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Report of the Committee on the Human Rights of Parliamentarians to the IPU Governing Council (Hanoi, 1 April 2015)

Mr. President,
Dear colleagues,

I have the honour to present the report of the Committee on the Human Rights of Parliamentarians.

During this session, the Committee examined 39 cases concerning the situation of 179 members of parliament in 24 countries. Forty-six per cent of the cases examined concerned members of parliament from Asia, with another 18 per cent from Africa, 8 per cent from the Americas, and 5 per cent from Europe. Twelve per cent of the cases concerned women members of parliament and 74 per cent of the cases concerned opposition members of parliament.

During our Committee's session, we held hearings with 10 delegations and complainants. Such meetings are essential for our Committee's work; they allow us to enhance our understanding of the cases before us and to express our concerns and exchange views. I wish to thank all the delegations for having given us a bit of their time.

I also wish to stress that, due to its workload and the reduced length of the Assemblies, the Committee is not always able to respond positively to last-minute requests for such hearings. While it strives to accommodate them whenever possible, I would like to remind you that, just as for other committees, the agenda of the Committee on the Human Rights of Parliamentarians, as well as its schedule for hearings, is set well in advance. Priorities are largely defined on the basis of the written communications and requests submitted by Member Parliaments prior to its sessions.

Member Parliaments are systematically invited to keep the Committee apprised of the situation of the individual parliamentarians under examination. As you are all well aware, pursuant to its procedure, our Committee examines the cases before it primarily on the basis of written information submitted on the one hand by the complainants, and on the other hand by the parliamentary authorities. The responsibility to provide all the necessary written information in a timely manner is incumbent on the parties. It serves their respective interests, which is to ensure that the Committee is in a position to take an informed decision on the matter at hand.

Information provided in the course of the Committee's session can only serve this purpose when it relates to unexpected developments that affect the cases in a significant manner, and are so recent that the parties were effectively not in a position to inform the Committee earlier. However, when no information has been forthcoming, despite repeated prior requests, and documentation is suddenly provided as the Committee is already deliberating, the Committee reserves the right to draw its own conclusions on the purpose served by such a late submission of information. I would for this reason urge all Member Parliaments to be diligent and facilitate the work of this Committee by conveying their observations and any supporting information in a timely manner.

I now want to turn to the cases discussed by the Committee. Although freedom of expression was a direct or indirect concern in almost all of the cases examined, arbitrary detention or arrest, lack of due process in proceedings against members of parliament, and torture or ill-treatment also ranked as the most frequent abuses examined by the Committee.

I would now like to turn to the cases that I will present to you, beginning with Kenya.

AFRICA

KENYA

The Committee is pleased to announce positive developments in the long-standing case of Mr. Melitus Mugabe Were, who was murdered in January 2008 in Kenya. It has noted with satisfaction that the judicial proceedings have finally been concluded and that the culprits of Mr. Were's murder were sentenced in February 2015. It is pleased that the Parliament of Kenya has continued monitoring the proceedings to date in line with its overall commitment to ensuring that the crimes committed in the aftermath of the 2007 presidential elections would not go unpunished. The Committee trusts that it will be kept informed in the event of an appeal against the conviction.

I invite you to adopt the draft resolution set out on page 1 of the English version and page 4 of the French version

RWANDA

In the case of Mr. Léonard Hitimana, which has been before you for a very long time, I regret to inform you today that there is still no news about Mr. Hitimana, who was a member of the Transitional National Assembly and was last seen alive 12 years' ago.

The Committee regrets the silence of the parliamentary authorities in response to its calls for effective parliamentary oversight to shed light on Mr. Hitimana's fate. At this point, the Committee has no choice but to consider that the absence of a serious investigation corroborates the long-standing charge that Mr. Hitimana was the victim of an enforced disappearance.

