy and prosperous society. The criminalisation of their work is not only contrary to Uganda’s obligations under the UN

Declaration on Human Rights Defenders, but a backward step for democracy and development in Uganda,' Mr Lynch said.

The signing of the bill comes a month and a half after [harsh anti-homosexuality legislation](#) was signed into force in Nigeria.

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NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS MUST PROVIDE PROTECTION FOR HUMAN RIGHTS DEFENDERS

(Geneva, 24 February 2014)- National Action Plans on Business and Human Rights should be developed in close consultation with civil society organisations and should detail the steps and measures that a State will take to protect human rights defenders from attacks, restrictions and reprisals associated with their work on corporate accountability.

In a [statement to the UN's Working Group on Business and Human Rights](#), ISHR drew attention to a disturbing global pattern of attacks against human rights defenders who protest against business operations and called on States to ensure that defenders are able to undertake such activities in a safe and enabling environment.

'The design and implementation of National Action Plans on business and human rights provide an opportunity for States to recognise the crucial role of human rights defenders in promoting corporate respect for human rights and corporate accountability for human rights violations,' said ISHR Director Phil Lynch.

The UN Working Group is conducting an open consultation on the 'strategic elements of National Action Plans'. In its statement to the consultation, ISHR singled out the [United Kingdom's Plan as an example of good practice](#).

'ISHR welcomes the UK's National Action Plan and, in particular, the commitments therein to provide financial support to civil society organisations to promote the protection of human rights defenders working on issues of corporate accountability and to instruct the UK's embassies and high commissions to provide support and protection to defenders at risk,' Mr Lynch said.

With the UN Human Rights Council set to consider the issue of human rights defenders at its 25th session in March and that of business and human rights at its 26th session in June, [ISHR is calling on States](#) to develop and implement National Action Plans on the implementation of the UN Guiding Principles on Business and Human Rights which include policies and measures to protect and support human rights defenders in line with the UN Declaration on Human Rights Defenders.

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MORE NGOs GAIN ACCESS TO THE UN, BUT ARBITRARY BLOCKADES REMAIN FOR MANY

(New York, 20 February 2014) – The UN Committee on Non-Governmental Organizations, which acts as the gatekeeper to NGO access to the UN, continues to wrongly delay, deny and reject access to credible human rights NGOs. At its most recent session in New York, from 21 to 30 January and 7 February 2014, the Committee approved 265 NGOs for access (or 'consultative status') to the UN, but deferred a further 192 applications for further consideration at its session in May.

This represented an overall improvement in the rate of NGO approval from previous sessions. The Committee approved 66 percent of new applications and 55 percent of previously deferred applications, compared to 48 percent and just 28 percent respectively over the previous 11 sessions.

However, despite these positive signals, States continued to oppose NGOs that hold views they do not agree with or that have been critical of governments' human rights records.

'NGO accreditation should be accessible, expeditious and based on fair, transparent and non-discriminatory criteria,' said ISHR's New York Advocacy Manager, Michelle Evans.

'Regrettably, States that are not supportive of civil society engagement at the UN continue to use strategies to control the review process and defer applications, such as asking irrelevant or repetitive questions that go far beyond the scope of what NGOs are required to submit with their applications.'

ISHR's research reveals that the NGOs that are most frequently and persistently delayed or deferred include those that work on sexual orientation and gender identity issues, women's rights, reproductive rights, minority issues, caste, and freedom of expression and association.

It is widely accepted that State membership of the Committee lies at the root of these negative trends, with the balance of the Committee's membership tending towards States that do not support a vibrant civil society at the UN. The current members of the NGO Committee are: Belgium, Bulgaria, Burundi, China, Cuba, India, Israel, Kyrgyzstan, Morocco, Mozambique, Nicaragua, Pakistan, Peru, Russian Federation, Senegal, Sudan, Turkey, United States of America, and Venezuela.

Some of the organisations whose applications were once-again blocked by the Committee were: Allied Rainbow Communities International, Collectif des Families de Disparu(e)s en Algerie, the Global Network for Rights and Development (GNRD), the Geneva Institute for Human Rights (GIHR), International Dalit Solidarity Network (IDSN), International Partnership for Human Rights, Iran Human Rights Documentation Center, Institute for Human Rights and Business Limited, International Federation of Liberal Youth, and Youth Coalition for Sexual and Reproductive Rights.

Meanwhile, the Committee recommended status to the Catholic Family and Human Rights Institute (CFAM), a socially conservative Christian group. CFAM claims to engage in work to protect human rights but is actually singularly focused on opposition to safe and legal abortion and family planning.

'The accreditation of such groups, which aim to undermine sexual and reproductive health, LGBT rights, and comprehensive sex education, pose a threat to the progressive development and implementation of international policies,' said Ms Evans.

'It is unsettling that the Committee is able to recommend such an organisation, while it continues to shamelessly block legitimate organisations working to protect sexual and reproductive rights, and the rights of gay, lesbian, bisexual and transgender persons.

'We call on members of the Committee to stop inappropriately targeting these organisations, and to promptly recommend them for consultative status to the UN,' said Ms Evans.

The Committee also continued to exert its pressure on human rights NGOs that already have consultative status by deferring the required quadrennial reports of some organisations.

It took note of 279 new quadrennial reports, while deferring 11 reports, including that of Human Rights Watch due to questions from Cuba and Russia. All 23 previously deferred quadrennial reports were again deferred, including those of Amnesty, Freedom House and Human Rights First.

In more positive developments, the Committee recommended consultative status for several human rights NGOs that had previously been deferred, including Le Centre pour les Droits Civils et Politiques - Centre CCPR, and the Asia-Eurasia Human Rights Forum.

The May resumed session will be held in New York City from 19 to 28 May and 6 June 2014.

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END ATTACKS ON HUMAN RIGHTS DEFENDERS WHO PROTEST AGAINST BUSINESS OPERATIONS AND DEVELOPMENT PROJECTS

(Geneva, 4 February 2014) – Governments, corporations and the United Nations should act to address a disturbing global pattern of attacks against human rights defenders who protest against business operations and major development projects.

There has been a spate of such attacks in recent weeks, including in Mexico, Russia and Uganda.

On 28 January 2014 the protest camp of the Asamblea Popular del Pueblo de Juchitán (APPJ) in Oaxaca, Mexico, was burned to the ground. The APPJ was formed in February 2013 to protest against the construction of a major wind-farm, Bií Hioxo, by Spanish venture capital firm Gas Natural Fenosa. According to [Frontline Defenders](#), members of the APPJ have been subject to ‘a pattern of serious harassment and surveillance over the course of their legitimate and peaceful opposition to Bií Hioxo’, with one member, Héctor Regalado Jiménez, shot dead on 1 August 2013.

