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## Martin Ennals Award

### MARTIN ENNALS AWARD HONOURS HUMAN RIGHTS DEFENDER FROM UNITED ARAB EMIRATES

(6 October 2015) – A leading human rights activist and blogger from the United Arab Emirates, jailed and subject to death threats for his work to promote and protect human rights in the country and region, has been honoured with the prestigious Martin Ennals Award for Human Rights Defenders at a ceremony in Geneva.

Ahmed Mansoor was unable to attend the ceremony following the confiscation of his passport and the imposition of a travel ban in retaliation for his work, which includes monitoring and advocating in relation to arbitrary detention, torture, lack of fair trial rights, and violations of migrant workers' rights in the UAE.

The Martin Ennals Award is conferred annually by ten of the world's leading international human rights organisations to highlight the work of courageous human rights defenders and provide protective publicity to defenders at risk.

### **Situation worsening for human rights defenders in many Gulf States**

Speaking at the Award ceremony in Geneva, ISHR Director and Martin Ennals Award Jury member Phil Lynch said, 'Ahmed Mansoor is a vital and independent source of information regarding the human rights situation in the UAE. Regrettably, however, and like so many other human rights defenders in the region, his critical work to document, expose and seek accountability for human rights violations has come at great personal cost.'

Over the last decade, Ahmed Mansoor has faced repeated intimidation, harassment, and death threats from the UAE authorities or their supporters, including arrest and imprisonment in 2011 following an unfair trial. He and four other activists who called for democratic rights in the UAE were jailed in 2011 on the charge of 'insulting officials'. Although pardoned and released later that year, Ahmed Mansoor has been banned from travel and had his passport confiscated, rendering him unable to travel to Geneva.

Speaking via Skype with ISHR in advance of the ceremony, Mr Mansoor said, 'I am very disappointed not to be able to travel to Geneva, although this restriction is representative of the restrictions faced by so many human rights defenders in my country and region.'

'Preventing Ahmed Mansoor from travelling to Geneva to attend the Martin Ennals Award ceremony is a violation both of Ahmed's rights to freedom of movement and association and the UAE's obligations as a member of the UN Human Rights Council to respect and protect the work of human rights defenders,' Mr Lynch said.

According to Mr Lynch, the situation confronting Mr Mansoor is emblematic of the increasingly restrictive environment within which many human rights defenders operate in the region. 'Regrettably, the trend in many Gulf States is towards worsening restrictions on the fundamental rights to freedom of expression, association and assembly, with bloggers and activists frequently imprisoned for exercising these rights and anti-terror and national security laws increasingly used to criminalise their work'.

Mr Mansoor reflected this view, saying 'I hope that the Award makes clear that there is more to the UAE than tall buildings, shopping malls and sandy beaches. I hope that this Award shines a spotlight on serious human rights violations in the country, including torture, extended solitary confinement, and the systematic harassment of human rights defenders and their families. I hope it also sends a message that human rights defenders should not be viewed as enemies of the state, but essential partners in sustainable development'.

### **Martin Ennals Prizes also honour human rights lawyer from Burma and voice of victims' rights in Guinea**

The ceremony also honoured Robert Sann Aung, a pro bono human rights lawyer from Burma, and Asmaou Diallo, a victims' rights campaigner from Guinea, both of whom were conferred with Martin Ennals Prizes.

'The provision of free or low cost legal advice and representation to the poor contributes significantly to them being able to understand, exercise and vindicate their human rights,' said ISHR Director Phil Lynch in reference to the work of Robert Sann Aung.

'Robert Sann Aung's work to defend the rights of peaceful protesters, promote corporate accountability for human rights violations, and protect communities from unjust land acquisitions, despite having been imprisoned, tortured and disbarred in connection with this work, is inspiring,' Mr Lynch said.

Accepting the Prize, Mr Sann Aung said, 'I feel humble and extremely honored to receive this prestigious prize. This prize conveys the message to activists and human rights defenders who fight for equality, justice and democracy in Myanmar that their efforts are not forgotten by the world'.

Former ISHR-trainee Asmaou Diallo was honoured for her work to seek accountability for the perpetrators, and justice for the victims, of an attack on peaceful protesters in Guinea on 28 September 2009. The attack resulted in the death of over 150 people, including Ms Diallo's son. Ms Diallo has established *l'Association des Parents et Amis des Victimes du 28 septembre 2009* to advocate for accountability for the massacre and to provide holistic services and support, such as trauma counselling and legal representation, to the victims and their families.

'This Prize honours Asmaou Diallo's commitment to seeking justice rather than revenge, not just in relation to her son but in relation to the massacre of over 150 people and the rape of over 100 women,' Mr Lynch said. Accepting the Prize, Ms Diallo said, 'This Prize encourages me to continue my fight for the protection and promotion of human rights in Guinea. I trust that this recognition will have a positive effect on the legal cases concerning the events of 28 September 2009, and will be a lever for all defenders of human rights in Guinea.'

### **Governments must recognise and respect legitimate work of human rights defenders**

'Around the world – from Burma, to Guinea, to the UAE – human rights defenders face threats, attacks and reprisals for their work. The work of these defenders is crucial to foster democracy, promote accountability and uphold the rule of law. ISHR calls on all governments to recognise, respect and protect human rights defenders and to provide a supportive and enabling environment for their important work,' Mr Lynch said.

The Martin Ennals Award is conferred annually to highlight the work of human rights defenders and provide protective publicity to defenders at risk. The Martin Ennals Jury comprises representatives ten of the world's leading international human rights organisations:

- Amnesty International
- EWDE Germany
- Front Line Defenders
- Human Rights First
- Human Rights Watch
- HURIDOCS
- International Commission of Jurists
- International Federation for Human Rights (FIDH)
- International Service for Human Rights
- World Organisation Against Torture (OMCT)

Further background and videos available at: <http://bit.ly/1DYqIFn>

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## Opinion

### **BRIDGING THE GAP: NHRIS IN THE HUMAN RIGHTS COUNCIL**

*By Joachim Rucker, President of the Human Rights Council*

(7 October 2015) – *The Human Rights Council (HRC) must continue to forge stronger partnerships with national human rights institutions (NHRIs) as they have a crucial role in raising international awareness about human rights violations, holding States accountable for their commitments and for effectively implementing international human rights standards, says Mr Joachim Rucker, President of the Human Rights Council.*

Since the adoption of the Universal Declaration of Human Rights over 60 years ago, we have witnessed significant advancements in the promotion and protection of human rights at the national, regional and international levels. This global shift generated a call for the creation of institutions to help States implement their commitments and aspirations in the area of human rights. One result that evolved was a new and unique type of institution: national institutions for the promotion and protection of human rights, or in short, NHRIs.

As President of the Human Rights Council, I attach great importance to and recognize the crucial role of national human rights institutions that comply with the Paris Principles in promoting and monitoring the effective implementation of international human rights standards at the national level, a role which is increasingly recognized by the international community.

For the Human Rights Council, national human rights institutions play a unique role and their engagement is of great relevance to the Council's work. Already in 1946, the -at the time- still nascent Commission on Human Rights had placed the support for national institutions as one of its priorities and recognized them as key actors. Throughout its time, NHRIs worked in close cooperation with the Commission based on the practices and arrangements, which were subsequently inherited and bolstered by the Human Rights Council.

#### **NHRI participation: an international legal requirement**

The Human Rights Council as well as the General Assembly have reaffirmed this important role played by NHRIs in numerous resolutions, all adopted by consensus with broad co-sponsorship by States from all regions. Among them, General Assembly resolution 48/134, adopted in 1993, plays a pivotal role by stipulating the diverse criteria and requirements for the establishment and functioning of NHRIs. More specifically, it lays out the principles relating to the Status of National Institutions – the so-called Paris Principles. Furthermore, reports of the Secretary-General to the General Assembly and to the Human Rights Council have highlighted the relevance and importance of NHRIs to the work of the HRC and the human rights pillar as a whole.

More importantly, however, the Council's close cooperation with A-status NHRIs is enshrined in our very foundation: GA resolution 60/251 and HRC resolution 5/1. National institutions who adhere to the standards of independence, pluralism, accountability and impartiality and who fulfil the criteria set forth in the Paris Principles are granted participation rights in the Council, in particular with Special Procedures and in the Universal Periodic Review, as well as – going beyond the Council - with the Human Rights Treaty Bodies. This allows NHRIs who are found by the International Coordinating Committee of National Institutions for the promotion and protection of human rights (ICC) to be fully compliant with the Paris Principles ('A' status NHRIs) to directly interact with UN-system at the international level in the sphere of human rights.

## **NHRIs' specific contribution to human rights protection**

Why are NHRIs so precious to the Human Rights Council? Overall, for the Council both State and non-State actors have an important role to play in the promotion and protection of human rights. But National Human Rights Institutions fall -strictly speaking- in neither of these two categories. They are unique in that they cut across the traditional distinction between State and civil society. They effectively bridge the gap between the national and international level, between governments, the UN system, civil society and people and engage thereby the broad range of national-level actors, such as parliaments, civil society and special interest groups, business and the judiciary. They combine a broad State mandate with independence and autonomy. And they come in all shapes and sizes – Human Rights Commissions, Ombudsmen, Defensores del Pueblo, Procurators for human rights, National Advisory Commissions on human rights, and so on. But no matter in which form, NHRIs assist and advise States on the implementation of international human rights norms and UN recommendations. For example, they often play an important role in supporting States efforts to develop national action plans.

They also can play a role in advancing all aspects of the rule of law, including with regard to the judiciary, law enforcement agencies and the correctional system. And in the context of the Human Rights Council, they help to fulfil the imperative that discussions taking place in Room XX are translated into effective actions and have a meaningful impact on the lives of people. And this is what makes them one of the most powerful allies the Council has in order to deliver results in the improvement of human rights on the ground.

Furthermore, the distinctiveness of A-status NHRIs is also clearly evident in the Universal Periodic Review process, to which they are important stakeholders. Their unique position as local independent entities allows them to provide us with the “reality on the ground”. They can offer detailed knowledge on the local implementation of our stated commitments, indicate where human rights challenges lie and offer advice on how to implement recommendations received through the UPR mechanism.

## **NHRIs in the UPR process**

Moreover, in recent years, further progress has been made to enhance the participation of NHRIs in the context of the UPR. With the broadening of their contribution opportunities, as per the outcome of the review of the Council in 2011 and through resolution 16/21, NHRIs are now involved in all UPR stages. This includes participating in State consultations prior to the preparation of the State report, evaluating the human rights performance of their State, offering independent and authoritative evidence on national situations, making specific recommendations on future actions, all the way to supporting the follow-up to recommendations and providing advice to the State on implementation of recommendations. For example, during my country's UPR in 2013, the German National Human Rights Institution submitted a comprehensive report to the UPR procedure and contributed more than 30 recommendations to Germany.

Subsequent to the UPR process, the institution has engaged actively in the implementation of the recommendations made. Following implementation efforts, many NHRIs are now preparing for the mid-term reporting process in January 2016 to present the progress made domestically. Such examples serve to highlight why it is essential to support NHRIs in compliance with the Paris Principles in order to strengthen human rights on the national level. In addition, national institutions are of great importance during the adoption of the UPR Working Group report. A-status NHRIs are allowed to intervene immediately following remarks made by the State under review. To further underline their privileged role and to allow them to inform the Council's deliberations, their contributions to the UPR report are recorded under a separate section.

## **NHRIs and Special Procedures**

Beyond the UPR, the close interaction between NHRIs and the Council is also exemplified by their contributions to Special Procedures. For example, national institutions help monitor and encourage the local implementation of the recommendations of Special Rapporteurs on thematic issues. In addition, their participation in the HRC's many mechanisms and bodies, including inter alia in the Expert Mechanism on the Rights of Indigenous Peoples, the Council's Advisory Committee and the Forum for Business and Human Rights, has continuously helped to enrich the dialogue among States and other stakeholders.

Through their work, they have also contributed to the development of international norms and standards such as the guiding principles on business and human rights, or the draft basic principles and guidelines on remedies and procedures on the right of anyone deprived of his or her liberty. And with the many different options for participation offered, formally and informally, including -since 2011- the possibility to participate through video message, we have seen a steady rise in engagement of NHRIs with our Council, its procedures and mechanisms. In fact, in the midst of increasingly complex cross-regional economic, social and political crises, NHRIs have become more relevant than ever in promoting a global public debate on human rights among different actors and in advancing all aspects of the rule of law.

## **More NHRI participation needed at the Human Rights Council and the UN**

They also have a crucial role in raising international awareness about human rights violations, holding States accountable for their commitments and for effectively implementing international human rights standards. Overall, by sharing their national experiences, NHRIs help develop dynamic and interconnected civil society organizations, as well as alert and responsive media. Finally, NHRIs can bring human rights aspects into the discussions of other agendas, such as—for example- on sustainable development or transnational governance. I believe, the international community increasingly acknowledges this role.

With a view ahead, the HRC must continue to forge stronger partnerships with national institutions as vital components of the global human rights architecture. Establishing Paris Principles-compliant national human rights institutions and further encouraging their positive contributions to the Human Rights Council is in the best interest of all States. Because, from interventions under agenda items in the Council, to participation in plenary debates and interactive dialogues, NHRIs can make contributions that can have a significant impact on the people whose interests we aim to defend; namely the victims of violations and abuses of their inalienable human rights all around the world.

## **TACKLING VIOLENCE AGAINST LGBTI PEOPLE AND DEFEND**

*The recent strong stand taken by UN agencies for LGBTI people should be matched with renewed efforts by States to tackle the violence they suffer, writes Anna Brown.*

(6 October 2015) – Recently I learned that a friend of mine, a transgender activist in Malaysia, had been attacked with an iron rod by two men while she was on her way to work. Nisha sustained serious physical injuries and now lives with psychological scars that run much deeper. The attack was a crime of intimidation against a well known and fearless advocate for the rights of transgender women, preventing her from traveling to Geneva to advocate at the UN Human Rights Council as planned. Nisha Ayub lives in a country where cross-dressing is unlawful and where discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) people is pervasive. Her very existence is a threat to those who wield political power and her advocacy and support for trans women and sex workers challenges conservative social views.



Sadly, the vicious attack against Nisha is but one example of the vulnerability of LGBTI people to violence and abuse - particularly those who dare to speak out for the marginalized. All people have an equal right to live free from violence, persecution, discrimination and stigma. Yet, there continue to be [disturbing trends](#) of systematic, ongoing and widespread violence and discrimination against LGBTI people throughout the world and against those who advocate for their rights - including murder, assault, kidnapping, rape, sexual violence, torture and ill-treatment.

This trend is confirmed by the [report of the UN Special Rapporteur on the situation of human rights defenders](#) (UN Doc A/70/217), to be presented to the UN General Assembly in October, in which he concludes that LGBTI defenders are among those most exposed and at risk of all defenders. Because of their work and because of their identities and characteristics, LGBTI human rights defenders are exposed to heightened levels of violence, stigmatisation, discrimination, attacks and other human rights violations. It is critical for states to ensure effective protection and real accountability for attacks against LGBTI persons and defenders, such as Nisha and their associations.

Last week a [joint statement](#) to the UN Human Rights Council by international and national NGOs urging such action by States coincided with an unprecedented [joint initiative by 12 UN agencies](#) calling on governments around the world to take action to end violence and discrimination against LGBTI people. The statement from UN agencies represents a landmark collaboration and expression of commitment across the institutional diversity of the United Nations. The joint initiative by the UN agencies is a powerful call for States to take action to fulfill their duty to protect LGBTI persons, and those advocating for them.

States have a duty to promote and protect all human rights and fundamental freedoms. States should repeal restrictive laws which are incompatible with international human rights standards, including anti-cross-dressing legislation in Malaysia and legislation criminalising homosexuality in Uganda, and enact legislation to promote and protect equal rights for LGBTI persons and organisations and to ensure respect for their rights to freedom of expression, association and assembly.

Governments must also take steps to curb violence and protect individuals from discrimination. This should include measures to improve the investigation and reporting of hate crimes, torture and ill-treatment, to prohibit discrimination, and to review and repeal all laws used to arrest, punish or discriminate against people on the basis of their sexual orientation, gender identity or gender expression, just to name a few. All too frequently, authorities fail to properly investigate crimes such as those against Nisha, even if victims have the confidence to make a complaint. As the statement by the UN agencies makes clear, this leads to widespread impunity and lack of justice, remedies and support for victims.

However, we can take heart from the positive progress in many parts of the world. In Australia there has been legislation introduced to a number of states to erase or 'expunge' historic convictions for consensual homosexual conduct. Recently in Ireland reforms have ensured that transgender people have access to birth certificates on the basis of their own declaration rather than requiring stigmatising and invasive medical procedures. Improved responses to LGBTI hate crime, including training of law enforcement officials and specific specialist taskforces or prosecuting teams dedicated to tackling bias-motivated violence have been introduced in countries such as in Spain, Honduras and South Africa.

