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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Situation of human rights defenders

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor, in accordance with Assembly resolution [74/146](#), paragraph 24, and Human Rights Council resolutions [42/16](#), paragraph 3, and [6/29](#).

* [A/76/150](#).



Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor

States in denial: the long-term detention of human rights defenders

Trends and patterns in the use of long-term detention against human rights defenders

Summary

In the present report, the Special Rapporteur on the situation of human rights defenders, Mary Lawlor, analyses the situation of human rights defenders in long-term detention, serving sentences of 10 years or longer. The Special Rapporteur draws attention to underlying factors that contribute to the phenomenon of detaining human rights defenders for lengthy periods as a result of their legitimate human rights activities. The report contains examples of individual cases of human rights defenders serving long-term prison sentences. She makes recommendations to relevant stakeholders to halt and reverse these trends and suggests ways to prevent this from happening in the future.

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I. Introduction

1. In December 2015, woman human rights defender Lodkham Thammavong¹ was 1 of some 30 people who protested outside the Lao Embassy in Bangkok to express their concern over the Lao Government's alleged human rights violations.
2. Three months later, when she returned to the Lao People's Democratic Republic, she and two other human rights defenders, Soukane Chaithad and Somphone Phimmasone, were arrested by Lao police.
3. The Special Rapporteur has received credible information that they were not informed of the charges against them and no arrest warrants were presented at the time of arrest or afterward. Ms. Thammavong and the others were reportedly forced to make false confessions, paraded on national television to apologize for being traitors and denied their rights to legal representation.
4. A year later, in March 2017, after an unfair trial, Ms. Thammavong was found guilty of "treason to the nation, propaganda against the State, and gatherings tied at causing social disorder". She was sentenced to 12 years in prison. Mr. Chaithad and Mr. Phimmasone were also convicted on the same charges, and given 16 and 20 years, respectively.
5. At the time of writing, Ms. Thammavong is currently being held in Tan Piao Prison, located around 60 km from Vientiane, making family visits difficult. She is said to be lacking access to water and still has had no access to legal counsel.²
6. Unfortunately, such attacks on human rights defenders are not rare. Hundreds of human rights defenders across the world are serving long prison sentences after being convicted on fabricated charges following unfair trials. Many, like Ms. Thammavong, were denied adequate legal representation.
7. The Special Rapporteur has monitored numerous cases of defenders serving more than 10 years in prison, and of many other defenders facing charges for which they could be sentenced to similarly long terms. Many, like Ms. Thammavong, have been sentenced under vague and ill-defined charges often relating to treason, subversion or terrorism.
8. Many are held in harsh conditions, and/or have been forced to confess to crimes they did not commit. Some suffer from ill health and are deprived of adequate medical attention. Some are also denied regular access to their families. Some are at risk of being sentenced to death, and some have died in jail while serving long sentences.
9. In the present report, the Special Rapporteur on the situation of human rights defenders, Mary Lawlor, intends to show that the issue of the long-term detention of human rights defenders is extensive, that there are many commonalities in the methods used to unjustly jail them and that many Member States – including some who are members of the Human Rights Council, or who aim at being a member – consistently deny they are holding defenders in jail. She advises States on how to prevent further such attacks on defenders and recommends that all human rights defenders be immediately and unconditionally released from jail.
10. The full extent of this problem is not known. Human rights defenders are serving long terms in detention on every continent, but there are very likely many more cases

¹ References are made throughout the document to joint urgent appeals and allegation letters sent by the Special Rapporteur with other special procedures. All such communications are available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>. For this case, see LAO 2/2021, LAO 1/2017 and LAO 3/2016.

² See LAO 2/2021.

than those featured in the present report that have not been brought to the Special Rapporteur's attention.

11. The cases included here are only those where consent has been obtained directly from the defenders themselves, or from their families or representatives. Many other cases are also known to the Special Rapporteur, but are not included in the report for various reasons, including where it was not possible to obtain consent or where highlighting cases would risk making the situation of the defenders worse. Some defenders were jailed so long ago that their cases have faded from public view and no longer feature in many advocacy efforts. This can also make consent and information more difficult to obtain.