In addition to physical attacks, human rights defenders protesting against business operations have been subject to legal restrictions and harassment. Just yesterday, a number of Russian civil society activists protesting against deforestation and environmental damage associated with construction projects for the Sochi Olympics were arrested and charged with offences such as ‘petty hooliganism’. [Amnesty International has reported](#) that one of the defenders, prominent environmental activist Evgeny Vitishko, has already been sentenced to a period of administrative detention after which it is feared that he will be moved to a prison colony.

The pattern of attacks against human rights defenders protesting major development projects is also evidenced in Africa. A February 2014 [Human Rights Watch report](#) on the impact of mining on human rights in Uganda found that ‘the government’s increased focus on seeking foreign investment has been marked by increased hostility to civil society working on environmental, land, and corruption issues.’ The report documents a range of attacks against NGOs, such as the Uganda Land Alliance, and concludes that ‘NGOs seeking to educate the public about the value of their land, community processes, and compensation rights face a variety of problems from government officials, including threats of deregistration, accusations of sabotaging government programs, and arrest.’

Attacks against human rights defenders working on corporate accountability issues have also been linked to non-State actors, including private corporations. The most recent [report of the UN Special Rapporteur on Human Rights Defenders](#) documents ‘credible reports and allegations indicating that private corporations are involved in violations against defenders, including stigmatization, threats, harassment, attacks, death threats and killings.’ The Special Rapporteur identifies ‘defenders working

on land and environmental issues in connection with extractive industries and construction and development projects’ as facing a particularly ‘high risk of violations’. She also expresses deep ‘concern about the increased criminalization of social protest often in connection with the peaceful expression of opposition to public or private development projects’.

‘ISHR is deeply concerned at the worsening pattern of attacks and restrictions against human rights defenders who work to expose and seek accountability for corporate human rights violations,’ said ISHR Director Phil Lynch.

‘From Mexico to Cambodia and from Russia to Uganda, human rights defenders are being criminalized and attacked for their work to identify, mitigate and remedy human rights violations associated with business operations,’ Mr Lynch said.

With the UN Human Rights Council set to adopt a resolution on human rights defenders in March and on business and human rights in June, ISHR is calling on States, corporations and the UN itself to take a number of steps to reverse this trend:

- States should develop specific laws and policies to enact the UN Declaration on Human Rights Defenders at the national level and should review and repeal laws which restrict and criminalise defenders’ work.
- States should protect human rights defenders from attacks and reprisals by both State and non-State actors, ensure prompt and thorough investigations when they occur, and hold perpetrators accountable.
- States should take specific measures to protect and support the work of human rights defenders who work on issues of corporate accountability, who claim and seek to exercise their right to participate in decision-making processes, or who voice their opposition to business activities or development projects, including by guaranteeing their right to peaceful protest and to freedom of expression, association and assembly.
- States should publicly support the work of human rights defenders working on issues of corporate accountability, including by refraining from labelling them as ‘anti-development’ or as economic ‘terrorists’ or ‘saboteurs’.
- States should develop and implement National Action Plans on the implementation of the UN Guiding Principles on Business and Human Rights which include policies and measures to protect and support human rights defenders.
- States should issue a joint invitation to the Special Rapporteur on Human Rights Defenders and the UN Working Group on Business and Human Rights to conduct a country mission to examine and make recommendations regarding the situation and protection of defenders working on corporate accountability.
- Corporations should consult and engage with human rights defenders to in order to avoid and mitigate adverse human rights impacts associated with business and should refrain from obstructing or impairing their human rights work.
- Corporations should comply with the UN Guiding Principles on Business and Human Rights and, in the case of corporations working in the extractive and resource sectors, fully implement the Voluntary Principles on Security and Human Rights, a multi-stakeholder

initiative to address the risk of human rights abuses arising from security arrangements in the oil, gas and mining industries.

- Investors and sponsors should undertake due diligence to ensure that the rights of human rights defenders are respected and protected in business activities and operations and that they do not in contribute in any way to human rights violations or attacks on defenders.
- The UN Human Rights Council should warmly welcome the report of the Special Rapporteur on Human Rights Defenders and invite the mandate holder to prepare a thematic report and recommendations on the issue of human rights defenders working on issues of corporate accountability.
- The UN Human Rights Council should strengthen the mandate of the UN Working Group on Business and Human Rights to ensure that the Working Group consults with and mainstreams the situation and protection of human rights defenders in its work.

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Our Work to Strengthen Human Rights Systems

NGOS WELCOME UN RESOLUTION TO STRENGTHEN TREATY BODY SYSTEM

(New York, 20 February 2014) – A [coalition of 23 human rights NGOs](#) welcomed a [resolution by the UN General Assembly to strengthen the treaty body system](#). Since April 2012, States in New York have been participating in an intergovernmental process established under the guise of strengthening the UN's human rights treaty bodies. The UN treaty bodies are independent, expert committees mandated to review and promote States' compliance with international human rights treaties. The discussions have culminated in a draft resolution ([A/68/L.37](#)), to be submitted to the budgetary committee of the General Assembly for approval in March.

'Given that at points the process seemed far from achieving its stated goal, we are pleased to see some modest gains that will provide a useful platform for further improvements to the treaty body system', said Madeleine Sinclair, Legal Counsel with the International Service for Human Rights.

'Despite the fact that the treaty body system was facing very real and grave challenges, the process was marked at times by the efforts of some States to attack and weaken these bodies', Ms Sinclair said. In that regard, NGOs are pleased that the final text avoided attempts by those States to infringe on the independence of the treaty bodies by imposing a code of conduct and so-called accountability mechanism.

'Throughout the process, NGOs urged States to focus on the key goals of the process', said Ms Sinclair, 'that is, how to improve the protection and promotion of human rights on the ground.'

Some of the most significant gains include additional meeting time for the treaty bodies that will allow them to review reports more efficiently and clear backlogs, as well as additional resources for capacity building to enable States to comply with their treaty obligations to submit reports.

'Resources for capacity building will be particularly important for those States that have never come under review by the treaty bodies, despite having ratified the relevant treaties several years ago' said Ms Sinclair.

On some issues States missed an opportunity to make key improvements. Ms Sinclair noted ‘it is disappointing that States could not agree to immediately fund webcasting of public sessions – a move that would have significantly increased the visibility and accessibility of the treaty body system’. ‘States also did not address the need for renewed efforts toward universal ratification of the core international human rights treaties,’ said Ms Sinclair. ‘More than 10% of States have yet to ratify either of the International Covenants on Civil and Political Rights or Economic, Social and Cultural Rights’, she noted, adding that ‘it has not gone unnoticed that some of these States were very vocal in the intergovernmental negotiations’.