And last month also saw a first ever gathering of experts and intersex activists to identify steps that States and others can take to end abuses against intersex people, such as forced sterilisation and other unnecessary and irreversible surgery. These abuses occur, in the words of UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein in his opening address to the 30th session of the Human Rights Council, simply because 'their bodies don't comply with typical definitions of male or female'. The increased attention to and awareness of intersex rights at an international level will

hopefully spur greater action by States, such as the steps taken by Malta to regulate surgeries and medical treatment on intersex infants and children.

It is deplorable that, 22 years on from the adoption of the Vienna Declaration affirming the universality of human rights, people continue to suffer systemic discrimination, violence and persecution simply as a result of their sexual orientation, gender identity or intersex status, or because of their work to stand up and speak out for equal rights. Building on the words of former High Commissioner for Human Rights and ISHR Board member, Navi Pillay, in a vision statement at Vienna+20 ‘a huge amount of work remains to be done at the international level to transform human rights from abstract promises to genuine improvement in the daily lives of all people, especially those who are currently marginalized or excluded’. The lives of LGBTI defenders, those most exposed and at risk, need to be protected.

Following her attack, Nisha said that her work as an advocate will never stop until her last breath. We must continue to work so that LGBTI defenders around the world, those most exposed and at risk, can continue their life's work without fear from harm and reprisals.

*Anna Brown is Director of Advocacy with the [Human Rights Law Centre](#), a former ISHR trainee and Co-Convenor of the [Victorian Gay and Lesbian Rights Lobby](#). Follow her on Twitter at [@AnnaHRLC](#).*

## Human Rights Defender Profile

### IDUVINA HERNANDEZ: HUMAN RIGHTS DEFENDER FROM GUATEMALA

(7 October 2015) – Iduvina Hernandez founded the Association for the Study and Promotion of Security in Democracy (SEDEM), together with US citizen Rachel Garst in 2000. As journalists, Iduvina and Rachel had studied the behaviour of armed forces and intelligence services which were linked to numerous human rights abuses. The organisation initially questioned the meaning of ‘oversight’ and ‘accountability’ of security services for the public as Guatemala was having raging debate about security forces and intelligence sources. In order to expand this discussion, the organisation started building citizen networks in the provinces providing them with training so as to enable them to conduct independent oversight of State security forces actions in their region.

Guatemala public security is handled by the military and dominated by a national security doctrine. Extra-judicial killings and enforced disappearances have been documented in a country still haunted by genocide. Civil society organisations have suggested that the militarisation of public security makes human rights abuses more probable, a fact that Iduvina’s organisation aims to change.

*‘In a true democracy the military has nothing to do with citizen security.’*

Iduvina believes human rights work is in her DNA since she grew up in a family where solidarity was a critical value. She remembers seeing people hidden in her home when she was a child, her father explaining that these people’s lives were in danger. At that point, Iduvina already felt like part of the framework working to protect them.

*‘We can always do something for anyone, in any place, in any way.’*

From an early age Iduvina was part of the student movement, working for student rights and then became a student leader for the University Students Association from 1976 to 1981. She lost many friends along the way due to disappearances or killings. She was even forced into exile but returned to the country as soon as she got the opportunity.



## Challenges and threats to human rights defenders

One of Iduvina's major challenges is linked to personal issues. As director of her own organisation she works on a volunteer basis and is therefore forced to have several jobs in order to sustain herself.

As for security conditions in Guatemala they expose human rights defenders to serious risks throughout their work. This usually includes being targeted by various Government actors and former members of the military often linked to the Government. Iduvina highlights that though the social movement recently overthrew the former president, disappointingly there has not been any significant change in the political sphere.

*'The new person in charge is a fascist and very old. His policies, as well as his security policies, will be the same. We are afraid because we have a Government that does not respect human rights and certainly does not defend human rights.'*

Iduvina states that the dangers that human rights defenders face in Guatemala stem from: Government action; Government policies; Government tolerance towards perpetrators; perpetrators' actions; corruption; the composition of the judicial sector; and impunity.

## The legislative framework for NGOs and human rights defenders

A restrictive law against NGOs was introduced in 2003 which imposed new conditions and limitations on NGOs - especially those working for the promotion of human rights. While registering a NGO used to be a simple process (only requiring registration at the city hall office) the 2004 amendment to the Constitution now requires NGOs to register at the Minister of Interior. This has become a real obstacle for human rights defence as NGOs now need approval to work legally and even to change their board membership. This particularly targets NGOs working for the promotion of human rights. Iduvina's organisation once had to wait 6 months to be registered, whilst another organisation not involved with human rights was registered in 10 days.

*'An organisation working against genocide was required to maintain the same board and president as they were not granted approval to change the legal representation. If you are not registered you cannot deal with the banks, you cannot receive donations, you are on standby.'*

No specific law in Guatemala protects the work of human rights defender though there are **a number of institutions** tasked with their protection. Iduvina believes that oversight over the process of registering NGOs must be removed and thinks it necessary to have a law to protect the work of human rights defenders. Yet she believes it would be easier and more achievable to introduce a chapter on human rights defenders into the Special Ombudsman Law. With the composition of the current political system - dominated by right-wing ideas - this is still something she knows will be difficult to strive for. Attempting to implement such changes now would likely restrict human rights defenders further.

## National and International Advocacy Goals

At the national level Iduvina is currently working on a draft national policy for the protection of human rights defenders. This includes the creation of focus groups and the use of workshops and interviews to identify the real needs of grassroots defenders.

At the international level, Iduvina says it is essential that the international community bears in mind that Guatemala is not a consolidated democracy and that human rights defenders continue to be at high risk.

*'It is more important today than it has ever been. The movement to overthrow the Government suggested that things were going to change in Guatemala. We need to make clear to the international community that although the demonstrations were a huge success, the root problems have not changed, not yet. We still need the international community's eye on the country, especially as the new President is in many ways worse than the last – coming from the armed forces and involved in the genocide. He is an enemy of democracy.'*

Iduvina would like the Special Rapporteurs on the situation on human rights defenders and on the promotion of truth, justice, reparation and guarantees of non-recurrence, to visit Guatemala. She would also welcome visits from other special procedures and treaty bodies, in particular those working to protect the rights to freedom of assembly and freedom of opinion and expression.

### **The Future for Human Rights Defenders in Guatemala**

The future for human rights defenders in Guatemala is two sided, says Iduvina. On one hand the social movement has helped to extend their work and in some spaces of society they will now achieve more respect and understanding for their work. On the other hand if the political system does not change, human rights defenders will be confronted with new threats and new levels of risks.

## **Council Wrap up**

### **HUMAN RIGHTS COUNCIL: LEADERSHIP NEEDED TO ADDRESS COUNTRY SITUATIONS OF CONCERN**

(2 October 2015) – The 30th session of the Human Rights Council concluded today with governments failing to take the principled steps necessary to ensure the world's peak human rights body [effectively addresses some of the world's most significant human rights situations](#), a group of 12 NGOs have said.

In a [joint statement](#) at the close of the session, the NGOs expressed particular regret at the 'continued unwillingness of the Council to address widespread human rights violations perpetrated by its member States, and the failure of the same States to fully cooperate with the Council or adhere to [basic membership standards](#)'. Membership of the Council includes States such as China, Russia and Saudi Arabia.

More positively, the NGOs welcomed a resolution in relation to [accountability and reconciliation in Sri Lanka](#), saying that, if effectively implemented, the resolution 'could become a good example of what can be achieved at the Council through persistence, leadership and courage on the part of civil society and, in some cases, States'. The United States and the United Kingdom have worked for a number of years to push the Human Rights Council to mandate an investigation and promote accountability in relation to alleged war crimes and crimes against humanity in Sri Lanka, an effort at least partially supported at this session by the new government of Sri Lanka.

NGOs also welcomed steps to put Burundi on this Council's agenda, presenting an opportunity and responsibility to prevent further deterioration in the country, and the convening of a [victim-oriented panel discussion on North Korea](#), the first time that the Council has held a dedicated panel discussion on a country situation under Item 4.

Conversely, NGOs said 'we are disappointed by the lack of transparency in negotiations of the resolution on Sudan' and the 'failure to set up the [much-needed reporting mechanism on the forgotten conflicts in Southern Kordofan, Blue Nile and Darfur](#)'.

The joint NGO statement prepared by ISHR and Human Rights Watch also expressed 'dismay at the failure to hold all parties to the conflict in Yemen to account for gross and systematic violations', with the Council adopting a weak resolution negotiated by Saudi Arabia following the withdrawal of a stronger resolution proposed by the Netherlands.

Delivering the statement, HRW's Philippe Dam said, 'We echo the call of some States for further urgent action on Yemen should the situation fail to improve. The world will be watching.'

Looking ahead, the NGOs welcomed a decision for part of the next session of the Council, scheduled for March 2016, to focus on the rights of migrants, while emphasising the urgent and continuing need for States to abide by their international obligations to respect the human rights of refugees and asylum seekers.

In relation to the participation of civil society in the work of the UN, NGOs welcomed 'the explicit affirmation by more than [60 States of the Council's legal duty to address intimidation and reprisals](#), and protect those cooperating with the Council'.

'This legal duty requires that both the President and Bureau of the Council, together with States, prevent acts of intimidation and reprisal, and investigate, follow up and promote accountability for such acts when they occur,' said ISHR's Michael Ineichen. In this regard, NGOs acknowledged and welcomed the more active and positive role played Council President Joachim Rucker to address reprisals and promote cooperation with the Council, urging his 2016 successors as President to continue and build on this practice.

The coalition of NGOs delivering the joint statement include:

- International Service for Human Rights
- Human Rights Watch
- Article 19
- Asian Forum for Human Rights and Development (FORUM-ASIA)
- Cairo Institute for Human Rights Studies
- CIVICUS
- East and Horn of Africa Human Rights Defenders Project
- FIDH
- Global Initiative for Economic, Social and Cultural Rights
- Human Rights House Foundation
- Human Rights Law Centre
- World Organisation against Torture (OMCT)

## **RESOLUTIONS ADOPTED BY THE HUMAN RIGHTS COUNCIL AT ITS 30TH SESSION**

(5 October 2015)

### **Resolution on equal political participation**

The Czech Republic, together with Botswana, Indonesia, Peru, and the Netherlands presented a resolution on equal participation in political and public affairs, which mandates an OHCHR-led expert workshop before the June 2016 session of the Council. Importantly, and in line with ISHR's advocacy, the resolution identifies the key role of human rights defenders and civil society in promoting and protecting the right to equal political participation, and calls on States to provide a safe and enabling environment for their work. Along with highlighting some of the opportunities inherent in new forms of participation, including through social media and the Internet, the resolution calls on States to include civil society and minority groups in designing, evaluating and reviewing legislation and policy on participation in political and public affairs. The expert workshop will be a critical opportunity to expand on the role of human rights defenders in contributing to the full enjoyment of the right to equal political participation, as well as explore the risks human rights defenders face as a result, including in the [context of elections as recently documented by the East and Horn of Africa Human Rights Defenders Project \(EHAHRDP\)](#).

### **Resolution on national follow-up systems and processes**

A new resolution presented by Brazil and Paraguay mandates the organisation of a half-day panel during the 26th session of the UPR in October 2016 to discuss best practices in terms national follow-up systems to recommendations by international human rights mechanisms. Disappointingly, the resolution only inadequately reflects the role of civil society and human rights defenders in contributing to the design, implementation and evaluation of such processes, and it will be critical that there is a more prominent role for civil society in the further development of this issue including the panel discussion. While the panel will take place during a UPR session, it will discuss national follow-up systems broadly, including on how to implement treaty body concluding observations and Special Procedures recommendations.

### **Resolution on national policies and human rights**

The resolution by Algeria, Italy, Ecuador, Peru, Romania and Thailand will lead to an expert workshop to discuss effective mechanisms to include human rights in public policies and prepare a summary report of that workshop to be presented at the 33rd session of the Council. In line with ISHR advocacy, the resolution asks States to take into account civil society views in integrating into their national policies a human rights perspective. It is crucial that human rights defenders are at the core of the development of any national policy for it to effectively protect human rights on the ground, and the expert workshop will be a critical opportunity to further explore their role and protection needs.

### **Resolution on advisory services and technical assistance for Cambodia**

This resolution text was primarily the result of efforts by Japan, the main sponsor, to find a consensus between [pressure to strengthen language from the EU and efforts to minimize reference to human rights concerns](#) by the government of Cambodia. It recognizes progress in some areas related to human rights, and encourages further action in the areas of human rights education and the work of the Extraordinary Chambers. The resolution also extends the mandate of the Special Rapporteur to advise, monitor, and report on the situation in the country for another two years. Unfortunately, the text fails to fully reflect the situation on the ground and widespread [concerns by local groups, UN experts, and other countries about the Law on Associations and NGOs, or](#)

**LANGO.** Other elements of the text that appeared in earlier drafts, or otherwise would have helped ground the document in reality, included emphasis on judicial independence; calls for constructive dialogue between political parties; and ongoing challenges of sexual- and gender-based violence. For the resolution to be effective, the OHCHR must be able to continue its presence in Phnom Penh to support civil society and the engagement of the Rapporteur.

### **Resolution on impunity in Sudan**

The [resolution on Sudan](#), ultimately adopted without vote, expresses serious concern at the excessive use of force, including the lethal shooting of demonstrators in September 2013 and March 2014. It also renews the mandate of the Independent Expert for a period of one year under agenda item 10, to assess, verify and report on the situation of human rights with the view to making recommendations on technical assistance and capacity-building for addressing human rights in the country. It further requests the Government of Sudan to fully cooperate with the Independent Expert but falls short of mandating the establishment of a reporting mechanism on the conflicts in Southern Kordofan, Blue Nile and Darfur. In a [joint statement](#) following the adoption of the resolution, ISHR, together with Human Rights Watch, the East and Horn of Africa Human Rights Defenders Project and others said, 'we were disappointed by the lack of transparency in negotiations of the resolution on Sudan, which affected the capacity of human rights defenders to fully participate and contribute to the debate. We deplore the failure to set up the much-needed reporting mechanism on the forgotten conflicts in Southern Kordofan, Blue Nile and Darfur.'

### **Resolution promoting reconciliation, accountability and human rights in Sri Lanka**

The resolution makes significant steps towards the creation of an environment conducive to justice and reconciliation – and, for the first time since 2009, has been adopted by consensus with the agreement of the Sri Lankan government. It establishes a framework to hold the Sri Lankan government to its own stated commitments, both in the recommendations of the domestic Lessons Learnt and Reconciliation Commission and in the Foreign Minister's speech to the Council on 14 September. However, it falls short of fully and explicitly calling for [action on the recommendations of the report of the OHCHR Investigation in Sri Lanka](#). For many defenders, enormous questions remain about the extent to which the transitional justice mechanism referenced in the resolution will include independent, impartial, and international judges. There are also ongoing questions about the failure to address militarization in the North and East, and the glossing over of gaps in the Victim and Witness Protection Act that could mean that witnesses and victims continue to be the subject of retaliation, intimidation, and harassment. Positively, the OHCHR will have a role in assessing and reporting to the Human Rights Council on 'progress on the implementation of its recommendations and other relevant processes related to reconciliation, accountability and human rights', presenting an oral report in June 2016 and a comprehensive report in March 2017.

### **Resolution on human rights and preventing and countering violent extremism**

This voted resolution (37 for, 3 against, and 7 abstentions) occupied a great deal of energy in the Council. The outcome is disappointing, however, as the text fails to take a clear stand on the importance of civil society and pluralistic debate. Instead, the key sponsors caved to a barrage of new language during informals and expended significant efforts to bat back a series of tabled amendments during the voting process. Problems noted by civil society – and [indeed some other governments](#) – during the informals process included unclear language that might undermine freedom of expression, in particular online; inappropriate limitations on the scope for a free and independent civil society; and a failure to account for the ways in which 'international cooperation' on countering violent extremism has effectively been used as justification for looking the other way when those 'partner' governments violate human rights within their own borders. The resolution calls for a panel 'to discuss the human rights dimensions of preventing and countering violent extremism' at the 31st session of the Council, and calls for an OHCHR report on best practices for the 33rd session.

## **APPOINTMENT AND RENEWAL OF MANDATES AT THE HUMAN RIGHTS COUNCIL'S 30<sup>TH</sup> SESSION**

(5 October 2015)

### **Renewed mandates**

Five country-specific mandates were renewed:

- The mandate of the **Independent Expert on the situation of human rights in the Central African Republic** was extended for a period of one year.
- The mandate of the **Independent Expert on the situation of human rights in Somalia** was extended for a period of one year.
- The mandate of the **Independent Expert on the situation of human rights in the Sudan** was extended for a period of one year.
- The mandate of the **Special Rapporteur on the situation of human rights in Eritrea** was extended for a period of one year.
- The mandate of the **Special Rapporteur on the situation of human rights in Cambodia** was extended for a period of two years.