Consequently, the Committee urges the authorities to carry out an independent and prompt investigation, examining all lines of enquiry and exploring in particular the information provided by the complainants, according to which Mr. Hitimana was abducted, tortured and assassinated by the Rwandan military intelligence services in order to silence all opposition to the dissolution of his party in the run-up to the 2003 presidential and legislative elections. We remain convinced that following new lines of inquiry will soon lead to the emergence of new evidence. We are counting on the Parliament of Rwanda to carry out its oversight function to ensure that this happens. We also call on the Parliament to help expedite, in line with Rwanda's commitment, the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance.

I invite you to adopt the draft decision set out on page 3 and 6 of the English and French versions respectively.

ZAMBIA

I am pleased to present to you the report of the on-site mission that the Committee carried out to Zambia in September last year. I wish to place on record our immense gratitude to the Speaker of the National Assembly for his cooperation in the organization of the mission and for providing us with all the necessary documentation. The Committee also greatly appreciated having the opportunity to continue its open and frank exchange of views with the Speaker in Hanoi.

The mission report focuses in great part on challenges surrounding the Public Order Act. The Committee is concerned about specific incidents in 2012 and 2013 in which reliance on the Public Order Act appears to have run counter to the rights of members of parliament to freedom of assembly and to liberty. We are pleased, therefore, at the prospect of effective action being taken to modernize the Public Order Act, and hope that due consideration will be given to the recommendations in the mission report.

The Committee is hopeful that, in the light of the revised Public Order Act and the absence of allegations of any new abuses in the last two years, the incidents of 2012 and 2013 belong to the past. The Committee therefore requests the members of parliament affected by these events to state if they see any further need for us to continue examining their case.

While the Committee will continue to examine the case of Mr. Nkombo, who was attacked at a police station in February 2013, it proposes to close the examination of several other cases where legal proceedings against parliamentarians are no longer pending.

I invite you to adopt the draft decision set out on page 6 and 9 of the English and French versions.

AMERICAS

VENEZUELA

The Committee has had very useful exchanges of views with the leader of the Venezuelan delegation, Mr. Dario Vivas, as well as with the complainant and an opposition member of the Parliament of Venezuela. The Committee has therefore been able to listen and take account of different perspectives on the cases of opposition members of parliament that it is examining in Venezuela.

Yet, it continues to believe that, despite the usefulness of such exchanges and the written information provided on such occasions, nothing would offer a better opportunity at this point to make progress in these cases than a mission to Venezuela. We therefore hope that this mission, which we have been requesting for some time now, will finally happen, and soon.

ASIA

MALAYSIA

Last February, the Federal Court confirmed the conviction and five-year prison term for opposition leader Anwar Ibrahim on a sedition charge. An IPU trial observer attended the court hearings from the very outset. His report is very critical of the Federal Court's findings. Three days' ago, however, the Malaysian delegation presented us in Hanoi with an extensive written rebuttal of the IPU trial observation report. We are thankful for their comments, but regret that we received them so late. The Committee will study them and come back to you on this matter in October.

Let me now turn to the cases on which we are presenting draft decisions. One of them is new. The other case I already presented to you once before last October.

The concern in both cases is related to what appears to be a wave of criminal proceedings limiting the rights to freedom of expression and assembly of members of parliament and other Malaysian citizens.

On 10 March this year, the daughter of Anwar Ibrahim, Nurul Izzah, read out portions of the statement that her father made at the close of his trial in which he strongly criticized the judiciary. Days later, she was arrested and held overnight under the Sedition Act. The Committee fails to understand how what she said was not protected by parliamentary privilege. We therefore call on the authorities to stop any investigation that may be ongoing on account of her statement in Parliament.

Last October, I presented to you the case of five opposition parliamentarians from Malaysia who face charges, or are being investigated under the Sedition Act. One of them, along with two other members of parliament, is now also under investigation for his alleged involvement in a rally in support of Anwar Ibrahim. We have therefore decided to monitor those legal proceedings closely.