NGOs also expressed disappointment with the lack of effective action on the issue of reprisals and intimidation against those engaging with the treaty bodies. ‘It is very disappointing that States took a step backward on the issue of reprisals and intimidation against those cooperating or seeking to cooperate with the treaty bodies, watering down previously agreed language and reducing the scope of calls for preventing and eliminating such acts’, said Ms Sinclair.

The impact of the resolution will be reviewed in six years’ time.

Click here for the [Joint NGO statement on the outcome of the treaty body strengthening process](#).

Background

Nearly four years have passed since a group of current and former Treaty Body experts adopted the ‘Dublin Statement’, catalysing the most recent attempt to strengthen the UN human rights treaty body system that would eventually become known as the [Dublin Process](#). But before that process—which involved some 20 consultations with different stakeholders—could run its course, a group of States led by Russia decided 18 months ago that the issues were properly left to States to address and initiated the ‘[Intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system](#)’.

Armed with the wealth of ideas, views, suggestions and emerging consensus of the Dublin Process, a divided General Assembly initially spent much time debating its role in treaty body strengthening, given its lack of legal competence to decide matters properly left to States parties to the treaties and the treaty bodies themselves. The result was an agreement by States, implicit in some cases, that while the GA may not be able to *decide* certain matters, it could *recommend* that certain actions beyond its competence be taken by relevant stakeholders.

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Key Developments in the Promotion and Protection of Human Rights

ANTI-HOMOSEXUALITY LAW IN UGANDA VIOLATES HUMAN RIGHTS AND ENDANGERS LGBT PEOPLE

On 24 February 2014, the United Nation High Commissioner for Human Rights Navi Pillay denounced the anti-homosexuality law signed into force in Uganda.

‘This law will institutionalise discrimination and is likely to encourage harassment and violence against individuals on the basis of their sexual orientation. It is formulated so broadly that it may lead to abuse of power and accusations against anyone, not just LGBT people,’ said Pillay...[more](#)

NORTH KOREA'S SILENCED VICTIMS EVENT IN UNITED NATIONS

North Korean survivors of prison camps, refugees, and members of persecuted families shared testimony on the horrendous violations committed by North Korean authorities at an event held at the United Nations. The Mission of Poland, the Mission of Ireland, Human Rights Watch, and Citizens' Alliance for North Korean Human organised the meeting which was held on 6 February.

Ambassador R. Henczel of Poland emphasised the importance of the discourse in the run-up to the Human Rights Council's March session, where the international community will have its opportunity to voice its deep concern with the situation of human rights violations in the DPRK... [more](#)

AFRICAN COMMISSION CONDEMNS NIGERIA'S LAW TARGETING LGBT RIGHTS DEFENDERS

The Special Rapporteur on human rights defenders in Africa has strongly condemned acts in violation of the right to life, physical integrity, and freedom of expression and assembly of human rights defenders, and called on the Nigerian Government to uphold its international obligations.

On 5 February 2014, the Special Rapporteur on Human Rights Defenders in Africa (and ISHR Board member), Reine Alapini-Gansou, voiced her concerns over provisions of Nigeria's Same-Sex Marriage Prohibition Act. Sections 4(1) and 5(2) of the Act provide for penalties against LGBT human rights defenders. The enactment of this Act will lead to an increase in cases of physical violence, aggression, arbitrary detention, and harassment against LGBT defenders and sexual minorities... [more](#)

RUSSIAN HUMAN RIGHTS DEFENDER EXPELLED FROM UKRAINE

On 10 February 2014, Ukrainian border officials barred prominent Russian human rights defender, Andrei Yurov, from entering the country. Yurov was on his way to Kiev to meet with Council of Europe Human Rights Commissioner Nils Muiznieks and to work within the International Human Rights Defender's Group on the situation in Ukraine.

Human Rights Watch commented that Yurov's expulsion is 'an unprecedented and wholly regrettable step' and called on the Ukrainian government to reverse this decision and allow Yurov to carry out his human rights work in Ukraine ... [more](#)

SOCHI OLYMPIC CRITICS HARASSED, TREATED LIKE TERRORISTS

Activists in Sochi (within the Krasnodar region) have been harassed, detained, and tried by the Russian authorities for attempting to expose the corruption and environmental damages from Putin's Winter Olympics. In a recent report, Human Rights Watch called local authorities directly responsible for the overbearing tactics used on activists, environmentalists, and journalists in the Sochi area.

The Krasnodar government denied any instances of harassment of activists when confronted about the allegations. It further stressed that the activities of law enforcement agencies are not under the regional administration's authority... [more](#)

CAMBODIA CONTINUES VIOLENT CRACKDOWN ON GARMENT PROTESTERS

Despite international criticisms of Cambodia's attack on garment protesters during the UPR last month, the Cambodian government continues to violently suppress protesters. On 11 February 2014, government troops physically beat journalists, arrested activists, and fired live ammunition on a peaceful demonstration, killing at least 4 protesters.

'The government is now basically going back to the old days where they ruled by fear', commented the President of the Cambodian Centre for Human Rights, 'but they should remember to treat the people differently, instead of oppressing them and expecting that they are going to take it lying down'. Global unions have announced a worldwide day of action in support of detainees while local unions have threatened another mass walkout... [more](#)

Opportunities for NGO Engagement

In Brief

GENERAL ASSEMBLY THEMATIC DEBATES AND HIGH LEVEL EVENTS

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

NEW DEADLINE FOR SUBMISSION TO 20TH SESSION OF THE UPR

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

COMMITTEE ON THE RIGHTS OF MIGRANT WORKERS

The deadline to [submit information](#) to the Committee on the Rights of Migrant Workers for the meeting taking place from 31 March to 11 April in Geneva is 17 March. The Committee will review the reports of El Salvador, Mali, Philippines, and Uruguay; and will adopt list of issues prior to the presentation of reports for Cape Verde, Guinea, Seychelles, Timor Leste and Turkey.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The Committee on Economic, Social and Cultural Rights will be in session in Geneva from 28 April to 23 May. The deadline to [submit information](#) is 17 March. The Committee will review the reports of the following countries: Armenia, China, China (Hong Kong), China (Macau), Czech Republic, El Salvador, Indonesia, Lithuania, Monaco, Serbia, Ukraine and Uzbekistan.

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.