### **New Mandate Holders**

The President of the Human Rights Council's [list of candidates](#) was approved by the Council on 2 October 2015 with the appointment of the following special procedure mandate holders:

- Ms. Karima Bennouna (United States of America), as the **Special Rapporteur in the field of cultural rights**.
- Mr. Ahmed Reid (Jamaica), as a member of the **Working Group of Experts on People of African Descent** from Latin American and Caribbean States.
- Mr. Henrikas Mickevicius (Lithuania), as a member of the **Working Group on Enforced or Involuntary Disappearances** from Eastern European States.

### **Advisory Committee**

To fill four vacant seats in the **Advisory Committee**, the Council appointed four members:

- Imeru Tamrat Yigezu for the African States.
- Ibrahim Abdul Aziz Al Sheddi for the Asian States.
- Mario Luis Coriolano for the Latin American and Caribbean States.
- Katharina Pabel for the Western European and Others States.



## **PARTICIPATION AND PROTECTION OF HUMAN RIGHTS DEFENDERS ESSENTIAL TO ADDRESSING WORLD DRUGS PROBLEM**

(28 September 2015) – For the first time, the UN Human Rights Council held a [panel discussion](#) on ‘the impact of the world drug problem on the enjoyment of human rights’, with a view to informing a [special session](#) the General Assembly will hold on international drugs policy in April 2016. ISHR had previously lobbied for the convening of such a panel through [Human Rights Council resolution 28/28](#), to ensure a space for all stakeholders, including civil society, to feed into discussions.

From the podium, both Ann Fordham (International Drug Policy Consortium) and Ruth Dreifuss (Global Commission on Drug Policy) reiterated the crucial role which civil society will continue to play in ensuring a human rights-based approach as debates develop around the issue. They agreed that ways must be found to keep all stakeholders engaged, whilst drug policies needed to be better aligned with other aspects of the UN’s work. A [recent report](#) by ISHR has also highlighted the potential of human rights defenders to help States ensure that drugs policies protect rather than violate human rights, whilst documenting the immense risks that defenders face in Latin America in the context of the so-called war on drugs.

‘That the UN is finally providing a human rights perspective to international debate around drugs is to the credit of a core group of States and civil society organisations who have evidenced the perversity of separating human rights discussions from those on drugs policy,’ said ISHR’s Ben Leather. ‘It is now up to the General Assembly and States to take this perspective on board moving forward’.

In response to the panel, a joint statement by CELS on behalf of 17 NGOs, another by ILGA and ISHR, plus one by the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos all underlined the fundamental role of human rights defenders in exposing abuses by State and non-State actors in the context of the ‘war on drugs’ and the heightened risk of attacks they face in return. They called upon States to do more to consult and protect these defenders.

‘So long as human rights defenders are at risk, the human rights angle of the debate around drugs policy will be blunted and undermined,’ said Mr Leather. ‘It is these defenders who are documenting abuses, demanding justice and proposing solutions. Their voice must be heard; not just here in the Council chamber, but in New York, at the UNODC in Vienna and at the national level’.

Numerous States and civil society members highlighted the human rights shortcomings of current national and international drugs policies, from negative health impacts, to the use of the death penalty, through to the rise in enforced disappearances and arbitrary executions. Some panelists and NGOs asked that the Council consider the appointment of a Special Rapporteur on the issue.

A report of the Panel discussion will now accompany a [recent report](#) by the UN High Commissioner for Human Rights in informing the General Assembly’s Special Session. Meanwhile, civil society organisations are in discussions with the core group of States who have pushed the issue at the Council, led by Colombia, Guatemala and Switzerland, in regards to how to ensure they can feed-in to discussions in New York. A video of the panel can be found [online here](#).

*For more information, contact ISHR’s Ben Leather at [b.leather@ishr.ch](mailto:b.leather@ishr.ch)*

## **SUDAN: COMBAT IMPUNITY BY PROSECUTING PERPETRATORS OF HUMAN RIGHTS VIOLATIONS**

(5 October 2015) – Sudan must strengthen the protection of human rights defenders and journalists and ensure accountability for attacks against them as an integral part of efforts to secure peace and justice in the country, ISHR said today.

The UN Human Rights Council considered the human rights situation in Sudan during its 30th session. In his [report presented on 29 September](#), the UN's Independent Expert on the human rights situation in Sudan expressed concern about the continuing human rights challenges, including 'securing basic fundamental rights, in particular, the rights to freedom of expression and opinion, freedom of the press, freedom of association and peaceful assembly, and freedom of religion'. The report further detailed that four leading civil society organisations have been shut down, while at least five others are under threat of imminent closure.

While recognising the efforts made by Sudan on legislative reform, the report highlights the serious human rights violations and the large-scale displacement of civilians in Darfur, Southern Kordofan and Blue Nile as a result of the recent government military operations and inter-tribal clashes. In the report, the Independent Expert called on the Sudanese authorities to acknowledge the persistence of human rights violations and abuses in the country and to continue and deepen efforts to combat impunity by prosecuting all perpetrators of human rights abuses and violations of international humanitarian law.

During the interactive dialogue with the Independent Expert, a number of countries, such as Switzerland, as well as non-governmental organisations, expressed concern at [serious human right violations in Sudan](#) in particular the repression of media, civil society and human rights defenders.

'The Sudanese Government must recognise the role and the work of human right defenders in promoting and protecting human right in Sudan. It must also take necessary measures to a create safe and enabling environment for their work,' said Clement Voulé, ISHR Programme Manager (States in Transition) and Head of African Advocacy. 'This requires that the government desist from attacks against defenders, provide them with adequate protection, and ensure that all threats and attacks against civil society actors are fully and promptly investigated, with perpetrators held to account.'

The Government of Sudan pointed to the embargo as the cause of the lack of government capacity to tackle some human rights issues.

The [resolution on Sudan](#), ultimately adopted without vote, expresses serious concern at the excessive use of force, including the lethal shooting of demonstrators in September 2013 and March 2014. It also renews the mandate of the Independent Expert for a period of one year under agenda item 10, to assess, verify and report on the situation of human rights with the view to making recommendations on technical assistance and capacity-building for addressing human rights in the country. It further requests the Government of Sudan to fully cooperate with the Independent Expert but falls short of mandating the establishment of a reporting mechanism on the conflicts in Southern Kordofan, Blue Nile and Darfur.

In a [joint statement](#) following the adoption of the resolution, ISHR, together with Human Rights Watch, the East and Horn of Africa Human Rights Defenders Project and others said, 'we were disappointed by the lack of transparency in negotiations of the resolution on Sudan, which affected

the capacity of human rights defenders to fully participate and contribute to the debate. We deplore the failure to set up the much-needed reporting mechanism on the forgotten conflicts in Southern Kordofan, Blue Nile and Darfur.'

## **SRI LANKA: RECOMMENDATIONS OFFER 'A CHANCE TO BREAK THE CYCLE OF IMPUNITY'**

(2 October 2015) – At the Human Rights Council over the last six years, intense attention by global civil society has led to efforts to address the grave human rights violations, rising to the level in some cases of crimes against humanity and war crimes, which occurred during the civil conflict in Sri Lanka and continued well after its end. Following a major vote in March 2014, the Council called on the Office of the High Commissioner to conduct an in-depth investigation under the guidance of three high-level experts, into the human rights situation in the country. Finally, after a year of non-cooperation and another several months with improved engagement, but no access to the country, the [report of the OHCHR Investigation on Sri Lanka \(OISL report\)](#) was launched on 16 September.

The resolution adopted this week, [after deferral of the report from March](#), makes significant steps towards the creation of an environment conducive to justice and reconciliation – and, for the first time since 2009, has been adopted by consensus with the agreement of the Sri Lankan government. ISHR joins other NGOs, in particular regional, national and diaspora groups, in welcoming these steps but, more importantly, in calling for the full implementation of the OISL report. Implementation, and meaningful reform and reconciliation, will be contingent on an ongoing, supportive and monitoring role for the OHCHR and the Council and, on the ground, the free work of courageous human rights defenders.

### **Action in Room XX, action on the ground?**

The presentation and discussion on the report of the OHCHR Investigation on Sri Lanka ('OISL report') and the update from the High Commissioner were an opportunity for a wide range of Sri Lankan civil society actors to engage directly with the Council, in addition to the interventions of international NGOs. The [High Commissioner joined by video statement](#), remarking upon the important change in the political climate and yet, the continued concerns of the Office. Since January, he noted, the OISL was nonetheless unable to visit the country. Communities in the North and East still face threats, remain displaced, and have seen little or no justice for violations such as enforced disappearances and sexual violence. Detainees held under the Prevention of Terrorism Act remain unidentified and incommunicado while criminal cases, including that of students in Trincomalee, 'languish'.

The value of the content of the OISL report in advancing accountability and reconciliation was widely recognised, with NGOs encouraging a comprehensive response to crimes, including potential crimes against humanity. While they generally highlighted the change in the country since January 2015, civil society speakers emphasized – as has ISHR previously – that [the new government in Sri Lanka must make good on its opportunity to truly reform](#) at a structural and systemic level, and that they should recognize and support civil society's participation with and trust in the transitional justice process.

On 1 October, the Council also adopted the resolution by consensus. A range of countries spoke in favour of the need for reconciliation, from the UK and Ghana to countries with direct experience in reconciliation, such as Montenegro and South Africa. Though noting that the text enjoyed the support of the country concerned, the Chinese government nonetheless maintained its position against 'politicisation of human rights' and 'using human rights to interfere in the internal affairs of other countries'.

ISHR is encouraged by the actions on Sri Lanka at the Council, including the adoption of a consensus resolution, but notes that the devil is in the details. Says Sarah M. Brooks, Asia focal point for ISHR, 'The OISL report, with its more than 250 pages of historical material, eye-witness reports, and focused analysis, should continue to guide the international community – donors, diplomats, and advocates – in their calls to the Government and their support to Sri Lankan defenders.'

Well-known Sri Lankan activist and advocate Nimalka Fernando, President of the International Movement Against all forms of Discrimination and Racism and newly-minted member and Chairperson of the Advisory Committee of the Prime Minister on matters related to the NGO Secretariat, put it this way:

The resolution is political. It is a framework for consensus, so everyone starts on the same page. It also keeps the UN and the international community engaged with the government. So getting an agreed text is an important indicator of change, but real change will take time. And that will come with full implementation of the OISL report.

### **Shaping a changed landscape for activism**

The resolution recognises significant changes since the presidential elections on 8 January 2015. The OISL report similarly notes that there has been 'a significant opening in space for freedom of expression' - for the most, part civil society organisations can openly hold meetings and advocate directly for accountability. According to Ms Fernando, whereas in the past travel to Colombo for the families of victims of government abuses, including killings and enforced disappearances, carried significant risks, now they enjoy more freedom of movement and can participate in rallies organised in the capital.

However, although some government organisations accused of human rights violations are seeking to modernise, including through direct technical assistance, the OISL report notes that defenders still face surveillance, intimidation, and harassment at the local level. Ms Fernando corroborates that some rogue elements of the government seem intent on continuing business as usual despite the changes at the political level.

'Structural change, and in particular a dramatic remaking of the security sector,' says Ms Brooks, 'will be necessary to begin to address decades of entrenched impunity for officials, and mistrust and fear on the part of communities, and to create a safe and enabling environment for participation of defenders and others in the transitional justice process'.

### **Strengthening protections for defenders**

The resolution formally recognises the Sri Lankan government's commitment to establish a judicial mechanism 'with a Special Counsel to investigate allegations of violations and abuses' and affirms the international community's expectation that this mechanism be credible. Clear voices at all levels have declared that the mechanism should be independent and benefit from the leadership - in the judicial, prosecutorial, and investigative areas - of individuals both Sri Lankan and foreign known for their integrity and impartiality. It should further be enabled to try the 'full range of crimes', under both international and domestic law, in recognition of the OISL's comment that domestic legal system may 'lack the capacity' – training, independence, investigative analysis – required to effectively seek justice.

Says Ms Brooks, 'Although this is an important advancement, the resolution text falls short of the clarity of the recommendation of the OISL for a 'hybrid mechanism' that would directly involve international actors and apply international law'. Debates among all stakeholders continue about the nature of the

mechanism, but for human rights defenders there are very important considerations, in particular in light of [significant cases of reprisals against Sri Lankan defenders](#).

- The resolution encourages the government to enhance the protections provided for in the Victims and Witness Protection law, to include specific accommodation for lawyers and judges. However, the OISL report notes that since the law's adoption in February 2015, no mechanisms have been put in place and no related laws have been amended to implement the Law or to provide even the minimum protection required. The OHCHR continued to receive allegations of intimidation, harassment and physical violence of victims, their families, and others even after the change in Government.
- As long as the transitional justice mechanism is primarily domestic, victims, witnesses, judges and lawyers who engage with the mechanism could arguably be exposed to greater risks. The legal system, as in many post-conflict environments, is 'vulnerable to interference and influence' and thus misuse by political, security, and military actors. For this reason, civil society has again emphasised the importance of security sector reform.
- The resolution requests continued engagement by the OHCHR to assess progress on its recommendations, and other efforts at justice and reconciliation, and encourages the Special Procedures to respond to requests from the government. The monitoring of OHCHR, in particular given their experience with [reprisals linked to the OISL report and other cases of cooperation with the UN](#), should have a dedicated commitment to responding to cases of reprisals, including – regardless of the degree or nature of international involvement – the judicial mechanism and Special Counsel.

### Shoring up support for civil society

Ms Fernando asserts that she remains optimistic, despite a 'pervasive military and political dynamic' and a lingering feeling that accountability for gender-based and sexual violence will be a particular challenge. She believes that as protections increase and confidence increases, the Sri Lankan people will come to feel a greater degree of ownership over the justice process. In turn, she urges more coordinated efforts toward the 'cultivation of democracy' among the Sri Lankan people. The new Ministry of Social Dialogue, for example, could be a key government counterpart and ally, but defenders and others must be empowered to contribute to change. Donors and the UN must now ensure that capacity-building efforts do not bypass civil society and community-based organisations.

### **MEXICO: NEW REPORT DETAILS RISKS FACED BY HUMAN RIGHTS DEFENDERS AND REFORMS NEEDED FOR THEIR PROTECTION**

*A major new report co-authored by ISHR shows that human rights defenders in Mexico face worsening and often deadly risks that the vast majority of attacks against defenders are not adequately investigated or remedied, and that greater political and financial commitment is necessary to make the Law on the Protection of Human Rights Defenders and Journalists in the country effective.*

(30 September 2015) – Read the new report, 'In Defense of Life: Civil Society Observation Mission Report on the Situation of Human Rights Defenders in Mexico', [here!](#)

Watch the video [here!](#)

Members of an international civil society mission to Mexico presented their findings at a [side event at the Human Rights Council](#) yesterday. The Mission, aimed at assessing the degree of implementation and effectiveness of protection measures for human rights defenders, concluded that the situation of defenders remains grave and called on the Mexican State to step up their response to the protection of defenders.

ISHR formed part of the mission, which visited the States of Baja California, Guerrero, Oaxaca and the Federal District during its week of work, meeting with State officials, defenders and other stakeholders.

Members of the mission found the situation for human rights defenders in the States visited deeply concerning. The spectrum of violations against defenders includes murders, enforced disappearances, surveillance, criminalisation, and slander. Deep-seated, structural impunity facilitates and perpetuates these violations against defenders.

### **Enactment of human rights defender protection law must be followed by effective implementation**

The 2012 Law for the Protection of Human Rights Defenders and Journalists created a protection mechanism and a framework for public institutions to work together to protect defenders, including units based in Mexico City required to assess and meet the protection needs of defenders at risk and to explore means to prevent violations. However, there are grave weaknesses in its implementation, with key bodies envisaged in the law still not operative, and the one focused on prevention only established last month. The Mission found a lack of coordination between federal and state bodies, as well a failure of relevant officials to take responsibility for the deficiencies of the system. Defenders testified that the protection mechanism is failing.

‘We heard from several defenders that when they pressed the panic buttons they had been provided with there was no response. In some cases defenders felt more vulnerable because they were led to expect a response that didn’t come,’ said ISHR’s Eleanor Openshaw who participated in the Civil Society Observation Mission and is a co-author of the report.

Rosario Figari Layus, another member of the Mission, spoke of a visit the Mission made to the Rural Normal School in Ayotzinapa. In September 2014, 43 students from the school were forcibly disappeared. A year later Miguel Angel Jimenez, a human rights defender working with the family members to demand investigation and accountability, was killed.