12. There is a wide range of defenders serving long terms in detention. Some are labour leaders, some are lawyers, others are journalists. Some are jailed for defending article 21 of the Universal Declaration of Human Rights, which outlines the right for people to vote in elections. Others are targeted for peacefully advocating for democratic reform, or for exposing deficiencies in governance. The Special Rapporteur reiterates that peacefully defending these and other rights that States have promised to safeguard is never a crime.³

13. Some defenders have been targeted and jailed in reprisal for their engagement, or intended engagement, with United Nations mechanisms. Some are famous, winners of international awards for their work, with prominent international profiles, while others are relatively unknown, even within their country. Some hold dual nationalities and are citizens of countries other than the one in which they are jailed.

14. Some defenders have been convicted in mass trials and some have been sentenced in absentia. Some defenders sentenced to long terms in jail are living in exile, unable to return to their country for fear of arrest. Others are kept in long periods of pretrial detention, not knowing if or when they will face charges that could send them to prison for long terms.

15. Other defenders are seized and nothing is heard from or about them for many years. Not all are held by Governments. Some, like Syrian woman human rights defender Razan Zaitouneh,⁴ are believed to have been taken by militia groups. There has been no news of her current whereabouts for years.

16. Other human rights defenders sentenced to long terms in jail die in custody. Human rights defender Azimjan Askarov⁵ was unjustly sentenced to prison in 2010 in Kyrgyzstan, and he was still in prison 10 years later with serious medical problems. Despite appeals from the mandate holder, the United Nations, the European Union and the Organization for Security and Cooperation in Europe to the authorities for his release on health grounds, he died in detention in 2020.

17. The Special Rapporteur notes there is often a flurry of attention and activity around a case when a human rights defender is arrested or convicted, sometimes accompanied by intense international media coverage and advocacy from foreign governments and United Nations mechanisms. But even with the most prominent defenders, attention typically fades over the years as fresh cases demand the attention and resources of non-governmental organizations (NGOs), independent United Nations experts and interested Governments.

³ See www.un.org/en/about-us/universal-declaration-of-human-rights, and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms; see also General Assembly resolution 53/144, arts. 1, 2 and 3.

⁴ See SYR 7/2013.

⁵ See KGZ 1/2011 and KGZ 2/2020.

18. Many defenders serving long sentences feel forgotten or abandoned.
19. The effect of the long-term detention of defenders can be devastating – to themselves, to their families, to their communities and to the civil societies to which they belong. Just fighting a legal case can exhaust a defenders’ resources, and that of their NGO. Indeed, this damage to them and their work is often the motivation for their being targeted.
20. States will recall that in her first report to the General Assembly in 2020 (A/75/165), the Special Rapporteur outlined her priorities for the mandate, which included a focus on “defenders serving long terms in prison”. She believes States should have confronted this enduring problem long ago. Some States have ignored years of appeals to stop jailing human rights defenders and still refuse to release those they currently hold in detention.
21. The Special Rapporteur is instructed under the mandate to study developments and challenges on the right to promote and protect human rights and seek, receive and respond to information on the situation of human rights defenders, and to recommend effective strategies to better protect human rights defenders.
22. One simple piece of advice for States to better protect human rights defenders is not to put them in prison for long terms for peacefully defending the rights of others.
23. Many States sentence human rights defenders to long terms in prison because they want to, and because they can. They want to because they are unhappy with defenders exposing corruption, pointing out human rights violations or highlighting other deficiencies in governance.
24. Jailing defenders does not always silence them, and some continue to defend rights while in detention, but States often use this method of attack against human rights defenders to crush peaceful dissent.⁶
25. States can do this because they ignore international treaties they have committed to, often with negligible international consequences. They enable themselves to jail human rights defenders by passing vague laws, often in the name of national security or countering terrorism, by staging sham trials that fail meet international standards, by torturing defenders into making false confessions and by lying about the work of human rights defenders.⁷
26. Some States contest that those jailed are not defenders but subversives, traitors or terrorists. The Special Rapporteur knows the difference, and she respectfully reminds States that her long years of experience in identifying who is a human rights defender – and who is not – is partly why she was entrusted with this mandate. The Special Rapporteur is keen to discuss individual cases with States to better explain why those in detention referred to in the present report are human rights defenders.
27. Despite the many detailed cases regularly presented to Member States of human rights defenders currently serving long jail terms, the Special Rapporteur notes that in response to her call to Member States for submissions to the present report, not one State acknowledged holding any human rights defender in long-term detention.

⁶ For examples of defenders who have managed to work for human rights while in prison, see www.humanrightsfirst.org/resource/activism-prison.