COMMITTEE ON THE RIGHTS OF MIGRANT WORKERS

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

WORKING GROUP ON DISCRIMINATION AGAINST WOMEN

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

WORKING GROUP ON BUSINESS AND HUMAN RIGHTS

[Submissions](#) to the Working Group on business and human rights, alleging violations of human rights in relation to the Working Group's mandate, are accepted throughout the year. The next session of the Working Group will be held in Geneva from 5 – 9 May.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

NGOs may [submit information](#) to the pre-sessional working group of the Committee on Economic, Social and Cultural Rights to be held in Geneva from 26 – 30 May. The Committee will consider the following State reports during the session: Gambia, Guatemala, Montenegro, Paraguay, Romania, Slovenia, Tajikistan, and Viet Nam.

COMMITTEE ON THE RIGHTS OF CHILD

The Committee on the Rights of Child will meet in Geneva from 26 May to 13 June. The schedule of country examinations will be posted [as soon as it is available](#). The Committee will review the reports of the following countries: India, Indonesia, Jordan, Kyrgyzstan, and Saint Lucia. The list of countries review under the optional protocol to the Convention on the Rights of the Child on the sale of children prostitution and child pornography: India, Jordan and United Kingdom; and the list of countries review under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Cuba and Jordan.

In Depth

COUNCIL ALERT: A PREVIEW OF THE HUMAN RIGHTS COUNCIL'S 25TH SESSION

(Geneva, 19 February 2014) – The UN Human Rights Council's [25th Session](#) will take place from 3 to 28 March. Amongst a full agenda, the Council will have the opportunity to reaffirm its commitment to the promotion and protection of civil society space through a panel on the issue and a renewal of the mandate of the Special Rapporteur on the situation of human rights defenders.

Civil society and human rights defenders

In January Margaret Sekagya published her final [report](#) as Special Rapporteur on the situation of human rights defenders, finding that this population – especially journalists, lawyers, trade unionists and those promoting LGBTI and women's rights – faces 'extraordinary risks'. She highlighted cases of defamation, attacks, detention, torture and killings, whilst documenting an increase in violations against people and communities opposed to mining, construction and development projects.

Norway will lead a resolution calling for the renewal of the Special Rapporteur's mandate. 'We look to the Council to give substantive follow-up to the report, including by renewing a strong mandate and providing political support to the expert analysis and recommendations of the Special Rapporteur', said Michael Ineichen, ISHR's Human Rights Council Advocacy Director. 'In particular, it is crucial that the Council call on States to better protect defenders, such as by enacting laws and policies that enable rather than restrict their work'.

In its previous session the Council passed [resolution 24/21](#) on Civil Society Space, expressing its deep concern at the use and abuse of laws on NGO registration and funding and on national security and counter-terrorism to 'hinder the work and endanger the safety of civil society'. In this session, Ireland will head a panel on the promotion and protection of civil society space with the aim to

analyse restrictive factors and identify strategies that might be taken by all actors to broaden space for activists.

To further enhance the consensus on safe spaces for civil society, Switzerland will head a timely proposal for a resolution on peaceful protests, as the Council reflects upon the [report](#) from December's seminar on this issue in which the High Commissioner expressed regret for recent instances of 'brutal repression', 'restrictive laws' and criminalisation restricting peaceful protests.

To complement these initiatives, on March 11th, ISHR will co-organise a [side event](#) on 'Creating a safe and enabling environment for human rights defenders', bringing together international experts to identify actions and protection strategies for the UN, States, national human rights institutions and civil society.

Other thematic Special Procedures mandates up for renewal

Denmark will seek to maintain the momentum gained at the UN General Assembly, as it tables a resolution to renew the mandate of the Special Rapporteur on **torture** and other cruel, inhuman or degrading treatment or punishment. In November the General Assembly unanimously approved [Resolution 68/156](#), recognising the absolute prohibition against torture in all circumstances whatsoever and the absolute imperative of protecting those who work to prevent it.

Resolutions to renew the mandates of the Special Rapporteur **on freedom of opinion and expression**, the Independent Expert **on minority issues** and the Working Group **on enforced and involuntary disappearance** will also be tabled by the USA, Austria and Argentina respectively.

Sexual orientation and gender identity absent from the agenda

Since South Africa's decision not to present a text on the issue last June, activists have been waiting to see who will come forward to strengthen the Council's commitment to the protection of the LGBT population against violence and discrimination. Already in 2014 the [Nigerian president](#) and the [Ugandan parliament](#) have passed laws criminalising same-sex relations, restricting LGBT rights activism and condoning homophobic attacks. ISHR's Heather Collister said 'The need for Council condemnation of the increasingly harsh laws being passed against LGBT persons is urgent, particularly so as we approach the three-year anniversary of the Council's first adoption of a text on LGBT rights. We look for States to speak out loudly and unequivocally against these violations and to leave no room for doubt as to the abhorrent nature of these laws'.

Country-specific developments

Following last week's publication of the [report](#) by the UN commission of inquiry on human rights in **North Korea** (DPRK), the Council will discuss its findings of systematic abuses. At the Council's last session several states congratulated the commission's innovative methodology, which ensured the collation of extensive evidence in spite of the denial of access to the country by the DPRK authorities. Expectations are that the Council will heed commission chair Michael Kirby's call to take concrete actions, rather than simply extend his mandate. The report – which evidenced torture, execution, arbitrary imprisonment, deliberate starvation and severe restrictions on freedom of opinion and expression – recommends referral of the situation to the international criminal court.

Civil society organisations will follow closely the presentation of the OHCHR's report on **Sri Lanka**, and the accompanying US-led resolution seeking to condemn the war crimes and crimes against

humanity perpetrated in the closing stages of the civil war which ended in 2009. They expect the Council to ensure a full independent international enquiry into those crimes and hope that the resolution speaks to the contemporary human rights issues which have their roots in the conflict, such as systematic discrimination and widespread disappearances in a context of ongoing impunity.

Marie Thérèse Keita Bocoum, the Independent Expert on the **Central African Republic** appointed at the Council's [emergency session](#) in January, will give an oral update on her work so far. In the aftermath of the break up in peace talks between the Syrian government and opposition, the Council will consider the report of the commission of inquiry on the **Syrian Arab Republic**, whilst Sweden will call for a resolution on human rights in **Iran** following an interactive dialogue with the country-specific Special Rapporteur.

