

New York, 5 November 2013

To: Member States candidates to the UN Human Rights Council

Cc: Member States of the UN General Assembly

### **Open Letter to candidates to the Human Rights Council**

Excellency,

We are a diverse group of nongovernmental organisations from all parts of the world who have contributed to the Human Rights Council (the Council) and its work since its establishment. We write to you regarding your candidacy for membership of the Council.

In establishing the Council in 2006, the General Assembly provided that Council members "shall uphold the highest standards in the promotion and protection of human rights" and "fully cooperate with the Council" (GA Resolution 60/251).

We are concerned about the clear failure of some candidates to fully comply with these criteria. Failure by Council members to take effective measures to address violations of human rights for which they are responsible, particularly of a gross or systematic nature, or to fully cooperate with the Council and its mechanisms undermines the ability of the Council to promote and protect human rights and to demand full state cooperation with its mechanisms. While this letter focuses on three important requirements that help measure candidate's suitability as a Human Rights Council member, a more detailed assessment of each candidate's record in the promotion and protection of human rights and cooperation with the Human Rights Council must be made on a case-by-case basis by members of the General Assembly before they cast their votes. This should also include consideration of the level of ratification of core international human rights treaties.

We are also concerned at the failure of some candidates to respect and support the important role played by civil society, non-governmental organisations and human rights defenders in the promotion and protection of human rights at the national and international levels, including in the Council (Article 38 of the Vienna Declaration and Programme of Action, GA Resolution 60/251 and the Human Rights Council's Institution Building Package).

We expand on each of these areas of concern below.

#### **Cooperation with Special Procedures**

As a candidate, it is incumbent on South Africa to set an example by cooperating fully with the Council's human rights mechanisms, in particular by:

1. Issuing and honouring an *effective* standing invitation to the Special Procedures. This requires responding promptly to all requests for visits by providing one or more sets of specific possible dates within two months, and facilitating such visits in accordance with the Terms of Reference on Fact-finding Missions by Special Procedures.
2. Acting responsibly and respectfully in relations with Special Procedures and refraining from all attempts, by word or action, to interfere with the independence of mandate holders or to otherwise undermine their work;

3. Regularly providing information to the Special Procedures and to the Human Rights Council on how the recommendations arising from country visits have been implemented, and any obstacles to implementation;
4. Responding promptly and substantively to urgent appeals and to letters of allegations by Special Procedures, taking into account the urgency of the communication; and
5. Supporting the creation of a mechanism to review and assess, on an annual basis, the degree of cooperation with the Council and the Special Procedures, both in relation to Council members and candidates for Council membership.

### **Reprisals and intimidation**

We are also gravely concerned about acts of intimidation and reprisals against individuals and groups who seek to cooperate, have cooperated, or cooperate with the UN human rights system, including the Council, as well as against relatives of victims of human rights violations or those who have provided legal or other assistance to victims. Such intimidation or reprisals may take the form of smear campaigns, harassment, intimidation, prosecutions, direct threats, physical attacks and killings.

As the Council depends heavily on the free and safe cooperation of human rights defenders for its effective functioning, it has a concomitant duty to prevent and immediately respond to threats and reprisals against those who cooperate with it. The Council took a significant step at its 24<sup>th</sup> session to safeguard the vital collaboration between human rights defenders and the UN rights mechanisms through the call for the creation of a senior focal point to work to prevent, protect against and seek accountability for reprisals and intimidation against persons who cooperate with the United Nations ([HRC/RES/24/24](#)). While we welcome this development, ending reprisals and intimidation requires continued action and responses by all stakeholders. In particular, each candidate should:

1. Cooperate fully with the focal point once established;
2. Take positive steps to facilitate safe and unimpeded access to the UN human rights mechanisms by all individuals and groups, and in particular human rights defenders;
3. Take all necessary measures to prevent intimidation and reprisals against human rights defenders and take appropriate action to provide remedies for all acts of intimidation and reprisals;
4. Inform the Council through its President and on an ongoing basis of steps taken to protect individuals mentioned in the Secretary-General's report on reprisals and to provide remedies, reparations and guarantees of non-recurrence;
5. Support recent initiatives by the President of the Council calling on States to immediately put an end to intimidation and harassment of individuals and groups cooperating or seeking to cooperate with the UN human rights mechanisms;
6. Commit to and call for enhanced monitoring and action by the Council. Consider the development of an online and regularly updated registry of allegations of intimidation and reprisals, as proposed by several of the panellists during the Council's panel on reprisals;
7. Maintain pressure on States that commit or tolerate reprisals, including by using bilateral and multilateral dialogue to raise cases of intimidation or reprisals as documented in the Secretary-General's report and discussing follow-up;
8. Prioritise protection for all human rights defenders including those who cooperate with the UN, through missions in Geneva and embassies around the world. This should be done in

close coordination with all stakeholders involved in protecting human rights defenders, including the UN, regional and national actors;

9. Consider establishing focal points at the national level to address acts of intimidation and reprisals;
10. Review and where necessary change legislation, policies and practices that have the effect of undermining unhindered access to and communication with international human rights bodies and mechanisms and avoid adopting any such new legislation; and
11. Prevent the occurrence of intimidation or reprisals, including, where necessary, by developing and implementing specific legislation and policies and by issuing appropriate guidance to national authorities.

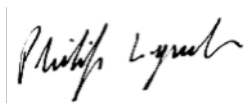
### **Respect for effective civil society participation**

Human rights defenders and independent civil society play a critical role in promoting human rights, development and the rule of law ([HRC/RES/24/21](#)) and related accountability measures. Free and vibrant civil society participation at all levels is therefore essential, including at the local, national, regional and international levels. This implies that each candidate should:

1. Ensure that domestic legal and administrative provisions and their application facilitate, promote and protect an independent, diverse and pluralistic civil society; and
2. Support the full and effective participation of civil society in the work of the United Nations and the Human Rights Council in particular, including by guaranteeing right of everyone, individually and in association with others, to unhindered access to and communication with the United Nations, its representatives and mechanisms.

Your Excellency, we urge you to consider the above mentioned elements in the pursuit of South Africa's candidacy for membership on the Human Rights Council and would very much welcome your response to these recommendations at your earliest convenience.

Yours sincerely,



Philip Lynch

Director – International Service for Human Rights

### **On behalf of**

1. Action Canada for Population and Development
2. Amman Center for Human Rights Studies
3. Amnesty International
4. ARC International
5. Asian Forum for Human Rights and Development (FORUM-ASIA)
6. Cairo Institute for Human Rights Studies (CIHRS)
7. Canadian HIV/AIDS Legal Network
8. Center for Reproductive Rights
9. CIVICUS: World Alliance for Citizen Participation
10. Commonwealth Human Rights Initiative

11. East and Horn of Africa Human Rights Defenders Project
12. Egyptian Initiative for Personal Rights (EIPR)
13. Fondazione Marista per la Solidarieta Internazionale ONLUS
14. Franciscans International
15. Front Line Defenders
16. GAYa NUSANTARA
17. Global Initiative for Economic, Social and Cultural Rights
18. Human Rights House Foundation (HRHF)
19. Human Rights Watch
20. International Association for Catholic Education
21. International Catholic Child Bureau
22. International Commission of Jurists
23. International Federation for Human Rights (FIDH)
24. International Federation of University Women (IFUW)
25. International Lesbian and Gay Association
26. International Movement Against All Forms of Discrimination and Racism (IMADR)
27. International Service for Human Rights
28. KIFKIF LGBT GROUP
29. Lutheran World Federation
30. Matrix Support Group
31. Network of Chinese Human Rights Defenders
32. Pax Christi International
33. Public Information and Need of Knowledge NGO
34. Public Union of Democracy and Human Rights Resource Centre
35. Rainbow-Ethiopia HIV and Media Initiative (REHMI)
36. Red Nacional de Promoción de la Mujer, RNPM-Perú
37. Russian Research Center for Human Rights
38. Vietnam Committee on Human Rights
39. World Federation of United Nations Associations
40. World Organisation Against Torture (OMCT)