



INTER-PARLIAMENTARY UNION

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HUMAN RIGHTS

FOLLOW-UP OF THE RESOLUTIONS OF THE IPU GOVERNING COUNCIL ON INDIVIDUAL HUMAN RIGHTS CASES CONCERNING MEMBERS OF PARLIAMENT

Madam President,
Mr. President,

I am pleased to send you herewith the report delivered by the President of the Committee on the Human Rights of Parliamentarians, Senator Aquilino Pimentel, to the Governing Council on the occasion of the 122nd IPU Assembly. It contains a brief summary of the 36 cases concerning 253 members of parliament which the Committee decided to submit to the Governing Council.

The resolutions adopted by the Governing Council on these cases can be found on the IPU website (<http://www.ipu.org/hr-e/186/186all.htm>) and in the publication Results of the 122nd Assembly.

The Committee requested me to draw your attention to two particularly grave cases in which only international attention will make a difference, namely those concerning former members of parliament in Myanmar and Eritrea.

Among the more than 2,000 political prisoners in Myanmar, 12 are parliamentarians elected in 1990. During the Assembly in Bangkok, a small exhibition was devoted to these 12 parliamentarians in question. I am pleased to send you herewith also a copy of the pamphlet that our Secretariat produced for the exhibition.

The resolution adopted during the Assembly mentions the elections, which are due to be held later this year. The legal framework for these elections has been widely criticized by the international community as failing to guarantee free and fair elections, inclusive of Myanmar's diverse population. To mention only one such provision concerning the right to stand in elections: not only are all political prisoners, including the 12 parliamentarians in question, excluded from the electoral process, but so also is Daw Aung San Suu Kyi, leader of the National League for Democracy, which won the 1990 elections. The NLD has renounced its participation in the election since, under the Political Parties Registration Law, it would have had to expel Daw Aung San Suu Kiy from the party in order to be authorized to register for the elections.

In the resolution it adopted during the 122nd Assembly, the IPU Governing Council calls once again on all its Member Parliaments to lend their full support to its consistent appeals to the authorities of Myanmar to release forthwith the 12 parliamentarians concerned and to make the necessary changes to the electoral laws so as to ensure inclusive, free and fair elections.

In Eritrea, 11 former members of parliament have been held in incommunicado detention since September 2001. They were arrested shortly after they had publicly called for democratic reforms in Eritrea. They have had no formal charge brought against them, let alone been brought before a judge. The African Commission on Human and Peoples' Rights ruled in November 2003 that their right to liberty and security, to fair trial and their freedom of expression had been violated and urged the State of Eritrea to order their immediate release and to pay due compensation for their arbitrary detention. Although the ruling is binding upon Eritrea, the Eritrean authorities have ignored it just as they have also ignored the consistent calls of the IPU and other international organizations for the immediate release of the persons in question.

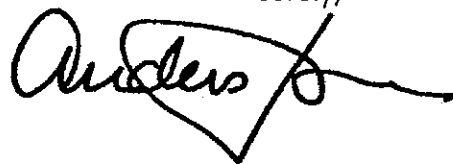
The Committee hopes that your parliament will wish to follow up on both resolutions, which were unanimously adopted. Annex 2 of this letter describes courses of action that have proved successful in the past and that your parliament may consider taking.

It is always a source of encouragement for the Committee to learn of any parliamentary initiative in support of its work, and I would therefore be very grateful if you could inform me of any such action and its outcome. I would be very pleased to submit such information to the Committee at its next session, to be held from 12 to 15 July 2010.

May I lastly request you to bring the Committee's report and work to the attention of the committee within your parliament that deals with human rights questions.

With my warm thanks for your valuable support and best wishes,

Yours sincerely,



Anders B. Johnsson
Secretary General

- Annex I: Report of the Committee on the Human Rights of Parliamentarians to the IPU Governing Council, Bangkok (Thailand), 1st April 2010.
- Annex II: Courses of action parliaments may take in support of the work of the Committee on the Human Rights of Parliamentarians.