Resolutions to be presented to the Council's 25th session (as announced at the organisational meeting on 17 February):

Germany, Finland – the right to adequate housing, including the renewal of the mandate of the Special Rapporteur

Germany, Brazil, Norway, Mexico, Switzerland, Liechtenstein – the right to privacy in the digital age, including a proposal of a panel discussion for the 27th session

Argentina, France, Japan, Morocco – renewal of the mandate of the Working Group on enforced and involuntary disappearances

Poland, Chile, Australia – the role of good governance in the promotion and protection of human rights

Cuba – the right to food; the consequences of foreign debts and of international financial obligations in connection to human rights; the promotion and enjoyment of cultural rights for all and respect for cultural diversity; the promotion of a democratic and equitable international order

USA – renewal of the mandate of the Special Rapporteur on freedom of opinion and expression

USA and cross-regional group – promoting reconciliation and accountability in Sri Lanka

Sweden and core group – human rights in the Islamic Republic of Iran

Russia – legitimacy of judiciary and judicial system

Mexico – the protection of human rights and fundamental freedoms in combatting terrorism

Mexico, New Zealand – the right to education for persons with disabilities

The European Union and the GRULAC group – resolution on the rights of the child and access to justice

The European Union – the sale of children, child prostitution and child pornography

Denmark – renewal of the mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Switzerland – human rights and the environment.

Portugal – economic, social and cultural rights

Austria – renewal of the mandate of the Independent Expert on minority issues

Iran – international cooperation in the field of human rights

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FORTHCOMING COUNTRY VISITS BY SPECIAL PROCEDURES

Papua New Guinea	Special Rapporteur on extrajudicial, summary, or arbitrary executions, 3 March – 14 March
New Zealand	Working Group on arbitrary detention 24 March – 7 April
United Kingdom	Special Rapporteur on violence against women 31 March – 15 April
Azerbaijan	Special Rapporteur on the human rights of internally displaced persons, 18 May – 24 May
Netherlands	Working Group on people of African descent, 30 June - 4 July

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

ISHR 30th Anniversary

WHAT DOES ISHR MEAN TO YOU?

As part of ISHR's 30th anniversary celebrations, we'll be speaking to a different human rights expert each month to find out about their experience with ISHR.

MICHELE BUTEAU

Intern at ISHR in 1993

Now: Leads the protection of minority rights at the Office of the High Commissioner for Human Rights (OHCHR)

What does ISHR mean to you?

ISHR has been extremely important to me in my career. I was an intern with the organisation at the time of former Director Adrien-Claude Zoller and as the international community was building up to the World Conference on Human Rights in Vienna.

With ISHR, I attended that conference, which gave birth to the mandate of the High Commissioner for Human Rights. I'm one of the few people presently at the OHCHR who was at the conference 20 years ago, so when the Office was planning commemorations of the anniversary last year, my insight was sought. If not for ISHR, I would not have gone to the conference.

Working as an intern at ISHR demystified the international human rights system for me, it made it accessible and I was able to experience how the 'human rights machinery' really operates. It gave me a very important perspective into the world of NGO advocacy and showed me the important role civil society plays in the human rights movement. It also developed in me an extremely good political understanding and appreciation of diplomatic maneuvers, which often explain how and why States behave in the way they do.

Adrien Zoller's historical memory and passion for human rights and the human rights movement has stuck with me. I think he was extraordinary. He demonstrated great devotion to human rights and human rights advocacy, and to empowering human rights advocates to do the best they can to promote the protection of human rights.

Conferences and Events

HUMAN RIGHTS COUNCIL SIDE EVENT: CREATING A SAFE AND ENABLING ENVIRONMENT FOR HUMAN RIGHTS DEFENDERS

11 March 2014, 1200 - 1400

Palais des Nations, Geneva - room VIII

Defending human rights is a critical but increasingly dangerous activity in many parts of the world. This panel discussion will shed light on the threats and obstacles encountered by human rights defenders, and identify actions and protection strategies for the UN, States, national human rights institutions and civil society to contribute to a safe and enabling environment for them.

The discussion will draw on the new perspectives offered by two recent publications.

The [latest report of the Special Rapporteur](#) finds that human rights defenders – especially journalists, lawyers, trade unionists, and those who work to promote women's rights and the rights of gay, lesbian, bisexual and transgender persons – face 'extraordinary risks'.

It documents an increased incidence of violations against people and communities opposed to mining, construction and development projects, and the worsening 'use of legislation in a number of countries to restrain the activities of human rights defenders and to criminalise them.'

The report makes a wide range of recommendations to ensure that human rights defenders are protected and can operate in a 'safe and enabling environment'.

The recent [Special Issue of the Journal of Human Rights Practice](#) also explores these issues with a specific focus on the protection of human rights defenders. Human rights defenders and those who works closely with them reflect in the journal on the threats and risks they face, share insights into their experiences, and present perspectives on the effectiveness of existing protection mechanisms and practices.

Panelists:

- **Margaret Sekaggya**, the UN Special Rapporteur on Human Rights Defenders
- **Hassan Shire Sheikh** of the East and Horn of Africa Human Rights Defenders Network
- **Daniel Joloy**, human rights defender from Mexico
- **Sabrina Dallafior**, Minister and Deputy Head, Human Security Division, Swiss Department of Foreign Affairs
- **Danna Ingleton**, Research and Policy Advisor, Amnesty International

The panel will be moderated by the BBC's Geneva Correspondent, **Imogen Foulkes**.

Attend in person, or follow the event through a live [webcast](#) and ISHR's social media. Ask questions or share comments via [Twitter](#) using #HRDs before and during the event. Photos and further details will also be available on [Facebook](#) following the event.

This event is co-organised by the International Service for Human Rights, Amnesty International, the East and Horn of Africa Human Rights Defenders Project, the Centre for Applied Human Rights, University of York and the Human Rights & Social Justice Research Institute, London Metropolitan University.

This event takes place at the Palais des Nations requiring valid accreditation to enter the UNOG compound. If you would like to attend but do not have UN accreditation, please email information@ishr.ch before 12 noon on Thursday 6 March.

FILM SCREENING AND DISCUSSION: 'BANAZ - A LOVE STORY'

10 March 2014, 1530 - 1800

Palais des Nations, Geneva - Cinema room XIV

The permanent missions of Pakistan and Norway are pleased to invite you to a discussion on defending women's rights and screening of the Emmy-award winning documentary “Banaz – a love story”... [more](#)

LUNCHTIME RECEPTION AND BOOK LAUNCH

26 March 2014, 1300 – 1400

Palais des Nations, Geneva - balcony area between Room XX and Room IX

The International Service for Human Rights, Australian Permanent Mission to the United Nations in Geneva, and the Global Initiative for Economic, Social and Cultural Rights invite you to a lunchtime reception and launch of The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials by Ben Saul, David Kinley, and Jaqueline Mowbray (Oxford University Press, 2014)... [more](#)

HUMAN RIGHTS DEFENDER ADVOCACY PROGRAMME

8 – 21 June 2014, Geneva

ISHR's Human Rights Defenders Advocacy Programme equips defenders with the knowledge and skills to make strategic use of the international human rights system. It also provides an opportunity for participants to directly engage in lobbying and advocacy activities at the UN level to effect change on the ground back home. For further information and to apply please visit our [website](#).