‘In a main avenue in Mexico City, people have put up plaques of all the names of those who have been disappeared; many date from well before the Ayotzinapa cases. This, and the discovery of many unknown mass graves found in the search for the students demonstrates that the enforced disappearances of the Ayotzinapa students are not isolated cases, but are indicative of a more general context where serious violations go unpunished,’ said Rosario Figari Layus.

Speaking on the panel at the launch of the report, Guillaume Michel of the Permanent Mission of Mexico responded to the criticisms of the implementation of the Law, noting that it is a new measure, both for Mexico and internationally, and as such will take some time to iron out any problems. He stressed that resources and properly trained staff were difficult to acquire and to coordinate, particularly given Mexico’s extremely decentralised governmental structure. He also underscored the need for improved education in human rights, particularly at the level of local government. However, he cited the



improvement in the human rights situation Mexico has seen over the past 15 years, along with its cooperation with international mechanisms, as examples of a positive trend towards progress.

Also on the panel, ISHR's Ben Leather highlighted the contexts in Mexico which have driven an increase in aggressions against defenders: the so-called 'war on drugs' and the implementation of an economic model that privileges major development projects without guaranteeing the free, prior and informed consent of affected communities.

He pointed out that, three years on from the protection mechanism's creation, human rights defenders continue to be killed whilst local civil society organisations continue to [identify the same obstacles to implementation](#). 'There is no time', he said. 'Somebody at the highest levels of Government needs to get a grip on this and prioritise implementation of civil society's recommendations. Mexico could be an example to the world on human rights defender protection, but a law unimplemented is a useless law, as least for Mexican society'.

### **Recommendations to the Government of Mexico**

The Mission made a series of recommendations regarding investigation, sanction and prevention of attacks to eradicate impunity against human rights defenders. These extend from strengthening the institutions that administer justice to ensure that they are responsive to the specific nature of violations against human rights defenders, through to establishing a database with disaggregated data that provides a basis for the design of measures to prevent attacks against defenders. Several recommendations home in on the nature of measures to protect human rights defenders at risk, including a strong call to ensure that officers in charge of protection are not drawn from the same security services that carry out intelligence and counter-intelligence activities for the State.

First and foremost, State officials at all levels must regularly publically acknowledge the vital role played by human rights defenders in democratic societies and in the promotion of peace and the rule of law.

The Civil Society Observation Mission called on the State to quickly institute the Unit for Prevention and Follow up, envisaged in the law, to root its response to the protection of defenders in a policy of prevention of attacks and eradication of impunity. This has since been instituted but requires strengthening.

The Mission members emphasised the importance of the Protection Mechanism dealing with cases as quickly as possible, and ensuring a defender's immediate safety even as their longer term protection is being considered.

'The lessons learnt from the Mexican experience show that a law to protect human rights defenders will only work if there is political will and accountability at all levels to ensure a coherent response and preventative action, and where enough staff are properly trained and resourced to ensure the mechanism can function appropriately,' said ISHR's Ben Leather.

Organisations convening, accompanying and participating in the Mission included: The Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), Peace Brigades International – Mexico Project (PBI México) y Conexx – Europe, with the support of Amnesty International Mexico, Just Associates (JASS), the International Service for Human Rights (ISHR); Front Line Defenders, Protection International (PI), the Robert F. Kennedy Center for Justice and Human Rights (RFK Center), the

Observatory for the Protection of Human Rights Defenders (OMCT/ FIDH), and the German Coordinating Committee for Human Rights in Mexico.

## **CAMBODIA: HUMAN RIGHTS COUNCIL RESOLUTION SHOULD ADDRESS ANTI-DEMOCRATIC SLIDE**

(30 September 2015) – The UN Human Rights Council should take a powerful and principled stand in support of human rights in Cambodia, without which there is a real risk that the country will continue down its current anti-democratic slide, ISHR said today.

While the current draft text of a resolution on Cambodia being negotiated within the Council renews the mandate of the Special Rapporteur and indicates some areas for human rights concern, it fails to fully and faithfully reflect the situation on the ground or provide the necessary levers for the international community and vibrant Cambodian civil society to push for change.

‘Assistance, monitoring and reporting from the Office of the High Commissioner for Human Rights and the Special Rapporteur on the one hand, and strong political pressure from key Council actors on the other, will be needed to ensure progress,’ said Sarah M. Brooks, ISHR focal point on Asia. ‘The draft resolution gets us part of the way there, and recognises the critical and mutually reinforcing roles of the Rapporteur and the OHCHR country office. But more could and should be done at the country level to ensure protections for human rights defenders’.

### **Draft resolution does not adequately address issues of shrinking civil society space**

As the Special Rapporteur said in her report to the Council, ‘The space for the peaceful exercise of the freedoms of assembly, association and expression is shrinking as the country moves towards the 2017 commune elections and the 2018 National Assembly elections’. This reinforces serious [concerns raised by ISHR and a number of other organisations in a joint letter](#) sent to Member States in August. Unfortunately, the tabled resolution makes only reference to the restrictive Law on Associations and NGOs (the so-called LANGO), and does not go so far as to encourage much-needed review and revision of the law to ensure its compliance with Cambodia’s international human rights obligations.

Interventions by the EU and its member States during the Council’s dialogue with the Special Rapporteur, including [Ireland](#), [France](#) and the [UK](#), drew attention to ongoing concerns about the ‘clear threat to civil society space’ posed by the LANGO, and called for attention to persistent issues of impunity, land disputes, and sexual and gender-based violence. The [US](#) drew particular attention to limits on freedom of expression in the context of the cyber-crimes law. The need to protect civil society space and review the LANGO has been pushed strongly by the EU and US throughout negotiations on the draft text. Among Western European and Other Group States, Australia has distinguished itself by seeking to weaken or exclude language calling for the repeal or review of LANGO to ensure compatibility with international human rights law and in its [public remarks](#) chose merely to highlight bilateral technical assistance in the area of elections. Additional interventions by ASEAN States and China downplayed the role of civil society and emphasised instead the need for the Special Rapporteur to strictly follow her mandate and to fully consult and communicate with the government.

ISHR welcomes the Rapporteur’s recognition of the cross-cutting and pervasive nature of discrimination in the context of Cambodia, and its impact on marginalised groups, including women, indigenous persons, and other vulnerable groups, and those who hold dissenting political opinions.

'Framing priorities in terms of discrimination can be a very strategic approach. But it is important that it not be used to justify limiting the constructive engagement of the mandate holder to "cooperative" issues that may be seen as less "sensitive",' said Ms Brooks. 'Barriers to access resulting from discrimination impact not only economic, social and cultural rights, including socio-economic development and education, but also civil and political rights'.

### **Cambodian civil society calls for international solidarity and support**

The Cambodian Centre for Human Rights [publicly called on the Special Rapporteur to 'pinpoint' key cases of concern with respect to human rights](#) and to encourage the Government of Cambodia to implement accepted UPR recommendations, and other recommendations of UN experts. The support for these and other groups is critical, said Nicolas Agostini of FIDH. 'Cambodian human rights defenders need international support. The Special Rapporteur should communicate publicly about human rights issues, on her own and in conjunction with other mandate holders, and use her position to protect them and prevent a further deterioration of their situation.' Mr Agostini said

Full exercise of the mandate, and ongoing support for civil society and human rights defenders by all stakeholders, will be essential moving forward. Otherwise, Cambodia may linger at the bottom of the Council's priority list while Cambodian civil society faces ever-mounting threats.

### **STATES: ENSURE PROTECTION AND ACCOUNTABILITY FOR ATTACKS AGAINST LGBTI PERSONS, DEFENDERS AND ASSOCIATIONS**

(Geneva, 29 September 2015) – ISHR has joined with the [Human Rights Law Centre](#) and the [International Lesbian, Gay, Bisexual, Trans and Intersex Association](#) to call on States to ensure effective protection and real accountability for attacks against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, defenders and associations.

The [joint statement](#) to the UN Human Rights Council coincided with an unprecedented [joint initiative by 12 UN agencies](#) calling on governments around the world to take action to end violence and discrimination against LGBTI people. The joint initiative sets out steps governments, in particular, should take to curb violence and protect individuals from discrimination – including measures to improve the investigation and reporting of hate crimes, torture and ill-treatment, to prohibit discrimination, and to review and repeal all laws used to arrest, punish or discriminate against people on the basis of their sexual orientation, gender identity or gender expression.

The statement also coincided with the release of the recent [report of the UN Special Rapporteur on the situation of human rights defenders](#) (UN Doc A/70/217), to be presented to the UN General Assembly in October, in which he confirms that LGBTI defenders are among those most exposed and at risk of all defenders. Because of their work and because of their identities and characteristics, LGBTI human rights defenders are exposed to heightened levels of violence, stigmatisation, discrimination, attacks and other human rights violations.

The joint NGO statement highlighted the duty of States to promote and protect all human rights and fundamental freedoms and condemned restrictions imposed on LGBTI persons and those advocating for them, including anti-cross-dressing legislation in Malaysia and legislation criminalising homosexuality in Uganda. The statement was supported by [Justice for Sisters](#), Malaysia and the [Human Rights Awareness and Promotion Forum](#), Uganda.

'It is deplorable that 22 years on from the adoption of the Vienna Declaration, people continue to suffer systemic discrimination, violence and persecution as a result of their sexual orientation, gender identity and intersex status, or because of their work to stand up and speak out for equal rights,' said Human Rights Law Centre's Director of Advocacy, Anna Brown.

'The joint initiative by the UN agencies is a powerful call for States to take action to fulfil their duty to protect LGBTI persons, and those advocating for them. In this regard, States should repeal restrictive laws which are incompatible with international human rights standards, and enact legislation to promote and protect equal rights for LGBTI persons and organisations and ensure respect for their rights to freedom of expression, association and assembly,' said ISHR's Tess McEvoy.

The NGO statement also welcomed positive developments for the promotion and protection of equal rights for LGBTI persons, such as:

- moves by Australia and the United Kingdom to expunge historic convictions for consensual homosexual conduct;
- reforms in Malta and Ireland to ensure access to identity documents for transgender and intersex people without invasive medical treatment and, in the case of Malta, protecting intersex people from unnecessary and invasive medical treatment; and
- improved responses to LGBTI hate crime, including training of law enforcement officials and specific taskforces or prosecuting teams dedicated to tackling bias-motivated violence such as in Spain, Honduras and South Africa.

Building on the words of former High Commissioner for Human Rights and ISHR Board member, Navi Pillay, in a vision statement at Vienna+20 'a huge amount of work remains to be done at the international level to transform human rights from abstract promises to genuine improvement in the daily lives of all people, especially those who are currently marginalized or excluded'.<sup>[1]</sup> The lives of LGBTI defenders, those most exposed and at risk, need to be protected.

For more: see [video of ISHR's joint statement with HRLC and ILGA to the Human Rights Council on the recognition of LGBTI rights and the protection of LGBTI human rights defenders](#).

## **INCREASED PRESSURE NEEDED TO END CRACKDOWN IN CHINA**

(28 September 2015) – While the crackdown on human rights lawyers in China that started on 10 July has drawn some condemnation from the international community, both States and the UN Human Rights Council need to exert significantly more pressure on China to end the systematic and sustained assault on human rights and the rule of law in the country, ISHR said today.

### **Increased focus on China at HRC but country situation remains dire**

In his opening remarks to the Human Rights Council, High Commissioner for Human Rights Zeid Ra'ad Al Hussein stated that he is 'concerned about the detention and interrogation in recent months of more than 100 lawyers in China'. Says ISHR's East Asia programme manager, Sarah M. Brooks, the challenge is now to balance the need to sustain pressure and encourage action.

‘While acknowledgement of the crackdown in an international forum is a key initial step, the situation on the ground will not improve without sustained and, indeed, increased international pressure,’ said Ms Brooks. ‘In this context, the High Commissioner’s statement was a mild reproach compared to the detailed, [urgent appeal released by the Special Procedures on 16 July](#) and the deep, ongoing coverage of the situation by civil society’.

‘The High Commissioner’s statement was somewhat of a missed opportunity to emphasise the seriousness with which the UN takes the repression of civil society space in China, and with which the international community expects the government to respond,’ Ms Brooks said.

Last week at the Human Rights Council, numerous states denounced the arrests, and the ongoing imprisonment of well-known prisoners of conscience in their statements to the Council on country situations. Known as ‘Item 4’ statements, these often provide the only chance to raise human rights concerns about countries that do not otherwise appear on the Council’s agenda. Says Ms Brooks, ‘We appreciate the increased number of States [using the Item 4 opportunity](#) to call general attention to the deteriorating situation for human rights defenders in China, but feel that the ball was dropped on raising specific, actionable cases – including that of Cao Shunli’.

States including Belgium, the Czech Republic, Germany, Switzerland, the UK, and the US, together with the EU as a whole, delivered statements under Item 4 addressing the human rights situation in China, demonstrating leadership in relation to a powerful State notorious for diplomatic and economic retaliation against those States that speak out. It is regrettable that other States who profess commitment to the protection of civil society space and human rights defenders did not address China in their national statements under Item 4.

### **Human rights lawyers remain disappeared and detained**

As the Council wrapped up its second week, 23 lawyers were still being held, with six having been criminally detained, 11 under residential surveillance, and six taken by police to unknown locations without being criminally charged. Based on reporting from partners on the ground and monitoring of Chinese Twitter and Weibo accounts:

Beijing lawyer Zhang Kai was detained on 25 August and kept incommunicado for six days, before his lawyer, Mr Li, ‘through much difficulty’, was able to discover only the [following few facts](#) about Zhang Kai’s situation:

The team handling the case is the Wenzhou city public security bureau; the criminal charges are: 1. jeopardising national security and 2. gathering a crowd to disrupt social order; the enforcement measure is six months of residential surveillance in a designated place.

The ‘designated place’ of Zhang Kai’s residential surveillance remains unknown, and his lawyer’s requests to meet with him continued to be denied.

24 year old legal assistant Zhao Wei was secretly detained for over 70 days before her lawyer was notified on 22 September that she was suspected of ‘incitement to subvert state power’ and as such was not permitted any visitors. In a letter put out by her colleagues titled [‘Help us find our missing Zhao Wei’](#), they stated:

[The charges are] inconceivable, they're jumping at shadows and treating everyone as the enemy. How can a 24 year old girl "subvert state power"? Now, on the eve of Xi Jinping's state visit to America, Zhao Wei's colleagues hope that our cries will be heard, and that Zhao Wei will be released.

As of this writing, Zhao Wei remained in detention in an undisclosed location, with no access to a lawyer.

Li Zhongwei is the attorney of yet another detained lawyer, Wang Quanzhang. He has been attempting to meet with his client since he was detained over two and a half months ago on 11 July, only learning one month into Wang's detention that he was suspected of 'creating a disturbance' and 'inciting subversion of state power'. Below is a translated account of an attempt made by Li to [meet with Zhao Xu of the Tianjin police](#) so as to organise a visit with Wang:

Desk staff claimed Officer Zhao Xu would be in meetings for two days and is unable to directly receive [Li Zhongwei], but that if we provided written material then they would pass it on to Zhao Xu and the relevant caseworkers... I asked them to immediately call and check, but they explained that they were not themselves caseworkers and there was a process to verifying - but that the caseworkers would definitely check the situation and notify us as soon as possible... They continued to insist that Wang Quanzhang was not being interrogated, that his health was good, and so on.

Neither Li nor Wang Quanzhang's family have been able to meet with him since he was detained in July. According to Li, answers to simple questions such as 'the location of Wang Quanzhang's residential surveillance [...] whether or not Wang Quanzhang has already been officially arrested, whether he had received the letters entrusted to caseworkers by his family, and whether he needs clothing, books, or other such items' have also gone unanswered.

These are only a few examples of cases emblematic of the situation facing not only lawyers but also human rights activists, religious activists, and their family members. Despite the release of select individuals such as Guo Yushan, Liu Xizhen and Jiang Jianjun, the situation persists and many still remain detained or missing.

States must increase pressure on China to comply with international human rights standards and Human Rights Council membership requirements

It is essential that the international community call upon the Chinese government to fulfil its obligations as a member of the Human Rights Council. At minimum, the government should cooperate with the Council and its Special Procedures, and take action on the range of recommendations from UN experts and fellow Council member to follow due process in all arrests, provide access to a lawyer for all detainees, and immediately release all arbitrarily detained lawyers and activists.

## **Our Work to Support Human Rights Defenders**

### **GENERAL ASSEMBLY: EXTEND PARTICIPATION OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

*By Eleanor Openshaw, ISHR Programme Manager (NGO Participation) and Head of Regional Advocacy*

(5 October 2015) – All States should support the participation of national human rights institutions in the work of the UN General Assembly and other UN bodies, with NHRIs having a vital role to play



in translating the human rights resolutions of UN bodies into real-life human rights reforms on the ground, ISHR said today.