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ANNEX I

COURSES OF ACTION PARLIAMENTS MAY TAKE IN SUPPORT OF THE WORK OF THE COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS

At its 153rd session (September 1993), the Inter-Parliamentary Council adopted the resolution on the results of the Budapest Symposium on the role of Parliament as guardian of human rights, held in May 1993. It invited Parliaments to take the following action:

- ▶ Circulate as widely as possible the Committee's public reports and the resolutions adopted by the Inter-Parliamentary Council concerning cases dealt with in those reports;
- ▶ Systematically bring such cases to the attention of bodies for the defence of human rights operating within their parliaments;
- ▶ Sponsor those MPs whose situation is being monitored by the Inter-Parliamentary Union and, in connection with such action, to have recourse to the procedures advocated by the Council such as contacts with the authorities of the countries concerned, directly or through the Ministry for Foreign Affairs."

In addition, the following courses of action have proved successful in the past:

- ▶ Approaches to the President of the Parliament and other parliamentary colleagues of the countries concerned;
- ▶ Contacts with the Ambassadors of the countries concerned;
- ▶ Contacts by the Ambassador of your country in the countries concerned;
- ▶ Transmission of the Committee's report and the Council's resolutions to appropriate government officials;
- ▶ Ensuring media coverage of the Union's human rights activities;
- ▶ Parliamentary visits, which also provide an ideal opportunity to follow up Council resolutions.



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ANNEX II

REPORT OF THE COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS TO THE IPU GOVERNING COUNCIL (Bangkok, 1st April 2010)

Dear Mr. President,
Dear colleagues,

I would first of all like to thank the delegations that came to see us and for the time they took for this exchange of views, which is always an opportunity for us not only to better understand the cases before us, but also to share our concerns with delegations. I would also like to thank the many parliaments that have provided information in writing.

During this session, the Committee examined the individual situations of 293 parliamentarians in 32 countries. It held eight meetings with official delegations. The Committee also met with the parliamentarians concerned or their representatives in four of the cases. The resolutions submitted for your approval concern the cases in 22 countries around the world. Three of them are presented for the first time.

When we discussed in the Committee how I would present its report to you we decided to do things slightly differently this time and to cluster the different cases, starting with those where there has been some progress. Let me therefore begin with some good news.

AFGHANISTAN

The Committee had a very positive meeting in Bangkok with the leader of the Afghani delegation. We are pleased to inform you that the criminal prosecution of Ms. Joya for a statement she made will be put to an end and that, if she wants, she can present herself without a problem in the elections in Afghanistan later this year. The Committee also hopes that, in the few months between now and the elections, the Afghan Parliament will reinstate Ms. Joya as a symbolic gesture.

BANGLADESH

Investigations into the grenade attacks in January 2005 on Mr. Shah Ams Kibria, a former Finance Minister of Bangladesh, which killed him, and in August 2004 on Sheikh Hasina, the opposition leader at the time, are making headway. The persons who have been arrested include not only those who are suspected of executing the crime but also the alleged masterminds and the Committee is hopeful that the truth will soon be fully revealed.

DEMOCRATIC REPUBLIC OF THE CONGO

I am very pleased to announce that the Committee can propose that you close this case. Thanks to the help of the Presidents of the National Assembly and the Senate of the Democratic Republic of the Congo, the parliamentarians whose election was arbitrarily invalidated by the Supreme Court in May 2007 will be compensated for the prejudice they suffered.

TURKEY

In Turkey, you are left with the case of Mr. Singar, who was killed in September 1993 in circumstances suggesting that he was the victim of an extrajudicial execution. The parliament reported some time ago that a trial was under way and we now know that two persons are being prosecuted and that Mrs. Singar is now a civil party to the case. The Committee hopes that after all these years justice will finally prevail in this case.

Let me now turn to the cases where no substantive new information has been provided, so that the concerns or focus of the draft resolutions you have before you have not basically changed. This is why I will not present you a case summary.

This concerns the cases in Burundi, Cambodia, Ecuador, Lebanon, Palestine and Sri Lanka.

Last October, you had before you the case of Iraqi member of parliament, Mohamed Al-Dainy. At the request of the source, the Committee decided not to submit this case to you this time.