⁷ The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism noted in a 2019 report (A/HRC/40/52) the use of overly broad definitions of terrorism, noting that “a defining trend in national implementation of the Security Council counterterrorism framework is the global emergence of overly broad and vague definitions of terrorism” and that “such laws are likely to criminalize legitimate expression”.

28. Many States have for many years used this method of attack against human rights defenders. The Special Rapporteur's predecessors in this mandate have, since the mandate was established 20 years ago, repeatedly recommended that States not use unfair trials or security legislation as a pretext for jailing, or otherwise attacking, human rights defenders.

29. In 2001, Hina Jilani, the first mandate holder on the situation of human rights defenders, in her first report to the then Commission on Human Rights, stated that: "The situation of human rights defenders ... and their sentencing after unfair trials will be a matter of serious concern for the Special Representative" (E/CN.4/2001/94, para. 89 (f)).

30. Despite regular, detailed updates to Member States from the Special Rapporteur on human rights defenders over many years about this unjust practice, defenders are still routinely subjected to unfair trials, after which many are sentenced to long terms in prison.

31. In her most recent report to the Human Rights Council, presented earlier this year (A/HRC/46/35), the Special Rapporteur focused on the killing of human rights defenders. She identified a lack of political will from Member States to hold the perpetrators accountable as a key driver of the murders. In the case of long-term detention of defenders, it is less the absence of political will to prevent this abuse, but rather the active presence of a political will in States to target defenders.

32. Some representatives of Member States have told the Special Rapporteur, in response to her raising the case of an unfair trial, that they cannot interfere in their countries' independent judicial process. While the Special Rapporteur respects the principle of judicial independence, she cannot be silent when a criminal justice system falls short of international standards and is used to unjustly jail human rights defenders.

33. In 2003, Ms. Jilani told Member States: "When human rights defenders are arrested, detained and/or prosecuted under security legislation, the process should be fully transparent. The charges on which the arrest and detention are based should be made public and explained in a sufficiently complete manner that the veracity of their substance can be independently verified" (A/58/380, para. 71).

34. Many States are still failing this test of transparency and continue to consign human rights defenders to long years of misery in prison.

35. While those mechanisms which enable long-term, unjust detention, including torture, unfair trials and the gross misrepresentation of the work of those peacefully defending the rights of others, should be addressed, the fundamental reason that defenders are held in long-term detention is because of the political will in States to do so.

36. Targeting human rights defenders with long jail terms is never acceptable, and it is a red line no State should cross. It is immoral, illegal, inexcusable and dishonourable. This practice exposes States' lack of resolution to fulfil the international standards they have committed to uphold. Consigning those who peacefully defend human rights to prison raises serious questions about States' intentions to abide by the international agreements they have signed.

A. Data and methodology

37. During the period from 1 January 2020 to 30 June 2021 alone, the Special Rapporteur sent 28 communications to 22 Member States on the long-term detention of 148 human rights defenders, including 37 women human rights defenders and 110

male human rights defenders. The Office of the United Nations High Commissioner for Human Rights also tracked one defender in long-term detention who identified as lesbian, gay, bisexual, transgender, queer or intersex.

38. Of these 148 defenders, 40 were lawyers working on human rights cases, 15 worked on women's human rights, 9 worked on the defence of the environment and indigenous peoples' rights and 7 worked on providing humanitarian aid. Other categories of human rights defenders were identified in long-term detention, including defenders working on the rights of minorities; children's rights; lesbian, gay, bisexual, transgender, queer and intersex rights; migration; freedom of religion; the right to self-determination; the abolition of the death penalty; and labour rights, among others.

39. Of the total number of defenders, 104 have been convicted and 44 are at risk of being sentenced to 10 years or more. Fifty-four have been charged with crimes related to national security, 53 charged with crimes under anti-terrorism laws, 30 with violations of both national security and anti-terrorism laws and 11 with other crimes, such as murder, robbery, extortion, kidnapping and blasphemy, among others.

40. When examined by region, the figures show that six communications were addressed to five countries in the Asia-Pacific region (21.42 per cent), five were addressed to five countries in the Americas (17.86 per cent), five were sent to four countries in Europe and Central Asia (17.86 per cent), five were sent to four countries in the Middle East and North Africa (17.86 per cent) and seven were addressed to four countries in Africa (25.00 per cent).