New Resources

NEW SERIES OF BRIEFING PAPERS ON SITUATION OF HUMAN RIGHTS DEFENDERS

ISHR is pleased to announce the publication of a new series of briefing papers on the situation of human rights defenders in various national contexts. The briefing papers highlight obstacles to the protection of activists and are designed to assist States in formulating questions and recommendations regarding the protection of human rights defenders during the UPR. The series will be continually updated and is available on [ISHR's website](#). The first series of papers, covering [Ethiopia](#), [Cote d'Ivoire](#) and the [Democratic Republic of Congo](#), are now online.

Case Notes on Decisions from International Human Rights Bodies

ALGERIA REQUIRED TO INVESTIGATE TORTURE OF DECEASED DETAINEE

Bendib v. Algeria (376/2009)

Summary

In November 2013, the Committee Against Torture was asked to consider whether Algeria had violated its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with respect to the alleged torture of an individual who had died in custody.

The communication was submitted by an Algerian national under article 22 of the Convention.

Background

The author of the communication, Djamila Bendib, brought the complaint in the name of her deceased son, Mounir Hammouche.

On 20 December 2006, Mr Hammouche was arrested by armed men in civilian clothing on his way home from evening prayers and taken to a detention facility operated by the Intelligence and Security Department (the *ISD*). Upon release the following day, he was reproached for not praying in a mosque closer to his home as well as for wearing a beard and Islamic clothing.

On 23 December 2006, Mr Hammouche was again arrested at the exit of the same mosque by *ISD* agents and taken, along with other detainees, to the *ISD* base in Constantine. There they were allegedly tortured between 23 December 2006 and 3 January 2007.

On 29 December 2006, *ISD* agents appeared at Mr Hammouche's home and announced to his family that he had died while in detention. A few hours later, Mr Hammouche's body was returned to the family bearing a head injury and bruises on his hands and feet. The agents told the family that an autopsy had been performed and that they believed he had committed suicide.

On 3 January 2007, the other detainees were tried before a court in Ras el Oued. The author learned through their testimony that her son had, like his co-detainees, been brutally tortured by *ISD* agents while in detention in the Constantine base. These testimonies were corroborated by the defendants' legal counsel, who confirmed that his clients had borne visible marks of torture when he met with them on 3 January 2007.

After the trial, Mr Hammouche's brother went to the court in Ras el Oued to request a copy of the autopsy report. The prosecutor refused this request and referred him to the prosecutor in Constantine. The latter showed him an unsigned and undated document purporting to be an autopsy report. The prosecutor refused to provide him with a copy and would not allow him to examine the document in any detail. When the victim's brother then attempted to bring a claim in relation to Mr Hammouche's treatment, the magistrate refused to enter it on the basis that a criminal investigation had already been opened and that the results would be communicated to the family in due course.

On 7 February 2007, the author wrote to the Prosecutor of the Republic and the Prosecutor in Constantine to request a copy of the autopsy report. However, she did not receive a response from either authority. The results of any internal investigations were also not communicated to the victim's family, despite numerous requests.

On 12 January 2009, the author filed this communication with the Committee, alleging that Algeria had violated its obligations under the Convention by failing to: (i) take effective measures to prevent acts of torture; (ii) systematically review its interrogation and detention practices; (iii) investigate allegations promptly and impartially; and (iv) provide victims of torture with adequate redress (under articles 2, 11, 12, 13, and 14 respectively).

The Committee's decision

In considering the admissibility of the complaint, the Committee determined that the issue had not been and was not currently being examined by any other procedure of international investigation or settlement. It noted that procedures or mechanisms outside of the framework of the Convention implemented by the Commission on Human Rights or the Human Rights Council to examine and report on human rights conditions around the world did not constitute a procedure of international investigation or settlement for the purposes of article 22(5)(a) of the Convention. It also found that local remedies had been exhausted in accordance with article 22(5)(b) of the Convention.

On the merits, the Committee recalled the author's factual allegations concerning Mr Hammouche's arrest, the witness testimony of other prisoners concerning his torture while in detention, as well as the existence of physical signs of torture on his body. As Algeria had failed to provide any response to the author's allegations, the Committee concluded that all of these allegations should be accepted as true. Accordingly, it determined that Mr Hammouche's treatment by the Algerian authorities constituted acts of torture under article 1 of the Convention.

The Committee also found Algeria to have violated article 2(1) of the Convention for detaining Mr Hammouche incommunicado, without any contact with his family, his lawyer or a doctor. In this regard, the Committee recalled its previous recommendations to Algeria in which it had expressed concerns regarding Algeria's use of incommunicado detention. The Committee considered that the absence of any judicial control over the interrogation centre had exposed Mr Hammouche to the risk of torture and had deprived him of any possibility of appeal.

With respect to Algeria's obligation to systematically review its interrogation and detention practices under article 11 of the Convention, the Committee reiterated its previous recommendation that Algeria create a national register of detainees and guarantee the right of detainees to have access to a doctor and contact with their family. In view of the lack of information provided by Algeria in this regard, the Committee considered that Algeria had failed to fulfil its obligations under article 11.

Regarding the alleged violations of articles 12 and 13 of the Convention, the Committee observed that Algeria had failed over a period of seven years to initiate any investigation into Mr Hammouche's death while in detention, despite the existence of physical signs of torture and witness testimony attesting that he had been brutally tortured. The Committee considered such a delay in opening investigations into alleged torture to be manifestly abusive and a patent violation of article 12 of the Convention. The Committee emphasised that article 12 required the instigation of impartial investigations whenever there are reasonable grounds to believe that an act of torture had been committed. In failing to do so, Algeria had also violated the article 13 requirement to afford any individual who alleges that they have been subjected to torture the right to complain to the competent authority and to have their case promptly and impartially examined.

The Committee likewise found Algeria in breach of article 14 of the Convention for failing to ensure that Mr Hammouche's family had an opportunity to obtain effective redress. It considered that such

redress must cover all of the harm suffered by the victim, and should include full compensation and measures sufficient to guarantee that the violations would not be repeated.

In the light of the above, the Committee concluded that Algeria was under an obligation to: (i) conduct a proper, impartial and independent investigation into Mr Hammouche's torture; (ii) provide the author with copies of the autopsy report and the record of the preliminary investigation; and (iii) provide the author with full and effective compensation.