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Let me now mention some of the cases to which we would like to draw your particular attention.

BELARUS

It is now more than 10 years since Mr. Victor Gonchar and his friend Krasovsky disappeared. The Committee is increasingly concerned that the investigation is shrouded in secrecy. Even the families of the victims are not being kept informed of the investigation. Your Committee fears therefore that in fact no investigation is being carried out and that the case may be closed upon expiry of the statute of limitations which is 15 years. We believe that in such high-profile cases as this one, it should be in the interest of the authorities to show that they are doing their utmost to reveal the truth.

COLOMBIA

At the invitation of the Colombian Congress, the Committee carried out an on-site mission to Bogotá in August last year, in order to raise its concerns in these cases and to gain a better understanding of the political and legal environment in Colombia in which they have to be considered. The Committee's Vice-Chairperson, Senator Rosario Green of Mexico led the delegation. It met with the President of the Republic and Ministers of his Cabinet, the Presidents of the Colombian Senate and House of Representatives, the President of the Supreme Court, and the Prosecutor General and Attorney General of Colombia. The delegation also met with current and former members of Congress who are under threat and with family members of those who were assassinated. In Colombia you are dealing with a number of very different yet complex cases and in a highly complex political environment.

As you will see from the mission's report before you, the recommendations focus on promoting progress in the investigations into the murder of members of the Congress, protection for those at risk, and ensuring full respect for the right to fair trial for members of Congress.

I am pleased to say that many of the investigations into the murders of parliamentarians have been reactivated in the last two years, and have sometimes shown spectacular developments, such as in the high-profile case of Senator Luis Carlos Galán. In this particular investigation, a top state official was taken into custody around the time of the mission. In yet another case, that of the murder of

Mr. Cepeda for which the authorities bear direct and indirect responsibility, a Colombian State representative recently asked his relatives for forgiveness in a public hearing before the Inter-American Court of Human Rights. In both these and the other cases, the Committee trusts that the authorities will do their utmost to shed full light on them and to punish the culprits, including the masterminds of these crimes.

The mission was also extensively informed about the lack of fair trial guarantees in criminal proceedings against members of parliament in Colombia. You have before you for the first time the case of former Senator Alvaro Araújo along with a report by an IPU legal expert who concluded that the criminal proceedings against him ran counter to basic principles of due process. The Committee fully shares his findings and is deeply concerned that Mr. Araújo, who was found guilty last week, cannot appeal his sentence, as current and former members of Congress are investigated and judged at single instance by the Supreme Court. The Committee is particularly concerned that a new investigation has now been initiated and that Mr. Araújo may again be investigated under the same flawed procedure. It will closely follow the matter and meanwhile calls on the Colombian authorities, in particular the new Colombian Congress, to overhaul the procedure applicable to Colombian parliamentarians so as to make it fully compatible with fundamental fair-trial standards, including the right to appeal. The Committee believes that the IPU can make an important contribution to helping advance the public debate in Colombia on this complex and sensitive matter.

ERITREA

The situation of the 11 parliamentarians in Eritrea is an affront to human dignity. Their only "mistake" has been to call for democratic reforms in Eritrea. They have been held for more than eight years without any contact with the outside world and without ever being formally charged. There are growing rumours that they may in fact be no longer alive.

The Committee is appalled that the Eritrean authorities continue to remain completely deaf to the pleas by the IPU and by the African Commission on Human and Peoples' Rights for their immediate release. The Committee is shocked that Eritrean State officials went to Geneva recently to tell the United Nations Human Rights Council that freedom of expression is fully respected and that arbitrary and secret detention and torture are banned in Eritrea, even though UN reports clearly show otherwise. The Committee urges the Eritrean authorities to take their own statements seriously and to release the 11 persons immediately.

The Committee also believes that we all can and should do much more to bring the necessary pressure to bear on the Eritrean authorities, including by making use of bilateral, regional and international trade, development and other agreements to which Eritrea is a party.

The Committee appeals therefore to our African colleagues, the African Union, the African Parliamentary Union, and the Pan-African Parliament, as well as the European Union, through its High Representative for Foreign Affairs and Security Policy, to do their utmost in this respect.