41. At the time of writing, communications on the issue of long-term detention of human rights defenders had been sent or were being prepared to be sent to 24 States: Bahrain (concerning 5 human rights defenders); Belarus (3); Burundi (1); Cameroon (1); China (17); Egypt (12); Eritrea (1); Honduras (2); Iran (Islamic Republic of) (17); Kyrgyzstan (1); Lao People's Democratic Republic (3); Mexico (8); Morocco (4); Nigeria (1); Nicaragua (2); Peru (2); Russian Federation (3); Rwanda (1); Saudi Arabia (20); Tajikistan (1); Turkey (24); United Arab Emirates (6); Uzbekistan (3); and Viet Nam (38).

42. As at 30 June 2021, 11 replies had been received to the 28 communications sent. Of the responses received, the vast majority were fully or partially substantive. The term "substantive response" denotes a reply that is fully or partially responsive to the allegations and/or substantively clarifies the facts. It does not, however, imply that the actions taken by the Governments necessarily complies with international human rights law.

43. The present report is based on discussions the Special Rapporteur has had with hundreds of human rights defenders around the world since the beginning of her mandate in May 2020, and on information she continuously receives on trends on human rights defenders in long-term detention.

44. Human rights defenders, States, NGOs, national human rights institutions and others have shared their views and information with her on the long-term detention of defenders. Owing to the coronavirus disease (COVID-19) pandemic, consultations were carried out online. The Special Rapporteur also issued a call for written submissions,⁸ inviting relevant stakeholders to contribute to the present report.

45. She received 59 contributions in total: 8 from Member States, 7 from national human rights institutions, 37 from civil society organizations, 3 from human rights defenders and 4 from international organizations.

⁸ See www.ohchr.org/EN/Issues/SRHRDefenders/Pages/longterm-detention-defenders.aspx.

46. The Special Rapporteur thanks all those who contributed to the report. Available literature and research materials on the long-term detention of human rights defenders and threats that precede them were also used. Other sources included previous reports of mandate holders on the situation of human rights defenders, reports and consultations with other relevant mandate holders and reports of regional bodies for the protection of human rights.

47. For the purposes of the present report, the Special Rapporteur has generally defined “long-term detention” as a period of at least 10 years. The report focuses mainly on human rights defenders who have been sentenced to 10 years or more, or who are serving consecutive sentences amounting to 10 years or more, or who are held in custody and in danger of being sentenced to 10 years or more in prison.

B. Applicable legal framework

48. The long-term detention of human rights defenders violates a number of international human rights standards.

49. The Special Rapporteur reminds States that the General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders) by consensus.

50. The Declaration on Human Rights Defenders recognizes the right to promote and protect universally recognized human rights and fundamental freedoms peacefully (arts. 1, 5 and 13). It also highlights that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms (art. 2) and that everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms (art. 12).

51. Arrest or detention as punishment for the legitimate exercise of the rights guaranteed in the International Covenant on Civil and Political Rights is arbitrary, including rights to freedom of opinion and expression (art. 19), freedom of assembly (art. 21), freedom of association (art. 22) and the right to privacy (art. 17).

52. In the Universal Declaration of Human Rights, article 3 proclaims that everyone has the right to life, liberty and security of person. That is the first substantive right protected by the Universal Declaration, which indicates the profound importance of article 9 of the International Covenant on Civil and Political Rights both for individuals and for society as a whole.⁹

53. The deprivation of liberty is subject to certain conditions, and even initially lawful detention becomes arbitrary and contrary to law if it is not subject to periodic review. Indefinite detention is clearly incompatible with article 9 of the International Covenant on Civil and Political Rights. While temporary derogation from this provision is allowed in article 4 of the Covenant, such derogation is only possible “in time of public emergency which threatens the life of the nation” and “to the extent strictly required by the exigencies of the situation”. Persons deprived of their liberty are entitled to a prompt trial or release, and in cases of arbitrary detention they are entitled to compensation. Neither the war on terror nor restrictive immigration policies justify indefinite detention.¹⁰

⁹ See Human Rights Committee, general comment No. 35 (2014), para. 2.

¹⁰ Alfred de Zayas, “Human rights and indefinite detention”, *International Review of the Red Cross*, vol. 87, No. 857 (March 2005).