Algeria must now submit its written response within three months of the Committee's decision, including information on the action taken in light of the Committee's recommendations.

Kevin Clement is an international lawyer, based in Paris.

ALGERIA REQUIRED TO INVESTIGATE ENFORCED DISAPPEARANCE DURING CIVIL WAR

Mihoubi v. Algeria (1874/2009)

Summary

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

The communication was submitted by an Algerian national, Rabiha Mihoubi, under the Optional Protocol to the Covenant, on behalf of both herself and her son, Nour-Eddine Mihoubi.

Background

On 27 January 1993, Mr Mihoubi was arrested by police officers at his brother's home in Bou Saâda. The police denied having any knowledge of Mr Mihoubi's arrest, but his family were able to piece together some information regarding his fate from other sources. According to this information, Mr Mihoubi was held for 11 days at the police station in Bou Saâda before being transferred to another police station in Algiers. He was then detained incommunicado at the Chateaufort detention centre for 18 months, where he was tortured and his health deteriorated significantly.

Despite lodging a complaint with the public prosecutor and making numerous requests to the Algerian authorities, Mr Mihoubi's family were unable to ascertain his subsequent whereabouts. They also referred the matter to the National Observatory for Human Rights (NOHR), and the National Consultative Commission for the Promotion and Protection of Human Rights (which replaced the NOHR in 2001), but to no avail. In July 1996, the deputy prosecutor of Bou Saâda confirmed that the local police had arrested Mr Mihoubi. However, he failed to provide any information regarding the reasons for Mr Mihoubi's arrest or what had happened to him following his transfer to Algiers.

In March 2006, the Mihoubi family applied for a declaration of death, which was issued by the Algerian police in April 2007. Pursuant to legislation implementing the Charter for Peace and National Reconciliation (Charter), it is necessary to obtain such a declaration in order to receive compensation for a relative's disappearance.

On 4 March 2009, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that Algeria had violated its obligation to provide her

son with an effective remedy under article 2(3) of the Covenant, with respect to his rights to: (i) life; (ii) freedom from torture and cruel or degrading treatment; (iii) liberty and security of the person; (iv) humanity and respect for the inherent dignity of the human person; and (v) recognition as a person before the law (under articles 6(1), 7, 9, 10(1) and 16 of the Covenant respectively). The author also claimed a violation of her own rights under article 2(3) with respect to article 7 of the Covenant.

The Committee's decision

Regarding admissibility, the Committee found that the prior examination of Mr Mihoubi's case by the Working Group on Enforced or Involuntary Disappearances did not make the author's claims inadmissible as it did not constitute another procedure of international investigation and settlement for the purposes of article 5(2)(a) of the Optional Protocol. The Committee also rejected Algeria's argument that the author had not exhausted domestic remedies. The Committee noted that, even if the author had not launched criminal proceedings, she and her family had made numerous requests to the Algerian authorities and had lodged a complaint with the public prosecutor. The author was also entitled to doubt the effectiveness of bringing criminal proceedings, since the Charter prohibited any legal action in the Algerian courts for crimes committed during the Civil War.

On the merits, the Committee considered that Algeria was not entitled to rely on the general context of the Civil War and the fight against terrorism to avoid the obligations it owed to each individual. The Committee also recalled its previous finding that the order implementing the Charter was contrary to the Covenant as it promoted impunity. With respect to each claim, the Committee noted that Algeria had not adduced any information to contradict the facts provided by the author. The Committee therefore examined Algeria's liability under the Covenant on the basis of such facts.

The Committee observed that incommunicado detention puts life at serious risk because the detainee is at the mercy of persons of authority free from any form of control. It also recalled its General Comment No. 20 recommending that State parties prohibit incommunicado detention. The Committee noted Mr Mihoubi's physical torture as well as the anguish and distress caused to the author by his disappearance. The Committee also found that the Algerian authorities had failed to explain Mr Mihoubi's fate adequately to his family, despite having expressly recognised his arrest and detention.

The Committee 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 article 2(3) of the Covenant. In particular, the Committee condemned the legislative provision which requires families to seek a declaration of death in order to receive compensation for the disappearance of their relatives. In a separate opinion, two members of the Committee took the view that this requirement also constituted cruel and inhuman treatment in violation of article 7.

In light of the above, the Committee found Algeria to have breached article 2(3) of the Covenant, read alone and in conjunction with articles 6(1), 7, 9, 10(1) and 16, with regard to Mr Mihoubi. The Committee also considered that Algeria had violated article 2(3) with regard to the author's rights under article 7 of the Covenant.

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

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

The Committee also held that Algeria must prevent similar violations in the future and uphold the right to an effective remedy for crimes such as torture and enforced disappearance.

In their separate opinion, two members of the Committee considered that Algeria had also breached article 2(2) of the Covenant by failing to adopt such laws as may be necessary to give effect to Covenant rights. In their view, the Committee should have specifically recommended that Algeria bring its legislation into conformity with the Covenant.

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.

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KAZAKHSTAN REQUIRED TO INVESTIGATE TORTURE OF ACCUSED

Evloev v. Kazhakstan (441/2010)

Summary

In November 2013, the Committee Against Torture was asked to consider whether Kazakhstan had violated the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with respect to the alleged torture of a person accused of murder.

The communication was submitted by a Kazakh national under article 22 of the Convention.

Background

In October 2008, a mother and her three children were murdered in their home in Astana. The next day, a witness, D.T., was questioned by the Internal Affairs Department of Astana. After being arrested as a suspect on 24 October 2008, D.T. confessed to having committed the murders together with the author of the communication, Oleg Evloev. D.T. subsequently claimed that he gave these statements due to torture and psychological pressure inflicted by police officers. On 2 November 2008, D.T. retracted his confession.

On 29 October 2008, the author was arrested in the Chechen Republic after an international arrest warrant had been issued against him on the basis of D.T.'s confession. Both during his extradition and upon arrival in Kazakhstan, the author alleges that he was subjected to various forms of physical violence as well as threats of sexual violence. On 9 December 2008, a forensic medical expert examined the author and confirmed the existence of several injuries that were consistent with his allegations of ill-treatment. On 10 December 2009, the author gave two written confessions.

Despite having been shown the injuries on the author's body, the supervising prosecutor did not take any measures to investigate the author's allegations of torture. Following the prosecutor's inspection of the author's injuries, the police officers detaining the author allegedly altered their methods of torture to reduce the appearance of physical injury. The author alleges that his ill-treatment by these officers lasted until 17 February 2009, when he was transferred to another facility.