MADAGASCAR

Unfortunately, the Maputo Accord concluded last year between the different political trends in Madagascar has not put an end to the crisis which has been prevailing in the country ever since the former Mayor of Madagascar's capital took power in March last year. It is in this context that the members of parliament concerned were arrested, humiliated, brutalized and charged with various public order offences. You will perhaps remember that in October last year, you heard the testimony of Ms. Naïka, one of the former parliamentarians concerned. She is still abroad. While all of the other former MPs concerned have meanwhile been released, the cases against them are still pending and

travel bans have been imposed on them. The Committee believes that an on-site mission would be helpful, and it requests the Secretary General to take the necessary steps to this end.

MONGOLIA

Although the case of Mr. Zorig Sanjasuuren has not made significant progress since October last year, we still want to draw your attention to it and inform you that two countries have now agreed to provide technical assistance to the Mongolian investigative authorities. Germany has indeed already provided such assistance and is prepared to continue to do so. In January this year, all the diplomatic formalities required for the Japanese offer of assistance to materialize were completed. The Committee hopes therefore that with the latest state of the art technology, it will be possible to finally elucidate Mr. Zorig's murder of 12 years ago.

MYANMAR

You will have seen in the hallway the small exhibition that our Committee has organized on the case you examine in Myanmar. Twelve parliamentarians remain imprisoned for merely having exercised their freedom of expression. They have all been sentenced on the basis of legal proceedings which blatantly disregarded their right to fair trial. The exhibition includes a petition urging the Myanmar authorities to release these parliamentarians immediately, which we ask all of you to sign.

This is a crucial year for Myanmar. This is also true of the international community's approach to Myanmar. The Committee calls on the Myanmar authorities to ensure that the elections are inclusive, free and fair. This will require that they change the electoral laws which were recently enacted. The Committee calls on IPU Member Parliaments, in particular those of China and India as neighbouring countries, and the Association of South-East Asian Nations (ASEAN), to lend their full support to help ensure a credible electoral process, in particular since, with the elections drawing close, time is running short.

NIGER

In October last year, you suspended the affiliation of the National Assembly of Niger following its dissolution by President Tandja, which you condemned, and you asked the Committee to look into the situation of the members of the dissolved Assembly. They were all charged on account of allegedly having illegally received allowances and benefits. Some of them had been arrested and detained. The Committee's delegation led by Senator Mahoux went to Niamey from 30 November to 1st December last year and met with all parties concerned, in particular President Tandja himself. Shortly after the mission, the two former parliamentarians who were still in detention at the time of the mission were released and a dialogue started regarding the question of the allowances and other benefits. However, as you know, the military took power in February last, ousted President Tandja and dissolved the parliament elected last year. Under these circumstances, the Committee proposes that you close this case since the question of allowances is no longer an issue and the two former parliamentarians were released.

PHILIPPINES

Ever since the rebellion case brought against the four parliamentarians concerned was dismissed by the Supreme Court in 2007 for being politically motivated, the Committee was concerned that the new criminal proceedings brought against them were part of an effort to remove them and their parties from the political process. The rebellion charges were prepared by a special body, the Inter-Agency Legal Action Group, created by President Arroyo to prepare cases of rebellion and sedition against suspected enemies of the State. The United Nations Special Rapporteur on extrajudicial, arbitrary or summary executions has recommended the abolition of that institution.

The Committee is pleased that the House of Representatives has asked its Justice Committee to examine the impact the work of IALAG has on the administration of justice in the Philippines.

The second case in the Philippines is that of Senator Trillanes, a Navy Lieutenant who was elected in May 2007 while he was in detention. He is accused of participation in the so-called "Oakwood Siege" of July 2003, when more than 300 soldiers went to the Oakwood Hotel to make known their grievances over graft and corruption within the Philippine Armed Forces. Your Committee is concerned that he has now been in pretrial detention for more than seven years with the case against him proceeding extremely slowly. This means not only that he cannot exercise his parliamentary mandate but also that the 11 million people who voted for him have no representation in parliament. The Committee is therefore pleased that the Senate has taken the initiative to amend its Rules and to provide for video-conferencing, which would allow him to exercise his mandate to some extent. However, the new rules still need to be adopted by the Senate plenary and the Committee asks the Senate to do this as quickly as possible. The Committee also considers that Senator Trillanes should be released pending trial.