The call follows a report and recommendation from the UN Secretary-General (SG) to the UN General Assembly (GA) to consider the participation of A-status national human rights institutions (NHRIs) in the GA, ECOSOC and other relevant UN bodies, in line with current practice at the UN Human Rights Council. He also reiterated his encouragement to NHRIs to keep advocating for their independent participation in the UN. The SG's report and recommendations themselves are in line with the findings and recommendations of a major ISHR report on the [desirability and feasibility of extending NHRI participation rights](#) at the UN.

In his report to the GA ([A/70/347](#)), the SG noted that not only are NHRIs 'uniquely positioned to provide the UN with evidence-based information on human rights situations and to promote the implementation of human rights norms and standards in their respective countries', but they are also required under the Paris Principles to cooperate with the UN.

The SG highlighted that where existing practice and procedure allow for participation, UN bodies and processes benefit from the expertise of A-status NHRIs. He then stated categorically that the Commission on the Status of Women 'would benefit from independent and authoritative information from human rights institutions, as the majority of them address gender issues.'

'In his report, the SG speaks to the value of NHRIs participation and indicates no legal impediments to extending that participation,' said ISHR Board member and former Australian Human Rights Commissioner Chris Sidoti. 'Extending participation rights for A-status NHRIs is a means of enabling them to fulfill their requirement to cooperate with the UN. It also enables UN forums to benefit from the knowledge, expertise and experience of NHRIs, as the Human Rights Council and the treaty bodies have been doing for years.'

The SG pointed out that NHRIs already enjoy full participation rights at the Human Rights Council, at treaty bodies, and in at least one advisory body of ECOSOC (namely, the Permanent Forum on Indigenous Issues). NHRIs also enjoy active participation in other UN bodies. However their participation remains mostly *ad hoc* and informal. These bodies, such as the committee on the Status of Women, have not developed modalities for the participation and contribution of A-status NHRIs so far.

NHRI participation was formalised in key UN processes such as the Durban Review Conference and NHRIs have also been active in a range of other mechanisms. This includes the GA intergovernmental process to strengthen and enhance the effective functioning of the human rights treaty body system, through the elaboration of conventions and optional protocols.

'In this 70th year of the UN, the General Assembly has a wonderful opportunity to deepen NHRI cooperation with the UN all with the aim of strengthening the collective effort for the promotion and protection of human rights,' said Eleanor Openshaw, ISHR Programme Manager for NGO Participation.

In his report the SG therefore encouraged NHRIs to continue advocating for their independent participation in relevant UN bodies and processes. He called on States to ensure that NHRIs are protected in their work, including whilst cooperating with the UN, and to ensure that any cases of alleged reprisal or intimidation against members and staff of institutions, or against individuals who

cooperate or seek to cooperate with them, are promptly and thoroughly investigated and perpetrators brought to justice.

Several NHRI chairs will be travelling to the GA to participate in a side event on the role of their institutions, the importance they put on extending participation rights and the value of the role of NHRIs in the UN system. The event to be held on 12 October, from 1:15pm to 2:30pm at the UN Conference Room 7, is co-sponsored by the Permanent Missions of Afghanistan, Australia, Germany, Ghana and Morocco, along with ISHR. For further information, [see the event flyer](#).

## **CREATING AND MAINTAINING CIVIL SOCIETY SPACE: WHAT WORKS?**

(1 October 2015) – States, corporations, investors and the UN all have an interest and a responsibility in ensuring that civil society organisations and human rights defenders are able to undertake their vital work in a safe and enabling environment, according to a [major new report prepared by ISHR together with eleven national-level human rights organisations from Africa, Asia, Central Asia and Latin America](#).

The report, submitted to the UN Office of the High Commissioner for Human Rights pursuant to [UN Human Rights Council resolution 27/31](#), examines strategies and makes over 40 recommendations as to how to 'create and maintain civil society space'. The OHCHR report will be considered by the Council at its 32nd session in 2016.

### Key points

- Joint report prepared by ISHR together with eleven leading national human rights organisations sets out a roadmap of more than 40 recommendations – directed to States, national human rights institutions, the UN, donors, business enterprises, and civil society itself – to ensure that defenders can work in a safe and enabling environment.
- Report will be considered by UN Human Rights Council in June 2016, with ISHR urging that its key findings and recommendations be reflected in a resolution on the protection of civil society space.
- Report says that States should enact specific laws and policies to protect human rights defenders and to enable their work, including laws and policies on access to information, the prevention of reprisals, and the right to advocate and associate freely. The implementation of such laws should be adequately resourced and enjoy high-level political support.
- States should also review and amend laws and policies which operate to close civil society space or to unduly restrict and even criminalise the work of human rights defenders, including counter-terrorism laws, laws which restrict access to funding and resources, and laws limiting the right to peaceful assembly and protest.
- Report emphasises the role and responsibility of corporations and investors in protecting civil society space, and the business case for doing so, with corporations urged to act in enlightened self-interest by speak out against restrictions on the rights to freedom of expression, association and assembly in the jurisdictions in which they operate or have interests.
- Funders and civil society organisations themselves also have a role to play in protecting civil society space. Report emphasises importance of coordination, collaboration and networks between human rights defenders and NGOs, together with the use of a complementary range of tactics including

strategic litigation and media advocacy to increase their protection and amplify the impact of their work.

The report was compiled by ISHR following face-to-face consultations in September 2015 with 15 leading human rights defenders from around the world, chosen for their extensive experience and success in advocating for the protection of civil society space at the national level. The consultations aimed to identify, document and further develop strategies, tactics and lessons learnt to advocate for laws, policies and practices that safeguard and enable defenders' work, as well as strategies to challenge and resist laws, policies and practices that restrict such work. The defenders also made a [joint statement](#) to the UN Human Rights Council reiterating the report's main points.

'An enabling environment for the work of human rights defenders is essential for the promotion and protection of human rights and the rule of law. It is vital that defenders working on the ground are at the forefront of international discussions about maintaining civil society space. Their expertise and experience is an invaluable contribution to the report of the High Commissioner for Human Rights,' said Ben Leather, ISHR's Advocacy, Training and Communications Manager.

In addition to being informed by those consultations, the joint report draws on ISHR's existing research based on its 30 years of working with human rights defenders and its in-depth research report, [From Restriction to Protection](#), which examines laws affecting human rights defenders across 40 jurisdictions covering all regions.

### **States urged to enact and effectively implement specific laws and policies for the protection of human rights defenders**

The new joint report emphasises that States have the primary responsibility to support human rights defenders and safeguard civil society space. Measures in this regard should include the enactment of specific laws and policies to protect human rights defenders and to enable their work, including laws and policies on access to information, the prevention of reprisals, and the right to advocate and associate freely. The report also emphasises the importance of States reviewing and amending laws and policies which operate to close civil society space or to unduly restrict and even criminalise the work of human rights defenders, including counter-terrorism laws, laws which restrict access to funding and resources, and laws limiting the right to peaceful assembly and protest.

'An enabling legal environment which facilitates the formation of associations, provides the ability to access and use resources, and recognises the right to advocate without restriction and without fear of reprisal, is essential to human rights, good government and the rule of law,' said ISHR Director Phil Lynch.

### **The 'business case' for speaking out on the protection of civil society space**

The report also emphasises the role and responsibility of corporations and investors in protecting civil society space, with enlightened companies recognising that respect for the rights to freedom of expression, association, assembly and non-discrimination, together with a vibrant civil society that can combat corruption and advocate for the rule of law, is necessary to ensure the conditions in which business can operate safely, predictably and without undue restriction.

'Responsible companies are increasingly seeing the legal, moral and business imperatives of speaking out against attacks on human rights defenders, with the [intervention of Tiffany & Co](#) in support of corporate accountability activist and journalist Rafael Marques in Angola being a good case in point. They are also increasingly seeing the importance of, and benefits associated with, standing up for the rights to freedom

of expression, association, assembly and non-discrimination, with the literally hundreds of corporations lending their support to the cause of LGBT rights being a very positive sign,' Mr Lynch said.

The report also discusses the importance of businesses engaging with human rights defenders for the purpose of conducting due diligence and human rights impact assessment and securing a community 'license to operate',

'Human rights defenders have a vital role to play working alongside business to promote corporate respect for human rights, identify and mitigate human rights risk, and ensure corporate accountability for violations,' Mr Lynch said.

### **Civil society itself needs to collaborate, coordinate and innovate**

The report recognises that funders and civil society organisations themselves also have a role to play in protecting civil society space, with coordination, collaboration and networks between human rights defenders and NGOs increasing their protection and amplifying the impact of their work.

'The work of coalitions such as the [West African Human Rights Defenders Network](#), the [East and Horn of Africa Human Rights Defenders Project](#) and the [Women Human Rights Defenders International Coalition](#) is essential both for the coordination of advocacy efforts at the international level and the protection of human rights defenders on the ground,' Mr Lynch said.

### **UN must do more to protect civil society participation and space**

For its part, the UN also has a role and responsibility in safeguarding civil society space, ensuring that its mechanisms are accessible, effective and protective for human rights defenders and other civil society actors.

'The ongoing incidence and severity of [reprisals](#), together with the [denial of accreditation to many NGOs](#) working on issues such as women's rights, LGBT rights and minority rights, show that the UN itself still has some way to go in ensuring effective civil society participation and protecting civil society space,' said Mr Lynch.

'It is essential that the UN and its Member States prioritise efforts to protect human rights defenders from acts of intimidation and reprisals, including by supporting the UN Secretary-General to designate a high-level focal point to combat reprisals. It is also imperative that UN processes for NGO accreditation and participation are reformed to respect the basic rights to freedom of expression, association and participation,' he said.

The report was prepared and submitted by ISHR and the following organisations:

- [Centro de Investigación y Capacitación Propuesta Cívica A.C](#) (Mexico)
- Civil Society Organisation Network for Development (Burkina Faso)
- [Coalition Ivoirienne des Défenseurs des Droits de l'Homme](#) (Côte d'Ivoire)
- [Comisión Intereclesial de Justicia y Paz](#) (Colombia)
- [Human Rights Awareness and Promotion Forum](#) (Uganda)

- [Human Rights Defenders Network](#) (Sierra Leone)
- [Human Rights Movement: Bir Duino](#) (Kyrgyzstan)
- [India Social Action Forum](#) (India)
- [Just Associates](#) (Honduras)
- [Seguridad en democracia](#) (Guatemala)
- [Terra de direitos](#) (Brazil).

## **WOMEN HRDS DO CRITICAL WORK: FREE MAHIENOUR EL-MASSRY**

(19 September 2015) – ISHR today lends its voice to the global call, initiated by Nazra for Feminist Studies, for the release, as soon as possible, of Egyptian women human rights defender Mahienour El-Massry and two other human rights activists.

‘ISHR and our partners have [documented a longstanding and worrying trend](#) in protection gaps for women human rights defenders. Arrest, detention, and prosecution, in Egypt as in other countries, are used to discourage dissent and suppress independent criticism of government policies,’ said Sarah M. Brooks, ISHR acting focal point on women defenders.

In Alexandria, Egypt on Sunday, 20 September, a court will review [the case of Ms El-Massry and her colleagues, known as the ‘El Raml police station’ case](#). In May, the three defenders were sentenced to 15 months imprisonment and substantial fines for demanding due process and access to a detained activist held at the El Raml police station in March 2013. When police refused to share information about the case or permit entry to the station, El-Massry and her colleagues staged a sit-in.

Based on documents from defence lawyers, the court will consider whether to suspend the sentence. Although this could result in their release from prison, the charges will remain formally on their records, potentially imperilling future work in legal advocacy. For many women human rights defenders, detention and the stigma associated with it can also negatively impact their lives in other ways, for example deepening the disapproval or even hostility expressed by some members of women HRDs’ families and communities.

‘UN experts have raised [particular concerns about women human rights defenders](#) in Egypt before,’ said Ms Brooks, ‘but the response from the government was frankly underwhelming; its 200-odd words did not address the experts’ allegations of violence, including beatings in police custody, and failure to respect due process rights.’

‘States and other actors, especially in the MENA region, should call on Egypt to address these concerns and take steps toward improving the environment for human rights defenders and peaceful activism. This case is yet one more reminder of how important global collaboration is to advance protections for women HRDs, and underlines the urgency with which the [UN Resolution on women human rights defenders](#), adopted in 2013, should be implemented,’ Ms Brooks said.

## **UNITED ARAB EMIRATES: LIFT TRAVEL BAN ON MARTIN ENNALS AWARD LAUREATE AHMED MANSOOR**

(15 September 2015) – Ten leading human rights groups represented on the Martin Ennals Award Jury today called on the United Arab Emirates (UAE) authorities to lift a travel ban imposed on [Ahmed Mansoor](#), one of the three human rights defenders nominated for the 2015 Award, and to issue him a passport.

'Preventing Ahmed Mansoor from travelling to Geneva to attend the Martin Ennals Award ceremony is a violation both of Ahmed's rights to freedom of movement and association and the UAE's obligations as a member of the Human Rights Council to respect and protect the work of human rights defenders,' said ISHR Director and Martin Ennals Award Jury member Phil Lynch.

Widely respected as one of the few voices within the UAE to provide a credible independent assessment of human rights developments in the country, Ahmed Mansoor regularly raises concerns regarding arbitrary detention, torture, and failure to meet international standards of fair trial. He also draws attention to other human rights abuses, including against migrant workers.

As a result, Ahmed Mansoor has faced repeated intimidation, harassment, and death threats from the UAE authorities or their supporters, including arrest and imprisonment in 2011 following an unfair trial. He and four other activists who called for democratic rights in the UAE were jailed in 2011 on the charge of 'insulting officials'. Although pardoned and released later that year, Ahmed Mansoor has been banned from travel and had his passport confiscated.

As a result of his courageous work, Ahmed Mansoor was selected as one of the three finalists of the Martin Ennals Award who will be recognised at a ceremony hosted by the city of Geneva on 6 October 2015. The Award is usually handed out by the United Nations High Commissioner for Human Rights.

As matters stand, however, Ahmed Mansoor will be prevented from attending the ceremony in Geneva because the UAE authorities have arbitrarily imposed a travel ban on him and have refused to return his passport, which they have confiscated since 2011. Both the travel ban and the confiscation of his passport violate Ahmed Mansoor's right under international human rights law to freedom of movement, as these measures were taken to punish him for his peaceful human rights activism.

The Martin Ennals Award Jury today noted with concern: 'Ahmed Mansoor's absence at the ceremony would mark a very disappointing position for the UAE, which is a country that prides itself as one of the hubs of international business and tourism in the Middle East, as well a safe haven in the region. As a member of the UN Human Rights Council, which is running for a second term, we expect the UAE authorities to honour their obligations to uphold human rights and protect human rights defenders. The UAE government must match its rhetoric on the international stage with meaningful actions at home, starting with immediately lifting the travel ban on Ahmed Mansoor, to returning and renewing his passport, and allowing him to travel to Geneva for the ceremony.'

Ahmed Mansoor is a member of the Advisory Committee of Human Rights Watch's Middle East and North Africa Division, as well as the Advisory Board of the Gulf Centre for Human Rights.



The members of the Martin Ennals Jury comprise:

- Amnesty International
- FIDH
- Human Rights First
- HURIDOCS
- International Service for Human Rights
- EWDE Germany
- Front Line Defenders
- Human Rights Watch
- International Commission of Jurists
- World Organisation Against Torture.

## **ANGOLA: LAW SHOULD NOT BE AN INSTRUMENT TO STIFLE ECONOMIC, SOCIAL AND CULTURAL RIGHTS DEFENDERS**

*In a joint report sent to the UN Committee on Economic, Social and Cultural Rights, ISHR sheds light on the judicial pressure and other means used by the Angolan Government to silence defenders.*

(17 September 2015) – The report published by ISHR and the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) on [the situation of human rights defenders in Angola](#) reveals the particularly fragile situation of economic, social and cultural rights defenders in Angola and the recurrent misuse of judicial instruments and procedures by Government authorities to hamper and even block their action.

An increasingly restrictive legal environment and arbitrary application of the law combine to make the working context for human rights defenders in general, and economic, social and cultural rights defenders in particular, both unsafe and disempowering. This includes:

- Arbitrary arrests and detention
- Judicial harassment, abusive lawsuits and sentences
- Legal restrictions to freedom of association
- Purposely long and complex registration process for NGOs
- Intimidation and violence by police officers
- Defamation and criminalisation of defenders
- Ban threats for organisations and defenders setting up protests

Journalists reporting on economic, social and cultural rights and defenders demanding transparency and disclosing governmental corruption are among the most exposed to these violations.

The 56th Pre-sessional Working Group of the UN Committee on Economic, Social and Cultural Rights will consider the joint submission by ISHR and the Global Initiative for Economic, Social and Cultural Rights in developing a list of issues to be posed to Angola at its next examination. The aim of the review will be to assess Angola's progress towards compliance with the [International Covenant on Economic, Social and Cultural Rights](#).