54. The Special Rapporteur notes that Governments often try to justify such irregular imprisonment on the basis of “national security”, “state of emergency”, “illegal migration” and other so-called extraordinary circumstances. Temporary derogation from some provisions of the applicable legal regimes is possible, but subject to specified conditions, notably the criterion of “public emergency threatening the life of the nation” and the principle of proportionality, which limits such derogation “to the extent strictly required by the exigencies of the situation”. Derogations cannot be open-ended, but must be limited in scope and duration.¹¹

55. Article 9 of the Covenant states that everyone has the right to liberty and security of person, no one should be subjected to arbitrary arrest or detention and anyone who is arrested shall be informed, at the time of arrest, of the reasons for their arrest and promptly informed of any charges against them.

56. Article 9 also states that those arrested or detained should be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.

57. Incommunicado detention that prevents prompt presentation before a judge inherently violates paragraph 3 of article 9. Once the individual is brought before the judge, the judge must decide whether the individual should be released or remanded in custody for additional investigation or to await trial (i.e. habeas corpus (art. 9, para. 4)). If there is no lawful basis for continuing the detention, the judge must order release. Persons awaiting trial should not be detained in custody as a general rule, but as an exception.

58. Article 14 of the Covenant details the right to equality before the courts and tribunals, and the right to a fair trial. Individuals charged with a criminal offence should be tried without undue delay (art. 14, para. 3 (c)) and should be entitled to legal assistance of their own choosing. The notion of fair trial includes the guarantee of a fair and public hearing.¹² Imprisonment after a manifestly unfair trial is arbitrary.

59. Article 1 of the International Convention for the Protection of All Persons from Enforced Disappearance states that no one shall be subjected to enforced disappearance.¹³ Enforced disappearance violates numerous substantive and procedural provisions of the International Covenant on Civil and Political Rights and constitute a particularly aggravated form of arbitrary detention. In addition, a number of standards and principles govern the treatment of prisoners.¹⁴

60. Prolonged pretrial detention, as well as long-term detention based on vaguely defined provisions relating to national security and counter-terrorism, also violate the rule of law. Human rights law requires that legislation criminalizing acts of terrorism be made accessible to the public, formulated with precision, applicable to counter-terrorism alone, non-discriminatory and non-retroactive (A/HRC/45/27, para. 15).¹⁵

61. The independence of the judicial system, together with its impartiality and integrity, is also an essential prerequisite for upholding the rule of law and ensuring that there is no discrimination in the administration of justice (General Assembly resolution 67/1, para. 13).

¹¹ Ibid.

¹² Human Rights Committee, general comment No. 32 (2007), para. 25.

¹³ For a definition of “enforced disappearance”, see art. 2 of the International Convention for the Protection of All Persons from Enforced Disappearance.

¹⁴ These include the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the Basic Principles for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

¹⁵ See also A/HRC/28/28, para. 28; General Assembly resolution 72/180, para. 5 (o); and A/HRC/8/13, paras. 19–23.

62. The international and domestic legal frameworks regulating counter-terrorism, the prevention of violent extremism and protection of national security have a profound impact on civil society. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism stressed that the Security Council should positively promote civil society's key role as a force for change and remind States of their obligations to protect it (A/HRC/40/52, para. 18).

63. Both the Security Council and States should unambiguously exempt humanitarian actions from their counter-terrorism measures at every possible opportunity (A/HRC/40/52, para. 22), and humanitarian protection and assistance, as well as human rights advocacy, should never be conceptualized as support for terrorism and suppressed or criminalized on that basis.

64. Many States have developed and implemented broad and vague counter-terrorism legislation, which often does not require violent conduct. Such laws sometimes expressly cover conduct that is protected by international human rights law, for instance the legitimate exercise of the freedoms of expression, peaceful assembly and association.

65. In some legislation, definitions of terrorism include conduct such as "insulting the reputation of the State", which could result in the criminalization of any discourse critical of the Government or its policies. Other broadly formulated legislation creates new offences such as "advocating", "encouraging", "glorifying" or providing support to terrorism, which could lead to unnecessary or disproportionate interference with the freedoms of expression, peaceful assembly and association (A/HRC/45/27, para. 16).

C. Trends related to the long-term detention of human rights defenders

1. Evidence of the widespread misuse of counter-terrorism and related legislation

66. The Special Rapporteur conducted a study of 61 cases in 13 countries across the Americas, Asia-Pacific, Europe and Central Asia, the Middle East and North Africa and sub-Saharan Africa in which a human rights defender had been sentenced to 10 years or more and was either still serving their sentence or had died in prison, or had never been sentenced in the first place but had remained in State custody for a lengthy period of time, suggesting worrying patterns.