The Committee had a very useful exchange of views with the Malaysian delegation in Hanoi. The Malaysian Parliament will review in the coming weeks proposals to amend the Sedition Act. In light of reports that those amendments, rather than raising, may further limit standards for free speech, the Committee asks the Parliament to do everything possible to ensure that the new legislation fully guarantees that citizens and parliamentarians alike can speak out freely without fear of undue legal action.

We welcome the invitation extended by the delegation to go to Malaysia. Indeed, the Committee believes that a mission would enhance its understanding of the review of the Sedition Act, identify opportunities for sharing other countries' legislative experiences, and help it acquire a full understanding of the application of the Sedition Act in the pending proceedings against members of parliament.

I invite you to adopt the draft decision set out on page 9 and 12 and 13 and 17 of the English and French versions respectively.

MALDIVES

The Committee is deeply concerned about the serious and repeated death threats since 2014 against opposition members of parliament. It considers that these matters have to be taken very seriously through speedy and effective investigations and by putting in place, in agreement with the parliamentarians concerned, the security measures they need.

The Committee is also profoundly concerned at the climate of confrontation and polarization outside and inside the Parliament of the Maldives since the arrest, trial and conviction of former President Nasheed. We call on the authorities, in particular the law enforcement agencies, to show restraint when handling public protests, but also call on all political parties to move beyond political expediency and partisanship and engage constructively in dialogue inside and outside Parliament to resolve their differences.

Given the complexity and seriousness of the concerns in the Maldivian cases, and the contradictory views that exist with regard to many of the facts, the Committee believes that an urgent on-site mission would be very useful. The mission would enable us to gather first-hand information on the allegations and ascertain the prospects for their examination and clarification in the current political situation in the Maldives. We are pleased, therefore, that the Maldivian delegation welcomes such a mission and hope that it can soon take place.

I invite you to adopt the draft decision set out on page 15 and 20 of the English and French versions.

MONGOLIA

In Mongolia, the Committee has noted with appreciation that the Parliament welcomes a Committee mission. The mission will help the Committee obtain first-hand information on progress made in recent years in the investigation into the murder of Mr. Zorig. It will also enable it to have a better understanding of the challenges faced by the investigators today. The Parliament of Mongolia has made it clear that foreign forensic technical assistance is needed to advance the investigation further, and the Committee will therefore make sure that its delegation can be accompanied by an international forensics expert.

I invite you to adopt the draft resolution set out on page 19 of the English version and page 24 of the French version.

PAKISTAN

In Pakistan, the Committee pursued the examination of the case of Mr. Fatyana. He is a former member of the IPU Standing Committee on Democracy and Human Rights and a vocal critic of police brutality in Pakistan. His residence was violently attacked in June 2012 and the police allegedly not only failed to intervene to protect him, but facilitated the attack.

The Committee is alarmed that the judicial proceedings initiated against the persons who attacked Mr. Fatyana's residence in June 2012 have apparently been discontinued. It remains deeply concerned that, almost three years after the events, no serious attempt appears to have been made to hold the

attackers or the complicit police officers accountable. The Committee urges the Parliament of Pakistan and all relevant Pakistani authorities to take urgent action to ensure that this attack does not remain unpunished.

I invite you to adopt the draft resolution set out on page 21 of the English version and page 27 of the French version.

PHILIPPINES

The Committee has been examining the case of the Batasan Four for a number of years, which has consisted of a variety of legal proceedings against opposition members of parliament. These proceedings commenced shortly after a rebellion case against the members had been dismissed and judged to be unfounded and politically motivated.

Although the Committee noted with satisfaction that two of the judicial proceedings faced by some of these members could be considered dismissed, it deeply regretted that the Nueva Ecija case had remained at a standstill since 2009. The Committee recalls that the right to be tried without undue delay is enshrined in the International Bill of Human Rights and is designed to ensure that people are not kept in a state of uncertainty as to their fate for too long.