## Warning lights on for civil society freedoms

In a latest move to keep watch over civil society organisations, the Government recently used counter terrorism as a pretext to enact a presidential decree that made it almost impossible for NGOs to carry out a wide range of procedures such as receiving foreign funding or acquiring legal personality. As for activists, those ‘defending labour rights and the right to housing, health, development and public participation in the context of business operations, face both restrictions in terms of access to information and transparency, as well as attacks and criminalisation in response to their work’, underlines Ben Leather, ISHR Advocacy and Communications Manager.

Lucy McKernan, Geneva Representative for GI-ESCR explained that ‘the effective protection and realisation of economic, social and cultural rights relies upon the valuable contribution of civil society, by monitoring and evaluating State compliance with the Covenant, providing input into policy formulation and program design and holding decision-makers accountable. States must ensure that civil society can play this vital role, and can voice their critiques of government action without fear of reprisals.’

The Pre-sessional Working Group of the UN Committee on Economic, Social and Cultural Rights must therefore ask Angola to indicate what legal and policy steps it intends to take in order to relax undue governmental oversight and de facto restrictions imposed on civil society action.

For more information, contact Ben Leather at [b.leather@ishr.ch](mailto:b.leather@ishr.ch)

## Our Work to Strengthen Laws and Systems

### International

#### **GENERAL ASSEMBLY: TAKE ACTION TO SUPPORT ‘EXTRAORDINARILY DANGEROUS’ WORK TO DEFEND HUMAN RIGHTS**

(21 September 2015) – Defending rights is an ‘extraordinarily dangerous activity’ in many countries, the Special Rapporteur on Human Rights Defenders, Michel Forst, has concluded following seven regional consultations with over 500 human rights defenders from 111 States.

In his [new report](#) (UN Doc A/70/217), to be presented to the UN General Assembly in October, Mr Forst has drawn from these consultations to produce a raft of recommendations for Member States and other stakeholders to better enable and protect the work of defenders.

#### Key points

- Based on consultations with over 500 defenders from 111 States, the report concludes that in the vast majority of States the situation for defenders is deteriorating in law and in practice, with key drivers including the perceived imperative of economic development, religious fundamentalism, and the need to combat extremism.
- Women human rights defenders, defenders of LGBTI rights, defenders working on land and environment rights and corporate accountability, defenders working to combat impunity and those working in conflict or post-conflict zones, defenders working on minority and refugee rights, human rights lawyers, and journalists and bloggers, are among those who are most exposed and at risk.

- The law is increasingly being used and instrumentalised to restrict the work of defenders, while information and communication technologies are increasingly being used to harass and survey them.
- A lack of awareness regarding the vital and legitimate work of defenders, combined with a lack of political commitment and weak institutional arrangements for their protection, is placing defenders, their organisations and families at elevated risk.
- Report sets out a roadmap of more than 30 recommendations – directed to States, national human rights institutions, the UN, donors, business enterprises, and civil society itself – to ensure that defenders can work in a safe and enabling environment. Recommendations are made in the areas of legislative reform (such as the enactment of enabling defender laws and the repeal of restrictive laws on blasphemy or apostasy), institutional reform (such as the establishment of national human rights institutions with human rights defender focal points), and educational measures (such as training in and widespread dissemination of the Declaration on Human Rights Defenders). The report also makes recommendations in relation to the need for States and business enterprises to properly consult and engage with human rights defenders in the design of major development projects, and the imperative for both States and the UN to ensure that violations and reprisals against defenders are investigated promptly and impartially with perpetrators brought to justice.
- Report will be presented to General Assembly in October, with ISHR urging that its key findings and recommendations be reflected in a resolution on human rights defenders to be negotiated and adopted by the GA.

### **Operating environment for human rights defenders is deteriorating in law and practice**

The report concludes that in the vast majority of States the situation for defenders is deteriorating both in law and in practice. Defenders continue to be intimidated, attacked and restricted in their work in multiple and diverse ways: from media defamation campaigns to restrictions on access to financing, from online surveillance to malicious prosecution, and from arbitrary arrest to repression of peaceful protest.

In addition, the unwillingness of many States to protect or speak out publicly in support of defenders, combined with the very high level of impunity for attacks against them, combine to create an environment of multiple risks for defenders in many contexts. The report notes, for example, that defenders are frequently portrayed as ‘foreign agents’ rather than ‘agents of change’ – a labelling which can both stigmatise defenders and legitimise attacks against them.

*‘The present report testifies to the difficulties faced by defenders all over the world and calls upon the international community to step up its efforts to protect defenders from the attacks and threats they face on a daily basis.’ – Special Rapporteur on Human Rights Defenders, Michel Forst*

### **Certain groups of defenders face particular and elevated risks**

The Special Rapporteur emphasises that defenders face increased threats from both the State and a wide range of non-State actors – including fundamentalist religious groups and corporations – and that particular groups of defenders face elevated risks.

In a non-exhaustive list, Mr Forst highlights defenders of the rights of LGBTI persons, those combating corruption and impunity, defenders seeking to protect the rights of minorities and refugees, journalists and bloggers, human rights lawyers, defenders working on land and environment rights and issues of

corporate accountability, and defenders working in countries at war or in areas exposed to internal conflict.

### **States and businesses must consult with and protect corporate accountability activists**

'It is clear from this report that, in many contexts, the privileging of large-scale development projects over respect for human rights means that defenders working on issues of corporate accountability and related land, environment and indigenous rights, are facing worsening threats from both the State and corporations,' said ISHR's Eleanor Openshaw.

To arrest these violations, the Special Rapporteur underlines the importance of States actively consulting and engaging with defenders in conducting due diligence on development projects and in the elaboration of National Action Plans on Business and Human Rights. In direct recommendations to corporations he calls on them to refrain from interfering with defenders' rights to freedom of expression, association and assembly, and also to promote the work of defenders in their field of industry.

### **Call for national implementation of international commitments to protect women human rights defenders**

In regard to the situation for women defenders, Mr Forst highlights the gendered aspect of many of the attacks against them, including 'particularly virulent harassment, defamation and stigmatisation campaigns on the Internet, in which their respectability and credibility' as defenders, women, mothers or citizens was attacked. In an important reminder to States to honour their commitments and take action, Mr Forst calls on States to 'develop, with the support of UN country teams, national programmes for implementing GA resolution 68/181 on protecting women human rights defenders.'

The Special Rapporteur also indicates that he believes efforts to increase protection for defenders has been undermined by a lack of understanding of how 'different types and sources of discrimination intersect with and reinforce, on another.' He notes that the international human rights system has yet to 'systematically incorporate an intersectional approach' in its work, undermining its effectiveness, and promises to focus on this issue more deeply in a later report.

### **States and the UN must address 'disturbing increase in reprisals'**

Through the report, Mr Forst expresses grave concern at evidence from defenders as to a 'disturbing increase in the number of reprisals and acts of intimidation' in connection with them providing information, reports or testimony to UN human rights bodies.

'Acts of intimidation and reprisals amount to a violation of an individual's rights and an attack on the institutional integrity of the UN human rights system itself,' said ISHR Legal Counsel Madeleine Sinclair.

'In this regard we welcome the Special Rapporteur's recommendation to States that they desist from, investigate and ensure accountability for reprisals and to the UN itself that it document reprisals and bring them to the attention of the international community for action.'

### **Future areas of focus and work**

Through the report Special Rapporteur identifies a number of issues that may be the focus of future thematic reports, including in relation to indigenous rights defenders, the effect of compound or intersectional discrimination on certain defenders, and good practices for the protection of defenders (such as human rights defender protection laws and Shelter City initiatives). Responding to concerns expressed during the regional consultations that the system of individual complaints or communications with Special Procedures is opaque and ineffective, the Special Rapporteur also foreshadows examining ways to make the communications procedure most accessible, transparent and impactful.

### **Recommendations to enable, protect and support the work of human rights defenders**

Informed by consultations with over 500 human rights defenders and experts, the report sets out a clear roadmap of more than 30 recommendations – directed to States, national human rights institutions, the UN, donors, business enterprises, and civil society itself – to ensure that defenders can work in a safe and enabling environment free from restriction or attack.

The recommendations urge a range of steps and measures, including as to:

- Legislative reform – States are urged, for example, to strengthen protection of the right to freedom of assembly and association and ‘abolish laws...relating to blasphemy or apostasy, so as to guarantee the right to freedom of expression, including in it the right to criticise the State, its representatives and religious authorities’.
- Institutional reform – States are urged, for example to establish and adequately resource a national human rights institution in accordance with the Paris Principles, while for their part NHRIs are encouraged to establish a human rights defender focal point or protection unit.
- Education – States, NHRIs and UN bodies are all urged to ensure adequate training in, and widespread dissemination of, the Declaration on Human Rights Defenders and to publicly recognise and promote the vital and legitimate work of defenders.
- Engagement – The Special Rapporteur recommends that both States and business enterprises properly consult and engage with human rights defenders, including in the design of major development projects and through the elaboration of National Action Plans on Business and Human Rights.
- Accountability – Both States and the UN should ensure that violations and reprisals against defenders are investigated promptly and impartially and that ‘the perpetrators of violations against the rights of defenders are brought to justice’.
- Diplomatic measures – Third States and UN regional and country teams are urged to provide consistent and effective measures of support, protection and assistance to defenders.

### **UN General Assembly resolution must reflect gravity and urgency of situation for defenders**

‘Through this report the Special Rapporteur has provided a diagnosis of a global threat to the right to defend rights. He makes a strong call to States to implement their commitments nationally and step up their measures to protect human rights defenders in third States,’ said ISHR’s Eleanor Openshaw.

‘The General Assembly will negotiate a new resolution on the protection of human rights defenders over the coming weeks. It is imperative that the key findings and recommendations contained in this report are reflected in that resolution and that States and other actors take urgent action to ensure their implementation,’ Ms Openshaw said.

## **70TH SESSION OF UN GENERAL ASSEMBLY COMMENCES IN NEW YORK**

(15 September 2015) – Today the 70th Session of the UN General Assembly commences under the Presidency of Denmark. Several of the main committees of the General Assembly will convene over the next couple of months, including the Third Committee which deals with human rights.

High-level meetings dominate the agenda in September, including the summit for the adoption of the post-2015 development agenda on 25-27 September. The General Debate, in which leaders from a number of Member States will address the General Assembly, will take place from 28 September to 6 October. The debate will open with the Secretary General's report on the work of the UN.

Detailed discussion on a wide human rights agenda will start with the work of the Third Committee on 12 October, under the Chairpersonship of Morocco. A number of Special Procedures will report to this Committee, including the Special Rapporteur on Human Rights Defenders.

ISHR will provide regular information on developments at the Third Committee related to the protection of civil society space and human rights defenders, including an initial Third Committee Alert ahead of the session. To receive this Alert directly in your inbox, subscribe at <https://www.ishr.ch/subscribe> and for the most up-to-date information, follow us on Twitter [@ISHRglobal](https://twitter.com/ISHRglobal) or use #GA70.

## **UN: PROTECT THOSE WHO COOPERATE WITH UN HUMAN RIGHTS EXPERTS FROM RETALIATION AND ATTACK**

(11 September 2015) – States must respond swiftly and clearly to allegations of reprisals and intimidation against individuals and groups engaging with UN rights experts, the International Service for Human Rights said today.

A [new UN report documenting human rights violations around the world](#) refers to a number of deplorable cases of attacks against human rights defenders in connection with engaging, giving evidence to or meeting with UN experts.

In Oman, Mr Mohammed Al-Fazari, a human rights defender, was banned from leaving the country as a consequence of meeting with the Special Rapporteur on Freedom of Assembly and Association during his visit to the country. In the United Arab Emirates, Mr Osama al-Najjar, a blogger and human rights defender, was arrested, detained, tortured and convicted in response to his cooperation with the Special Rapporteur on the Independence of Judges and Lawyers and his peaceful exercise of the right to freedom of opinion and expression. In Saudi Arabia, Ms Samar Badawi, a human rights defender advocating for the release of her spouse, human rights lawyer Mr Waleed Abu al-Khair, received threats after having publicly raised the subject of her spouse's and other political prisoners' detention in Saudi Arabia in a statement she delivered to the Human Rights Council. She has been banned from traveling abroad for an indefinite period of time. Similar cases of reprisals against those engaging with UN's human rights experts are documented in relation to Honduras, Kuwait and Venezuela.

'Beyond the troubling fact that many governments continue to ignore allegations of human rights violations sent to them by UN experts, the report highlights the additional challenge of States directly attacking individuals and groups seeking to engage with those experts,' said Madeleine Sinclair, Legal Counsel with the International Service for Human Rights.



'What's perhaps even more shocking is the perverse reality that other Member States of the UN tolerate this situation,' said Ms Sinclair. 'States must confront the fact that by doing nothing concrete to address this situation, they are complicit in undermining the system they have created to promote and protect human rights,' she added.

Two years ago Human Rights Council took the step of [requesting the Secretary-General to designate a focal point to promote the prevention of, protection against, and accountability for reprisals and intimidation related to cooperation with the UN in the field of human rights](#). However, the General Assembly [decided to defer consideration of and action on that request](#), 'in order to allow time for further consultations thereon'.

As world leaders prepare to gather in New York in the coming weeks for the start of the 70th General Assembly session, and the world's peak human rights body – the Human Rights Council – is set to meet in Geneva, [ISHR along with other NGOs have called on governments to redouble their efforts to find a way forward](#) that will ensure that individuals and groups engaging with the UN can do so safely and without fear.

## **STATES CALLED TO TAKE ACTION ON REPRISALS AT UN GENERAL ASSEMBLY**

(9 September 2015) – States must support stronger action to combat reprisals against those who cooperate with the UN by pushing for the General Assembly to move forward in appointing a UN focal point on the issue, the International Service for Human Rights (ISHR) said today.

Two years ago, the Human Rights Council passed an important [resolution calling for the UN to appoint a high-level focal point](#) with a mandate to prevent and promote accountability for threats and attacks against people who engage with the UN. However, action on the resolution was deferred at the General Assembly by States who said they needed more time to consider the issue.

In the meantime, a number of regional and international mechanisms have taken action to provide better protection to those who contribute to their work. The African Commission on Human and Peoples' Rights resolved in May 2014 to [appoint its own senior focal point on reprisals](#). The Chairpersons of the UN treaty bodies adopted a significant [policy to combat intimidation and reprisals](#) against those who provide them with information or contribute to their work.

ISHR joined 17 other NGOs in a [joint letter urging States to redouble their efforts](#) to find a way forward and resolve the still unsettled deferral by the General Assembly of the consideration of the focal point.

'Two years have passed since States said they needed more time. While States fail to even debate a way forward, they are tolerating impunity for those that perpetuate intimidation or reprisals, and undermine the integrity of the UN,' said Madeleine Sinclair, Programme Manager and Legal Counsel with ISHR. 'States have had ample time to resolve their differences. In the meantime, individuals and groups have continued to experience intimidation and reprisals related to their cooperation with the UN human rights system,' she said.

Recent cases include the [stigmatisation of Venezuelan human rights defenders](#), the enforced disappearance and [untimely death of Chinese activist Cao Shunli](#), and the systematic [intimidation of those providing evidence to UN investigators in Sri Lanka](#).

'A more robust, coordinated, comprehensive and systemic UN response to challenge reprisals is needed more than ever. The current ad hoc methods employed by different mechanisms and bodies do not adequately uphold the right to communicate with the UN. Furthermore, defenders are in the unacceptable situation of facing greater and less protection depending on what aspects of the UN human rights system they interact with.

'Every member State of the United Nations has an opportunity and responsibility to show it is serious about ending violence and intimidation against those that struggle for human rights, by ensuring the UN significantly steps up its response to reprisals,' Ms Sinclair said.

The letter also calls for principled action on reprisals at the upcoming session of the Human Rights Council in Geneva (September 14 – October 2), underlining that any ongoing consideration of the previous Human Rights Council resolution is not an excuse for inaction on a follow up initiative that would reaffirm the need for a prompt and effective response to all cases of reprisals.

## **THE COMPLEMENTARY ROLES OF STATES AND CIVIL SOCIETY IN THE UPR PROCESS**

*By Professor Hilary Charlesworth, Editor, Human Rights and the Universal Periodic Review: Rituals and Ritualism*

*(4 October 2015) – The role of civil society is absolutely critical in combatting ritualism in the UPR process. At its best, civil society provides a system of networked accountability, says Professor Hilary Charlesworth at an event organised by ISHR, UPR Info and the permanent missions of Australia, Paraguay and Namibia to discuss opportunities for and benefits of collaboration and cooperation between States and civil society in the UPR process.*

We suggest that one problematic feature of the international human rights system is what we call *ritualism*. We use this term to mean the formal acceptance of human rights norms, for example by becoming a party to a human rights treaty, but an indifference, to or even reluctance about, improving protection of human rights in practice.