67. Of the cases studied, 77 per cent involved the human rights defender being convicted under counter-terror or national security legislation. At least 46 per cent of the jailed defenders alleged ill-treatment or torture during their arrest or while in detention. Four human rights defenders died while in prison or after having been released to a hospital immediately prior. And 11 per cent of the cases related to a reprisal for having cooperated with United Nations human rights mechanisms, and have been included in the reports of the Secretary-General on reprisals.

68. The Special Rapporteur notes further commonalities across the cases of those accused, or convicted, of crimes that carry heavy sentences.

69. Although defenders are held in long-term detention on all continents by States with different political systems, and under various laws, the Special Rapporteur has identified similar procedural mechanisms that enable their detention.

70. Many defenders are accused, charged or sentenced under vague and ill-defined laws, often related to subversion, treason or terrorism, in violation of the international standards mentioned above.

71. For example, in Turkey, article 314 of the Turkish Penal Code and article 7 of the Anti-Terror Law have both been used extensively to silence human rights defenders and categorize them as members of terrorist organizations. In March 2020, woman human rights defender Sevda Özbingöl Çelik¹⁶ was arrested and formally charged with “membership of an armed terrorist organization” and held in pretrial detention for nine months. Initially she was given access to her lawyers; however, after the first month she was not allowed to see her lawyers for the next three months. Family visits were also banned and she spent an estimated two and a half months in solitary confinement. In April 2021, she was sentenced to 11 years and 6 months in prison on the charges of “membership in a terrorist organization” (art. 314/2 of the Turkish Criminal Code), “violating Law No. 2911 on assemblies and meetings” (art. 28 of Law No. 2911) and “terrorist propaganda” (art. 7/2 of the Anti-Terror Law). She is a peaceful defender of human rights, not a member of a terrorist organization, but the Government of Turkey refuses to recognize her and others as human rights defenders.

72. In China, charges are commonly brought against defenders under the national security provisions of the Criminal Code. In particular, the length of imprisonment stipulated in articles 105 and 120 of the Criminal Code are used to sentence defenders to long terms in jail.

73. The concepts of “ringleader”, “major crime” and “serious circumstances” in the Criminal Code are broad and vague. The lack of an upper limit on the length of imprisonment in articles 105 (2) and 120 (a) does not meet the principle of legal certainty and allows for the imposition of long sentences. Human rights defenders Chen Xi,¹⁷ Liu Xiaobo,¹⁸ Li Wangyang,¹⁹ Zhang Haitao²⁰ and Qin Yongmin²¹ were convicted under article 105 (2) and sentenced to 10, 11, 10, 19 and 13 years’ imprisonment, respectively. Some were accused, under article 293 of the Criminal Code, of “picking quarrels and provoking trouble”. Meanwhile, woman human rights defender Li Qiaochu²² and human rights defenders Chang Weiping, Xu Zhiyong,²³ Qin Yongpei and Ding Jiayi are currently being prosecuted under one of the above-mentioned charges.

74. In Egypt, accusations commonly made against human rights defenders include the joining of an unspecified terrorist group (punishable under art. 12 of the Anti-Terrorism Law and/or art. 86 bis of the Penal Code), and/or publishing false news and supplying international institutions with false information (art. 80 D and/or arts. 102 bis and 188 of the Penal Code).²⁴

75. In the Islamic Republic of Iran, many long-term sentences are enabled under broad national security provisions. “Propaganda against the State” (art. 500 of the Penal Code), “espionage” (art. 501), “assembly and collusion against national security” (art. 610) and “insulting the Supreme Leader” (art. 514) can lead to sentences of anywhere between 1 and 10 years.²⁵

76. In the United Arab Emirates, human rights defenders are liable to be sentenced to 10 years in prison or more under the under various laws, including Federal Law

¹⁶ See TUR 10/2021.

¹⁷ See CHN 4/2021.

¹⁸ See CHN 4/2021, CHN 1/2010, CHN 50/2008, CHN 60/2004 and CHN 43/2004.

¹⁹ See CHN 6/2012.

²⁰ See CHN 4/2021.

²¹ See CHN 4/2021 and CHN 5/2011.

²² See CHN 4/2021.

²³ See CHN 4/2021, CHN 20/2020, CHN 29/2010 and CHN 12/2005.