The Committee also took note that cases against Mr. Ocampo are now proceeding after years of delay. The Committee will be following these proceedings closely, and trusts that the courts take due account of all the concerns raised by Mr. Ocampo regarding procedural irregularities and the veracity of the evidence used.

I invite you to adopt the draft decision set out on page 23 of the English and page 30 of the French version.

EUROPE

BELARUS

In the case of Mr. Victor Gonchar, the Committee remains appalled that impunity continues to prevail in the present case, almost 16 years after Mr. Gonchar's disappearance. It reaffirms its view that the Parliament of Belarus has a direct responsibility to ensure that every effort is made by all relevant authorities to identify and punish those responsible for the enforced disappearance of one of its members. It also deeply regrets that the Parliament of Belarus has remained silent on the proposed visit of the Committee to Belarus and has not supplied any updated information. The Committee remains keen to conduct a visit to Belarus and once again urges the authorities to respond positively to the request.

I invite you to adopt the draft resolution set out on page 26 of the English version and page 33 of the French version.

MIDDLE EAST AND NORTH AFRICA

PALESTINE/ISRAEL

The Committee is profoundly disturbed at the continued detention of the Speaker of the Palestinian Legislative Council. This is the third time in nine years that he finds himself in an Israeli prison cell. The Committee considers this an affront to the authority of the Palestinian Legislative Council and fears that Speaker Dweik's arrest may again be based solely on his political affiliation. The Committee is therefore keen to hear from the Israeli authorities as to whether formal charges of specific criminal activity have been filed against him. If so, we call on the Israeli authorities to try him in a fair and

transparent legal process, guaranteeing the full right of defence, or otherwise to release him without delay. In the event that Mr. Dweik stands trial, we would like an IPU observer to attend and report on how due process is being respected in the proceedings.

Speaker Dweik is perhaps the most symbolic PLC member in Israeli jail, but he is not alone. The list of jailed PLC members includes 10 who are in administrative detention. In light of the long-standing concerns about such detention, we sincerely hope that, with the help of the recently elected parliamentary authorities in Israeli, one of our Committee members can finally attend and report on the judicial reviews of the administrative detention of the members of parliament.

In the cases of Mr. Marwan Barghouti and Mr. Ahmad Sa'adat, who are still serving their long prison terms, the Committee regrets that it has nothing new to report. The previous decisions on their cases therefore remain fully valid, which is why we are not presenting new draft decisions for your consideration.

I invite you to adopt the draft resolution set out on pages 29 and 32 of the English version and pages 36 and 39 of the French version.

Mr. President, colleagues, to conclude, let me note the following,

When the Committee on the Human Rights of Parliamentarians adopted new working methods last year, one of the objectives was to promote the visibility of the Committee's work. With this in mind, on International Human Rights Day last December, the Committee released yearly statistics on its cases for the first time, and plans to continue doing so in the future. As you can see from the map above, in 2014, the Committee examined the situation of 311 parliamentarians from 41 countries. These parliamentarians are from all regions in the world, but their situation is just a fraction of the abuses suffered by members of parliament.

The Committee follows a procedure in which it can only examine cases referred to it from a qualified complainant. However, there are many other cases – some which are extremely serious – that are not examined by the Committee because they have not been referred to it. The Committee exists to protect all parliamentarians. Therefore, in the spirit of parliamentary solidarity, I encourage member parliaments and individual members of parliament to be active in referring to the Committee cases you feel it should have on file.

When members of parliament are under threat, the mobilization of colleagues in an act of solidarity not only has an extremely positive concrete impact on any individual case, but it also helps ensure that no parliamentarian is left behind. This solidarity is indispensable for the Committee's work and can make all the difference in both advancing the serious cases we face, further promoting and protecting human rights and, consequently, further empowering parliaments around the world. I therefore encourage you to keep parliamentary solidarity in mind, and to use your powers as a member of parliament to help your fellow colleagues.

Thank you.