There are many different forms of human rights ritualism: one example is broad reservations to human rights treaties that effectively defeat the object of the treaty. Another is superficial state reports to the human rights treaty bodies, avoiding any areas of weakness.

Our book investigated whether the UPR, with its ambition of universal scrutiny of States' human rights performances, could be a counterweight to human rights ritualism. Could it encourage States to adhere to the human rights standards that they had accepted and develop a real commitment to them?

The rich chapters suggest a mixed answer. Certainly forms of ritualism persist in the UPR in the sense that some States have treated it in a perfunctory way, or as a way of undermining the expert scrutiny of the human rights treaty bodies. Extremely broad recommendations are another example of ritualism.

But the UPR has also had some success in influencing States to increase compliance with human rights standards. Now, near the end of the second cycle, we can see reforms at the national level to support human rights prompted by the UPR. And, as the chapter on the UPR and Pacific States in the book points out, UPR recommendations can become a de facto national action plan in countries that have not ratified many human rights treaties

The role of civil society is absolutely critical in combatting ritualism in the UPR process: civil society can support, inform, prod, and remember. At its best, civil society provides a system of networked accountability.

There is of course a balance to be struck between civil society becoming too close to States, so that we have *co-optation* rather than collaboration. Civil society needs to cultivate independence and maintain a critical distance while also supporting positive steps States take.

How can the relationship between civil society and States be improved in the context of the UPR?

First, despite the requirement to do so, some States have been reluctant to consult meaningfully with civil society in the preparation of their reports, for example some members of WEOG organizing consultations after the report was submitted, or States only inviting sympathetic groups to participate. These are perfect examples of human rights ritualism.

Second, the greater resources available to civil society in the global north means that it has been able to engage much more actively with the UPR than civil society in the global south.

Of course, the remarkable work of groups such as UPR Info provides support for such groups, but the UPR process should provide a more secure space for the voices of local, grassroots NGOs. This requires outreach and proper resourcing. It also requires attention in the process of granting consultative status with ECOSOC.

Third, the Secretary-General's annual report on Cooperation with the UN human rights system has documented many instances of States' intimidation or reprisals against civil society groups that have criticized them during the UPR. There is also an increasing tendency for States to adopt legislation restricting the funding of civil society groups from abroad.

Such practices allow human rights ritualism to flourish and they should be urgently and specifically scrutinized and condemned by the Human Rights Council. A Focal Point for reprisals would be a valuable reform.

Allow me to conclude by thanking again the organisers of the panel, and observing that this event itself is a good example of productive collaborations between States and civil society to strengthen the UPR.

*This is an edited extract of a speech delivered by Hilary Charlesworth at the Australian Permanent Mission to the UN on 7 September at ISHR. Marking the launch of the new book Human Rights and the Universal Periodic Review: Rituals and Ritualism, edited by Professor Hilary Charlesworth and Dr Emma Larking, and a comprehensive guide by UPR Info on the role of "Recommending States".*

## Key Developments in the Promotion and Protection of Human Rights

### MEANWHILE IN PUTIN'S RUSSIA, NGOS FACE OPPRESSION AND ABSURDITY

As President Putin visits the UN General Assembly and Russia intervenes in Syria, Mosco's Appeal Court upheld an unjustified fine against Human Rights Centre 'Memorial', one of Russia's best-known independent human rights groups, pursuant to the infamous 2012 'foreign agents' law...[more](#)

### OFFICIAL UN EXPERT VISIT TO AUSTRALIA POSTPONED DUE TO PROTECTION CONCERNS

The UN Special Rapporteur on the human rights of migrants announced the postponement of his visit to Australia due to the lack of full cooperation from the Government regarding protection concerns and access to detention centres... [more](#)

## **PHILIPPINES: UN EXPERTS URGE PROBE INTO KILLINGS OF THREE INDIGENOUS PEOPLES' RIGHTS DEFENDERS**

The United Nations Special Rapporteurs on the rights of indigenous peoples and on the situation of human rights defenders called on the Philippine Government to launch a full and independent investigation into the killings of three human rights defenders... [more](#)

## **MORE NEEDS TO BE DONE TO PROTECT WOMEN'S SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS**

A group of international and regional human rights experts urged Governments to renew their commitments and ensure full respect, protection and fulfilment of sexual and reproductive health and rights during the adoption of the new United Nations 2030 Agenda for Sustainable Development... [more](#)

## **FRANCE: PARLIAMENT MUST REJECT LAW THAT GIVES CARTE BLANCHE TO MASS SURVEILLANCE GLOBALLY**

Amnesty International calls on the French Parliament to reject a draft bill which revives efforts previously struck down by the Constitutional Council and allows surveillance of almost all internet communications... [more](#)

## **TURKEY: HUMAN RIGHTS ASSOCIATION OFFICES RAIDED AND STAFF ARBITRARY DETAINED**

The International Federal for Human Rights calls on the Turkish Government to end acts of harassment against the Human Rights Association (IHD), and release arbitrarily detained IHD chairperson and managers... [more](#)

## **CHALLENGING TUNISIA'S HOMOPHOBIC TABOOS**

The Minister of Justice's public call for the decriminalisation of same-sex relations and Amnesty International call for the release of a human rights defender sentenced to one year in prison for engaging in 'homosexual relations' sparks public debate in Tunisia... [more](#)

## **VENEZUELA: ARMED ASSAULT AGAINST HUMAN RIGHTS DEFENDER MUST BE THOROUGHLY INVESTIGATED**

Amnesty International calls on the Venezuelan Government to ensure the effective protection of human rights defenders following the attack of a human rights defender and his 9 year old son during a raid on their home... [more](#)

## **Opportunities for NGO Engagement**

### **HUMAN RIGHTS COUNCIL**

The organisational meeting for the 31<sup>st</sup> regular session of the Human Rights Council will be held on 7 December in the Palais des Nations. Information and updates will be published [here](#).

## **BUSINESS AND HUMAN RIGHTS**

The [UN Forum on Business and Human Rights](#) will be held from from [16 to 18 November](#). The draft programme outline can be accessed [here](#). More information is available [here](#). [Registration](#) is now open.

## **UNIVERSAL PERIODIC REVIEW**

The 23<sup>rd</sup> UPR session will take place from [2 November to 13 November 2015](#). The following States will be reviewed: Micronesia, Lebanon, Mauritania, Nauru, Rwanda, Nepal, Saint Lucia, Oman, Austria, Myanmar, Australia, Georgia, Saint Kitts and Nevis, and Sao Tome and Principe.

The following States will be reviewed at the 25<sup>th</sup> session of the UPR which will be held in [April/May 2016](#): Suriname, Greece, Samoa, Saint Vincent and the Grenadines, Sudan, Hungary, Papua New Guinea, Tajikistan, United Republic of Tanzania, Antigua and Barbuda, Swaziland, Trinidad and Tobago, Thailand and Ireland. Information about the UPR mechanism can be found [here](#).

## **TREATY BODIES**

The 115<sup>th</sup> session of the Human Rights Committee will be held from [19 October to 6 November](#) and will consider the following State reports: Austria, Benin, Greece, Iraq, the Republic of Korea, San Marino and Suriname. The programme of work and other information is found [here](#).

The 56<sup>th</sup> session of the Committee Against Torture will be held from [9 November to 9 December](#). The Committee will consider the following State reports: Austria, Azerbaijan, China, China (Hong Kong), China (Macau), Denmark, Jordan, Liechtenstein. The Committee will also consider the lists of for: France, Mongolia, Saudi Arabia, and Tunisia. The Committee will also consider the list of issues prior to reporting for: Ghana, Kenya, Kyrgyzstan, Latvia, Netherlands, Poland, and Portugal. More information is available [here](#). The OPCAT Special Fund accepts [project applications](#) regarding recommendations made by the Sub-Committee on prevention of Torture due to 16 October.

The 56<sup>th</sup> session of the Committee on Economic, Social and Cultural Rights will be held from [21 September to 9 October](#). The Committee will analyse the following State reports: Burundi, Greece, Guyana, Iraq, Italy, Morocco and Sudan. The programme of work can be found [here](#) and the accreditation form [here](#). The 56<sup>th</sup> Pre-sessional Working Group will be held from [12 to 16 October](#), in which the following states parties reports will be considered: Angola, Burkina Faso, Honduras, Kenya, Namibia, Sweden, The former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland.

The 62<sup>nd</sup> session of the Committee on the Elimination of Discrimination against Women will take place from [26 October to 20 November](#). The reports of the following States parties are scheduled to be considered: Lebanon, Liberia, Madagascar, Malawi, Portugal, the Russian Federation, Slovakia, Slovenia, Timor-Leste, the United Arab Emirates and Uzbekistan. The Provisional Agenda can be accessed [here](#) and the Programme of Work [here](#).

The 88<sup>th</sup> session of the Committee on the Elimination of all Forms of Racial Discrimination will take place from [23 November to 11 December 2015](#). The Committee will analyse the following State reports: Egypt, Holy See, Lithuania, Mongolia, Slovenia and Turkey. [More information](#) and the [information note for NGOs](#) are now available.

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 [here](#).

## WORKING GROUPS

The Working Group on Arbitrary Detention will hold its 74th Session from [30 November to 4 December](#). The Working Group acts on information [submitted to its attention](#) regarding alleged cases of arbitrary detention.

## COUNTRY VISITS BY SPECIAL PROCEDURES

Belgium Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, 12 - 16 October

Turkey Working Group on Enforced or Involuntary Disappearances, 16 - 20 November

United States Working Group on the issue of discrimination against women in law and practice, 30 November - 11 December

Republic of Korea Special Rapporteur on the rights to freedom of peaceful assembly and of association, 18 – 28 January 2016.

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

## Conferences and events

### GLOBAL CRACKDOWN: THE USE OF LAWS TO CRIMINALISE AND RESTRICT HUMAN RIGHTS DEFENDERS

ISHR is pleased to co-sponsor a side event along with AI, Observatory/FIDH and the Permanent Mission of Norway to highlight the increasingly common practice of legal restrictions on and criminalisation of the work of human rights defenders. Human rights defenders from several countries where the restrictions are acute will share their first-hand experience of how their work is being hampered. Along with Special Rapporteur on Human Rights Defenders they will provide recommendations on what must happen for defenders to be protected and their work enabled. The event will take place on 23 October 2015 at 1.15pm in Room 6, United Nations HQ New York.

### 5TH DAWN TRAINING INSTITUTE

The 5<sup>th</sup> DAWN Training Institute (DTI) for young feminists working for gender, economic, political and ecological justice will be held in Havana, Cuba from 21 November to 7 December 2016.



The DTI is a three-week intensive training programme for young feminist activists and advocates which interlinks issues under the themes of Political Economy of Globalisation, Political Ecology and Sustainability, Sexual and Reproductive Health and Rights, and Political Restructuring and Social Transformation. The DTI will focus on ways forward to implementation and accountability of the Post 2015 Development Agenda. Applications are accepted online [here](#) until 1 December 2015.

## **CALL FOR NOMINEES: MARTIN ENNALS AWARD FOR HUMAN RIGHTS DEFENDERS**

The Martin Ennals Award 2016 is calling for nominees. The award is granted annually to an individual, or exceptionally an organisation, in recognition of their commitment and ongoing efforts in the defence and promotion of human rights. Nominees must be currently involved in work for the promotion and protection of human rights. Special account is taken of those who are at risk and have demonstrated an active record of combating human rights violations by courageous and innovative means. Nominations can be made [here](#) until 9 November 2015.

## **New Resources**

### **IN DEFENSE OF LIFE: CIVIL OBSERVATION MISSION REPORT ON THE SITUATION OF HUMAN RIGHTS DEFENDERS IN MEXICO**

(30 September 2015) – A [major new report co-authored by ISHR](#) shows that human rights defenders in Mexico face worsening and often deadly risks that the vast majority of attacks against defenders are not adequately investigated or remedied, and that greater political and financial commitment is necessary to make the Law on the Protection of Human Rights Defenders and Journalists in the country effective... [more](#)

### **CREATING AND MAINTAINING CIVIL SOCIETY SPACE: WHAT WORKS?**

(1 October 2015) – A major [new report prepared by ISHR together with eleven national-level human rights organisations](#) from around the world sets out a roadmap for ensuring that civil society is able to flourish and operate freely at the national level ... [more](#)

### **ANGOLA: LAW SHOULD NOT BE AN INSTRUMENT TO STIFLE ECONOMIC, SOCIAL AND CULTURAL RIGHTS DEFENDERS**

(17 September 2015) – A joint report by ISHR and the Global Initiative for Economic, Social and Cultural Rights on [the situation of human rights defenders in Angola](#) submitted the UN Committee on Economic, Social and Cultural Rights, reveals the particularly fragile situation of economic, social and cultural rights defenders in Angola... [more](#)

### **GENERAL ASSEMBLY: TAKE ACTION TO SUPPORT 'EXTRAORDINARILY DANGEROUS' WORK TO DEFEND HUMAN RIGHTS**

The [new report of the UN Special Rapporteur on Human Rights Defenders](#) on the global situation of defenders, based on consultations with over 500 activists in 111 countries details 35 recommendations

providing a roadmap to ensure that defenders can work at the national and international levels free from attack and insecurity... [more](#)

## **UN: PROTECT THOSE WHO COOPERATE WITH UN HUMAN RIGHTS EXPERTS FROM RETALIATION AND ATTACK**

A [new UN report](#) documents a number of deplorable cases of arbitrary detention, travel bans and even torture against those who meet, cooperate or give evidence to the UN's independent human rights experts.

## **THE ISSUE IS VIOLENCE: ATTACKS ON LGBT PEOPLE ON KENYA'S COAST**

A [new report](#) by Human Rights Watch and PEMA Kenya documents rights abuses against members of sexual minorities in Kenya's coast region, including mob violence, assault, rape, incitement to violence, and inadequate protection, and identifies ways the authorities could improve their response to these abuses ... [more](#)

## **AUSTRALIA AT THE HUMAN RIGHTS COUNCIL: READY FOR A LEADERSHIP ROLE?**

A report by Human Rights Watch and the Human Rights Law Centre examines Australia's readiness to operate effectively as a Human Rights Council member. The report calls on Australia to demonstrate more leadership on global human rights issues, respond more constructively to concerns about its own human rights performance, and engage more closely with nongovernmental organisations... [more](#)

## **Case notes on decisions from international human rights bodies - Merits Decisions**

### **DETENTION AND DISAPPEARANCE OF NEPALESE NATIONAL VIOLATES INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

(4 October 2015)

#### **Katwal v. Nepal (2000/2010)**

##### **Summary**

In April 2015, the Human Rights Committee was asked to consider whether Nepal had violated its obligations under the International Covenant on Civil and Political Rights in connection with the detention and disappearance of a Nepalese national.

The communication was submitted by the victim's wife, Yuba Kumari Katwal, on behalf of herself and her missing husband, Chakra Bahadur Katwal.

##### **Background**

On 13 December 2001, Mr Katwal was summoned to the office of the Chief District Officer, who ordered him to be placed in detention. He was then transferred to army barracks in Okhaldhunga.

On the following day, witnesses saw Mr Katwal unconscious and in blood-stained clothes, being carried by security officers.

After numerous attempts, the author was unable to discover the location of her husband as none of the authorities that she had contacted would acknowledge responsibility for his arrest.

In December 2005, the author was arrested by a group of soldiers near Jhapre and retained in custody for 13 days, where she was interrogated with the use of physical force regarding her and her daughter's alleged involvement with Maoists. The injuries that the author sustained over the course of her detention continued to cause her pain and prevent her from working to her full capacity at the time of submission of the communication.

In July 2005, Mr Katwal's daughter instructed a lawyer in Kathmandu to file a claim regarding Mr Katwal's disappearance as part of a joint submission relating to further alleged disappearances.

On 20 August 2006, a Prisoner Investigation Team was established by the Supreme Court of Nepal investigate Mr Katwal's disappearance.

In its report, the Prisoner Investigation Team confirmed that Mr Katwal had been tortured by security personnel and had died in detention as a result of this torture on 16 December 2001, three days after his arrest.

Upon consideration of the Prisoner Investigation Team's report, the Supreme Court ordered an investigation and subsequent prosecution of those responsible for the death and torture of Mr Katwal. The Court also ordered the immediate payment of compensation to the author.

At the time of the communication, no prosecution of responsible individuals had taken place and the author had received only a portion of the expense that she has incurred pursuing her claims before the Nepalese courts (Nr 300,000 out of a total of Nr 730,000).

On 27 October 2010, the author filed this communication with the Committee under the Optional Protocol to the Covenant. She claimed that Nepal had breached her husband's rights to: (i) life; (ii) freedom from cruel and inhuman treatment, (iii) liberty and security of person and freedom from arbitrary detention; (iv) respect for the inherent dignity of the human person while in detention; and (v) recognition as a person before the law (under articles 6(1), 7, 9(1-4), 10 and 16 of the Covenant, respectively). The author also claimed that Nepal had violated her own rights under article 7 of the Covenant.