RWANDA

Mr. Léonard Hitimana disappeared in April 2003 and has still not been found. From the new information provided to the Committee on what happened the day of his disappearance, we can be practically certain that he was the victim of an enforced disappearance. No serious efforts have been made to hold the perpetrators to account. For instance, the Committee now knows that, one month after his disappearance, Mr. Hitimana's car was retrieved from the police with bloodstains on the front seat. This was apparently never investigated. Eyewitnesses reportedly saw that in the afternoon of 7 April 2003 military intelligence officers intercepted Mr. Hitimana's car in the street, closing it for the public, and took him to Kami military camp. This is where he was allegedly tortured and killed in May 2003. We also have the name of a possible suspect. The Committee urges the Rwandan authorities to investigate these leads very seriously and calls on the Rwandan Parliament to make use of its oversight function to ensure that real efforts are made to this end.

ZIMBABWE

The Committee remains deeply concerned at the continuing impunity in the case of Mr. Sikhala and Mr. Madzore, who were both tortured, and of Mr. Biti and Mr. Chamisa, who were beaten up by the police. The State officials responsible for these acts have yet to be held to account. The Committee was pleased to meet in Bangkok with the Speaker of the House of Assembly of Zimbabwe and to hear from him that the Parliament is committed to protecting the human rights of its members. The Committee is therefore confident that the House of Assembly will make every effort to ensure that the persons who did this are identified and brought to justice and that the victims are paid due compensation.

However, as Mr. Biti has decided not to press for justice with regard to the ill-treatment which he suffered in March 2007 and the treason charges against him were dropped after he became Minister of Finance last year, the Committee proposes that you close his case.

With respect to Mr. Bennett, the Committee believes that the charges against him of possessing weaponry for the purposes of banditry, insurgency and sabotage are part of an ongoing effort to harass him and keep him out of politics in Zimbabwe. The Committee considers that they should be dropped. We will see from today's news whether this has indeed happened as the relevant court hearing took place yesterday.

I would now like to present to you the two new cases which the Committee submits to you.

MALAYSIA

The first concerns Mr. Anwar Ibrahim of Malaysia, currently de facto leader of the opposition Peoples Alliance. Some of you may perhaps remember that you dealt with Anwar Ibrahim's case some years ago when he was prosecuted and found guilty of abuse of power and sodomy. In 2004, the Federal Court quashed the conviction in the sodomy case. There were serious concerns regarding the fairness of the proceedings, which were largely considered to have been politically motivated. Although, as a result of his conviction, Anwar Ibrahim was barred from standing in elections until April 2008, he was able to campaign in the March 2008 elections. He was finally re-elected in a by-election on 26 August 2008. Earlier the same month, a new sodomy charge was brought against him and trial proceedings started in February this year. The investigation and the proceedings seem to suffer from the same flaws as in the previous sodomy case. The Committee believes that the charges should not have been brought in the first place as there is no medical evidence. It is alarmed that members of the former prosecution team are also involved in the new case, including the Attorney General, the lead prosecutor in the first sodomy case, accused of having fabricated evidence in that case. We are also deeply concerned that the defence has been denied access to crucial prosecution evidence. The Committee therefore requests the Secretary General to ensure the presence of an international observer at the proceedings.

RUSSIAN FEDERATION

It is now almost twelve years since Ms. Galina Starovoitova, a prominent Russian human rights advocate, was shot dead on 20 November 1998 in the stairwell of her apartment in St. Petersburg. The investigation concluded that her murder was politically motivated. Shortly before she was killed, Ms. Starovoitova had denounced instances of high-profile corruption. Two persons were found guilty of her murder and others of complicity; however, the masterminds have still not been identified. The Committee calls on the authorities to do their utmost by lending fresh impetus to the investigation with a view to finally elucidating this crime.

THANK YOU.