The author's ill-treatment was brought to the attention of the Prosecutor's Office and the courts on numerous occasions by the author, his parents and his lawyer. These complaints were, however, not examined during his trial and appeal and were never investigated by the relevant authorities.

In June 2009, the author was declared guilty of the four murders and sentenced to life imprisonment. In the course of his trial, the author was also only allowed restricted access to his defence lawyer and his family. In November 2009, the author lost his appeal to the Supreme Court.

On 20 December 2010, the author submitted this communication to the Committee claiming that Kazakhstan had failed to meet its obligations under the Convention to: (i) take effective measures to prevent acts of torture; (ii) investigate allegations promptly and impartially; (iii) provide victims of torture with adequate redress; and (iv) prohibit the use of evidence obtained through torture (under articles 2, 12, 13, 14 and 15 of the Convention respectively).

The Committee's decision

In considering the complaint's admissibility, the Committee rejected Kazakhstan's argument that the author had failed to exhaust available domestic remedies, noting that this rule did not apply if the application of domestic remedies had been, or would have been, unreasonably prolonged, or would have been unlikely to provide the author with effective relief. The Committee found that the author had made reasonable, albeit unsuccessful, efforts to exhaust the available domestic remedies and therefore declared the complaint to be admissible.

On the merits, the Committee observed that the treatment alleged by the author constituted torture within the meaning of article 1 of the Convention. Given that the author was under investigation at the premises of the Ministry of Internal Affairs in Astana, the Committee considered that Kazakhstan should be presumed liable for any harm caused to the author. In the absence of any credible evidence to the contrary, the Committee found that the investigating officers were responsible for the ill-treatment and injuries sustained by the author. On this basis, the Committee found Kazakhstan to be in breach of its obligation to take effective measures to prevent acts of torture under article 2 of the Convention.

The Committee reiterated that, under article 12 of the Convention, the conduct of an investigation is not in itself sufficient to satisfy a State party's obligations unless such investigation is carried out promptly and impartially. The Committee considered that the preliminary investigation, commenced only six months after the reported acts of torture, neglected to address the author's allegations and the uncontested medical evidence adequately. In addition, the Committee observed that the author had not been informed promptly of the existence of the investigation or of its status. Accordingly, the Committee found Kazakhstan to be in breach of its obligation to investigate allegations promptly and impartially under articles 12 and 13 of the Convention.

The Committee observed that article 14 of the Convention recognised the right to fair and adequate compensation, and that a victim of torture should be provided with redress with respect to all of the harm suffered. The author had not been given the opportunity to file a civil suit for compensation

because the right to compensation would only arise under Kazakh domestic law after the perpetrator's conviction by a criminal court. The Committee concluded that a victim's compensation claim should not depend on the conclusion of a criminal proceeding and that Kazakhstan was therefore also in breach of the author's right to adequate redress under article 14.

The Committee further observed that Kazakhstan was in breach of article 15 as it had failed to ascertain whether statements admitted as evidence in the court had been obtained through torture.

The Committee concluded that Kazakhstan was under an obligation to conduct a proper, impartial and independent investigation with the aim of identifying those responsible for the author's torture, and to provide the author with adequate redress, including compensation and full rehabilitation. Kazakhstan was also under an obligation to prevent similar violations in the future.

Maria Fanou is an international lawyer, based in Paris.

DENMARK'S CONSIDERATION OF ASYLUM CLAIM FOUND ADEQUATE

Sivagnanaratnam v. Denmark (429/2010)

Summary

In November 2013, the Committee Against Torture was asked to decide whether the proposed deportation of an individual by Denmark would violate its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The communication was submitted by a Sri Lankan national under article 22 of the Convention.

Background

The author, Mallikathevi Sivagnanaratnam, is of Tamil ethnicity. Although she had never been a member of the Liberation Tigers of Tamil Eelam (LTTE), she claimed that there were several circumstances that would lead to her being associated with that organisation and that would therefore make her a target for torture by the Sri Lankan authorities. The author had, for example, organised the widely-publicised funeral of her nephew, a LTTE militant that had been killed in the civil war. Her nephew had been proclaimed a 'martyr' by the LTTE and several militants had attended the funeral. The author and her husband had also sheltered LTTE militants at their house.

The author also claimed that she had been arrested and beaten by the police on several occasions. She claimed that she had been detained for three days when she was arrested in 2003, during which time she was beaten until she had lost all of her teeth. The author also alleged that other members of her family had been targeted by the authorities and that her niece had been killed in 2009.

On 11 October 2008, the author arrived in Denmark having obtained a passport through payment of a bribe. On 25 February 2009, the author applied for asylum. On 19 January 2010, the Danish Immigration Service rejected her application, finding her account of events not sufficiently coherent or credible. On 19 May 2010, the author's appeal was rejected and she was ordered to leave Denmark immediately. In August 2010, the author was detained by the Danish police for deportation.

On 18 August 2010, the author submitted this communication to the Committee claiming that her deportation would result in Denmark violating its obligation, under article 3 of the Convention, not to return an individual to another State where there are substantial grounds for believing that they would be in danger of being subjected to torture.

The Committee's decision

In considering the complaint's admissibility, the Committee simply noted that the communication had been adequately substantiated and that the same matter had not been and was not being examined under another procedure of international investigation or settlement for the purposes of article 22(5)(a) of the Convention. Accordingly, the Committee declared the communication to be admissible.

On the merits, the Committee expressed its serious concern regarding the continuing and consistent allegations of the widespread use of torture by both the military and the police in many parts of Sri Lanka since the civil war ended in May 2009. It noted, however, that the focus of its enquiry must be whether the author would be at a foreseeable and real risk of being subjected to torture if returned to Sri Lanka. As to the applicable evidentiary standard, the Committee reiterated its position set out in its General Comment No 1 that the risk of torture must go beyond mere theory or suspicion, but need not meet a threshold of high probability.

The Committee noted that the competent authorities in Denmark had thoroughly evaluated all of the evidence and had found her allegation to lack credibility. The Committee also found that the evidence presented by the author was not sufficient to show that the Danish authorities had not conducted a proper investigation of the author's allegations. The Committee further observed that, even assuming that the author had been subjected to torture in the past, there was no evidence that she would still be at risk of being subjected to torture if returned several years after the alleged events had occurred. In particular, the Committee noted that the author had not presented any evidence that the Sri Lankan authorities had been seeking her arrest or had had any interest in her whereabouts in the recent past.

In light of the above, the Committee concluded that Denmark would not breach its non-refoulement obligations under article 3 of the Convention if it were to deport the author to Sri Lanka.

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