### **The Committee's decision**

With respect to admissibility, Nepal had argued that the complaint was inadmissible due to a failure by the author to exhaust domestic remedies. Nepal submitted that the court-ordered investigation was still ongoing and that legislation would soon be passed in Nepal to offer the author the chance to present her case in front of two investigative commissions. In response to the legislative measures cited by Nepal, the Committee pointed out that it was not necessary to exhaust non-judicial avenues in order to fulfil the requirements of article 5(2)(b) of the Optional Protocol. With regard to the ongoing criminal investigation, the Committee noted that Nepal had not demonstrated that an effective investigation was being carried out, given that very little information had been revealed in the years since the death of Mr Katwal. The author's claim was therefore deemed admissible.

On the merits, the Committee noted that the allegations raised by the author of her husband's treatment at the hands of the Nepalese authorities had not been refuted by Nepal.

The Committee considered the evidence of the Prisoner Investigation Team and concluded that the killing of Mr Katwal in army custody was a violation of the victim's right to life. The Committee also found that the allegation of severe torture had been confirmed by the Prisoner Investigation Team's investigation. The Committee emphasised the degree of suffering caused by incommunicado detention, and implored States to make provisions to ban this practice.

The Committee also highlighted the gravity of the threats and ill-treatment towards the author, the misleading explanations provided regarding her husband's disappearance and the continuing failure to return her husband's remains. The Committee also noted Nepal's failure to provide reasons for her husband's arrest and observed that her husband had been systematically impeded from accessing judicial remedies during his detention. This was facilitated by the misleading information that had been provided to the author by various State authorities.

In relation to the claim for enforced disappearance, the Committee noted that although the term does not appear expressly in the Covenant, it can be satisfied if an integrated and continuing violation of various Covenant rights is shown. The Committee concluded that Nepal's treatment towards the author's husband met this threshold.

In view of the above, the Committee concluded that Nepal had violated article 2(3) in conjunction with articles 6, 7, 9(1-4) and 16 with regard to the author's husband, and article 2(3) in conjunction with article 7 with regard to the author. Having found a breach of article 7, the Committee found it unnecessary to consider the author's claims under article 10.

In accordance with article 2(3) of the Covenant, the Committee observed that Nepal was under an obligation to: (a) conduct an effective investigation with a view to returning Mr Katwal's remains to his family; (b) prosecute and punish those responsible for the Covenant violations; and (c) provide the author with effective reparations.

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

*Sam Hunter Jones is an international lawyer, based in London.*

## **IMPOSITION OF DEATH SENTENCE IN BELARUS VIOLATED THE RIGHTS TO LIFE, LIBERTY, A FAIR TRIAL AND FREEDOM FROM TORTURE**

(4 October 2015)

### **Grishkovtsov v. Belarus (2013/2010)**

#### **Summary**

In April 2015, the Human Rights Committee was asked to consider whether Belarus violated its obligations under the International Covenant on Civil and Political Rights in connection with its decision to sentence an individual to death after an unfair trial and its non-respect of interim measures, requested by the Human Rights Committee, in carrying out the death sentence.

The communication was submitted on behalf of the victim by his legal counsel under the Optional Protocol to the Covenant.

#### **Background**

The author, Oleg Grishkovstov, is a Belarusian national born in 1980. At the time of the submission of his communication, the author was detained on death row in Minsk after being sentenced to death by the Grodno Regional Court on 14 May 2010.

On 14 October 2009, the author was detained and held in police custody in the Oktyabrsk district police station in Grodno. The author noted that he was not allowed to meet with his lawyer in private during his time in police custody and therefore refused the assistance of a lawyer altogether. He was placed in pre-trial detention on 21 October 2009. He was subsequently charged with the murder of three persons, kidnapping, theft and arson. The author alleged that he was tortured by police officers in order to obtain his confession to the charges laid against him.

On 23 October 2009, a medical expert confirmed incidents of torture and ill-treatment against the author, who was at that stage “unable to move around by himself” and had signs of hyperaemia around both his wrists. The author reiterated that during his initial interrogation he was intoxicated, due to drinking large amount of alcohol, and could not express himself in a coherent way. Nevertheless, the investigators continued the interrogation and gave him additional alcohol. When he was initially brought to the police station, the author claimed that ten officers had beaten him. The administration at the detention centre had to call an ambulance four times during the first night at the detention centre, as the author felt ill, could not walk and had bruises all over his body.

On 14 May 2010, the Grodno Regional Court found the author guilty of three murders, kidnapping, theft and arson. The author, acting through his lawyer, filed an appeal on 22 May 2010, which was revised on 26 July 2010 with new arguments including references to articles of the Covenant. On 17 September 2010, the Supreme Court of Belarus rejected the appeal, finding that the author’s conviction was fully supported by the evidence in the file.

On 6 December 2010, the author filed his communication with the Committee under the Optional Protocol to the Covenant. On the same day, the Committee transmitted the communication to Belarus to request that the death sentence not be carried out. In his communication, the author claimed that his arbitrary arrest, torture, ill-treatment and death sentence after an unfair trial violated his rights to: (i) life, (ii) freedom from torture, (iii) freedom from arbitrary arrest and detention, and (iv) a fair trial.

On 14 April 2011, the Committee reiterated its request to Belarus.

On 20 July 2011, the Committee was informed that the author had been executed, despite its request for interim measures.

### **The Committee’s decision**

The Committee first considered Belarus’ lack of cooperation and failure to respect the Committee’s request for interim measures. The Committee disagreed with Belarus’ argument that it was under no obligation to consider the communication, the Committee’s rules of procedure, or the Committee’s interpretation of the Optional Protocol, or to respect the request for interim measures. The Committee noted that State parties to the Covenant and the Optional Protocol agree to recognise the Committee’s rules of procedure. It considered that implicit to a State’s adherence to the Optional Protocol is an undertaking to cooperate with the Committee in good faith. The Committee reiterated that a State party commits serious breaches of its obligations if it acts to prevent or frustrate consideration of a communication by the Committee. The Committee concluded that Belarus, having been notified of the communication and the request, committed a serious breach of its obligations under the Optional Protocol in executing the author.

On admissibility, the Committee rejected Belarus’ argument that the communication was inadmissible as it was submitted by a third party and not by the alleged victim itself. The Committee recalled that under rule 96(b) of its rules of procedure a communication should be submitted by the individual personally or by a representative. In the present case, the Committee considered that the communication was

admissible because it was submitted by that author's counsel together with a duly signed power of attorney, in circumstances where the author himself was detained on death row at the time of submission. In terms of the specific claims made by the author, the Committee declared the claims under articles 14 and 3 of the Covenant as inadmissible due to the absence of sufficient evidentiary support. However, the Committee concluded that communication was admissible to the extent it raised issues under articles 6, 7, 9 and 14 of the Covenant.

On the merits, the Committee first considered the author's claims under articles 7 and 14 of the Covenant. The Committee noted the author's allegations that he was subject to physical and psychological pressure that forced him to confess to a number of crimes, and that this forced confession was the basis for his conviction of those offences. Without any evidence to the contrary presented by Belarus, the Committee found that due weight must be given to the author's allegations. The Committee noted that Belarus had failed to promptly and impartially investigate the author's complaints in this respect, as required by article 7 of the Covenant. In view of the above, the Committee concluded that, in addition to clear signs that the author had been tortured, the State had not presented any information to show that an effective investigation had been conducted, thereby violating the author's rights under articles 7 and 14(3)(g) of the Covenant.

With respect to the author's claims under article 9(3), the Committee found that Belarus had indeed violated the author's right to be brought promptly before a judge or other judicial officer once he was detained. The Committee noted that any delay longer than 48 hours between initial detention and appearance before a judge must be absolutely exceptional and justified under the circumstances. The Committee therefore found that the delay between the author's initial arrest on 14 October 2009, and being placed in pre-trial detention on 21 October 2014, and being brought before a judge on 30 March 2010, violated of the author's rights under article 9(3) of the Covenant. In light of this finding, the author's claim under article 9(4) was not examined separately.

With respect of the author's complaint under Article 14(2) that he was denied the presumption of innocence during his trial, the Committee recalled its jurisprudence and its general comment No. 32, according to which the presumption of innocence is considered fundamental to the protection of human rights, imposes on the prosecution a burden of proving the charge and guarantees that no guilt can be presumed until the charge is proven beyond a reasonable doubt. On the basis of the author's unrefuted allegations, the Committee concluded that the keeping of the author shackled and in a metal cage during his trial and allowing photos of him in the cage to be published in the media, constituted a violation of his right to be presumed innocent under article 14(2) of the Covenant.

With respect to the author's complaint under Article 14(3)(d), the Committee noted that the author was not afforded effective access to legal assistance during pre-trial detention, when he confessed his guilt under duress, and during preparations for his appeal. Referring to its general comment No. 32 and jurisprudence, the Committee held that effective assistance of a lawyer is paramount at all stages of proceedings, especially in cases involving capital punishment. The Committee noted that the allegations had not been refuted by Belarus and concluded that there was a violation of the author's rights under article 14(3)(d) of the Covenant.

In addressing the claim of a violation of the author's right to life under article 6 of the Covenant, the Committee recalled its general comment No. 6, noting that the provision of a death sentence may only be imposed in accordance with the law and not contrary to the provisions of the Covenant. The Committee also noted its jurisprudence, whereby a trial that violates article 14 and results in the imposition of a death sentence will constitute a violation of the concerned individual's right to life. In light of the above, and the author's unrefuted allegations of torture, ill-treatment and absence of legal assistance, the Committee concluded that the final sentence and subsequent execution of the author failed to meet the requirements of article 14 of the Covenant and therefore gave rise to a violation of his right to life under article 6 of the Covenant.

In accordance with article 2(3) of the Covenant, the Committee observed that Belarus was under an obligation to provide adequate monetary compensation to the author's family for the loss of his life,



including reimbursement of legal costs incurred. Belarus was also obliged to prevent similar future violations and to cooperate in good faith with the Committee, particularly in complying with requests for interim measures.

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

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## **TURKMENISTAN'S IMPRISONMENT OF CONSCIENTIOUS OBJECTOR TO MILITARY SERVICE VIOLATES INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

(4 October 2015)

Zafar Abdullayev v. Turkmenistan (2218/2012)

***Turkmenistan's imprisonment, ill-treatment and repeated conviction of a conscientious objector to compulsory military service violated the rights to freedom from inhuman and degrading treatment, freedom from conviction twice for the same offence and freedom of conscience***

### **Summary**

In March 2015, the Human Rights Committee was asked to consider whether Turkmenistan had violated its obligations under the International Covenant on Civil and Political Rights in connection with its inhuman and degrading treatment and imprisonment of a conscientious objector to compulsory military service.

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

### **Background**

The author, Zafar Abdullayev, was called upon by Turkmenistan's Military Commissariat to perform his compulsory military service in the autumn of 2005, shortly after he reached 18 years of age. The author is a Jehovah's Witness. His religious beliefs did not permit him to undertake military service. The author's military service was therefore deferred for an indefinite period of time.

In the spring of 2009, the author was summoned again for military service, which he refused to undertake. The author was charged under article 219(1) of the Criminal Code for refusing to perform military service.

On 8 April 2009, the author was tried before the Dashoguz City Court. He was convicted and received a 24-month conditional sentence, during which time he was regularly monitored by the local police. The conditional sentence ended in April 2011.

On 26 November 2011, the author was arrested by the police and brought to the Military Commissariat for the call-up for military service. He was charged for a second time under article 219(1) of the Criminal Code.

On 6 March 2012, the author was tried before the Dashoguz City Court. The author reiterated the reasons why his religious beliefs prevented him for undertaking military service. He was convicted for a second time under article 219(1) of the Criminal Code and sentenced to 24 months of imprisonment. He was arrested in the courtroom and placed in detention.

On 27 March 2012, the Dashoguz Regional Court dismissed the author's appeal. The author appealed to the Supreme Court of Turkmenistan, but his appeal was dismissed on 10 July 2012.

The author was detained at the Dashoguz remand facility and later transferred to the LBK-12 prison, near the town of Seydi. Immediately upon arriving at the prison, the author was placed in quarantine for 10 days, during which time prison guards beat him on the head and on the soles of his feet with batons. The author was subjected to deplorable conditions while in quarantine, with his cell being overcrowded with around 40 inmates, and lacking hygiene facilities and basic amenities.

On 3 September 2012, the author filed a communication with the Committee under the Optional Protocol to the Covenant. The author claimed that his imprisonment on account of his religious beliefs, and the ill-treatment he suffered while imprisoned, constitute a violation of his rights to (i) freedom from inhuman and degrading treatment, (ii) freedom being tried twice for the same offence, and (iii) freedom of conscience and religion (under articles 7, 14(7) and 18(1) of the Covenant respectively).

### **The Committee's decision**

On admissibility of the author's complaint, the Committee noted that Turkmenistan had not invoked article 5(2)(b) of the Optional Protocol to challenge the admissibility of the communication. Accordingly, the Committee concluded that it was not precluded by article 5(2)(b) of the Optional Protocol from examining the communication. The Committee noted that the author had exhausted all effective available remedies. It also considered that although the author did not invoke article 10 of the Covenant specifically, the communication raised issues under that article that it would address. The Committee therefore concluded that the author's claims raised issues under articles 7, 10 14 (7) and article 18 (1) of the Covenant and were admissible.

On the merits, the Committee noted the author's allegation that he was subjected to ill-treatment by the prison guards in violation of article 7 of the Covenant. The Committee recalled that Turkmenistan did not contest the author's version of the facts concerning the manner in which he was ill-treated while in isolation, the identity the prison guards involved in his ill-treatment, and the deplorable conditions of the prison. The Committee also noted the author's detailed allegations regarding the lack of adequate mechanisms for investigation of torture claims in Turkmenistan.

In the absence of any evidence to the contrary, the Committee considered that due weight should be given to the author's allegations, and found that, in view of those allegations, Turkmenistan had violated the author's rights under article 7 of the Covenant. In making this finding, the Committee recalled that, in accordance with the Standard Minimum Rules for the Treatment of Prisoners, persons deprived of their liberty may not be subjected to any hardship or constraint other than that resulting from the deprivation of their liberty. The Committee also found that that confining the author in deplorable living conditions constituted a violation of his right to be treated with humanity and with respect for the inherent dignity of the human person under article 10(1) of the Covenant.

With respect to the author's allegations under article 14(7) of the Covenant, the Committee found that Turkmenistan had violated the author's rights by allowing him to be tried and punished twice for

the same offence based on his refusal to perform compulsory military service. The Committee noted the author's submission that article 18(4) of the Law on Conscription and Military Service permits repeated call-up for military service and stipulates that a person refusing military service is exempt from further call-up only after he has received and served two criminal sentences. It noted that these claims were not refuted by Turkmenistan. Furthermore, the Committee recalled its general comment No. 32 that repeated punishment of conscientious objectors for not obeying a renewed order to serve in the military may amount to punishment for the same crime if a subsequent refusal is based on the same constant resolve grounded in reasons of conscience.

The Committee then noted the author's claim that the absence of an alternative to compulsory military service in Turkmenistan constituted a violation of his rights under article 18(1) of the Covenant. The Committee noted that the facts as alleged by the author, and not refuted by Turkmenistan, established that the author's refusal to perform military service on account of his religious conscience led to his criminal prosecution and subsequent imprisonment. The committee noted the Turkmenistan's submission that the criminal offence committed by author was "determined accurately according to the Criminal Code of Turkmenistan", and that, pursuant to article 41 of the Constitution, "Protection of Turkmenistan is the sacred duty of every citizen", with general conscription being compulsory for male citizens. The Committee noted, however, that the right to conscientious objection to military service inheres in the right to freedom of thought, conscience and religion, entitling any individual to an exemption from compulsory military service if such service cannot be reconciled with that individual's religion or beliefs. In view of the above, the Committee was satisfied that the author's refusal to be drafted for compulsory military service derived from his religious beliefs and that the author's subsequent convictions and sentences amounted to an infringement of his freedom of conscience, in breach of article 18(1) of the Covenant. The Committee noted that a State may compel a conscientious objector to undertake a civilian alternative to military service that is not punitive in nature.

In accordance with article 2(3) of the Covenant, the Committee observed that Turkmenistan was under an obligation to provide the author with an effective remedy, to include an impartial, effective and thorough investigation of the author's claims falling under article 7, prosecution of any person(s) found to be responsible for the author's ill-treatment, expunging of his criminal record, and full reparation, including appropriate compensation. Turkmenistan is under an obligation to avoid similar violations of the Covenant in the future, including the adoption of legislative measures guaranteeing the right to conscientious objection.

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

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