²⁴ See EGY 5/2021.

²⁵ See IRN 12/2021.

No. 7 of 2014 on combating terrorism offences. The law is vague, fails to define terrorism, and includes phrases such as “contradicting the basic principles of underlying State governance”, “opposing the country”, and “prejudicing national unity” to define terrorism without further elaboration.²⁶

77. The Special Rapporteur has received information on over 100 human rights defenders who had been sentenced to more than 10 years in jail or were detained on charges in contexts which make it likely that they will receive such sentences. There are many other human rights defenders serving such sentences about whom the mandate holder has not received sufficient information to have their cases included in the present report.

78. While the present report cannot speak to the situation of all human rights defenders serving lengthy sentences, some trends are clear from those cases in which the mandate holder has received sufficient information and the necessary consent from defenders to take up their cases.

2. Human rights defenders sentenced to death

79. Some defenders are accused of crimes that carry the death penalty.

80. In Algeria, Jamila Loukil is a journalist and woman human rights defender at the Ligue algérienne pour la défense des droits de l’homme (LADDH). Said Boudour is a human rights defender and also a member of LADDH. Kaddour Chouicha is a human rights defender, a university professor and Vice-President of LADDH.²⁷

81. According to information received, the three were arrested in April 2020 in connection with their human rights work and accused of various offences, including those relating to subversive activities and terrorism (under arts. 77, 78, 87 and 96 of the Penal Code). They were questioned about their participation in peaceful protests. If convicted, they could be sentenced to death.

82. Human rights defender Mubarak Bala, an atheist,²⁸ was arrested in Nigeria in April 2020. At the time of writing, despite a December 2020 court ruling that he be released on bail, he is still in detention, without any formal charges, on allegations of blasphemy.²⁹

83. The Special Rapporteur is concerned that he may be prosecuted under blasphemy charges that can result in the death penalty, and notes that she has received information that he has been subjected to continuous death threats.

3. Human rights defenders die in detention

84. The longstanding cruel and unfair treatment of Azimjan Askarov³⁰ in Kyrgyzstan resulted in his death in prison due to his health, which was repeatedly clearly signalled to authorities, as was the risk of COVID-19. Other human rights defenders have also died in detention either waiting to be tried or while serving long sentences.

85. Human rights defender Samuel Ajiekah Abuwe³¹ was arrested in August 2019 in Cameroon and potentially faced charges of terrorism, which carry a sentence of up to 13 years in prison. He died in custody in Cameroon in 2020 without being formally charged.

²⁶ See ARE 3/2021.

²⁷ See DZA 4/2021.

²⁸ See NGA 3/2020 and NGA 2/2021.

²⁹ See NGA 2/2021.

³⁰ See KGZ 1/2011 and KGZ 2/2020.

³¹ See CMR 2/2020.

86. Guo Hongwei³² was a human rights defender exposing alleged corruption by government officials in China and advocating for democracy in Hong Kong, China. In April 2016, at the age of 52, he was sentenced to 13 years in prison for “extorting the Government and racketeering” and for “picking quarrels and provoking trouble”.

87. In May 2020 he was reportedly put in solitary confinement. His family complained about this incident and the generally poor living conditions, including a lack of food and exposure to the cold. On 9 April 2021, Mr. Guo died in a hospital in Jilin Province after unsuccessful brain surgery to treat a cerebral haemorrhage.³³

88. Abdullah Hamid al-Hamid,³⁴ a human rights defender in Saudi Arabia, was serving a 11-year sentence on national security charges relating to his human rights work when he died in custody in April 2020. In January 2020, after years of being affected by multiple cardiac conditions, Mr. Al-Hamid was transferred to hospital.

89. Due to his deteriorating health, doctors advised he would urgently need to undergo an operation for a heart condition. Despite the doctors’ advice, the prison administration allegedly brought him back to prison and informed him that his operation would be delayed for some months. His request to remain in hospital until his operation was reportedly denied, and he was not considered for early release in the light of the COVID-19 pandemic. On 9 April 2020, Mr. Al-Hamid suffered a stroke in his cell and entered into a coma. He was transferred back to hospital where he remained in critical condition until he died two weeks later. He was 69 years old.

90. On 5 July 2021, 84-year-old Jesuit priest and human rights defender Stan Swamy³⁵ died in custody in India after having been arrested nine months previously and accused of terrorism-related crimes that carried a sentence of up to life in prison. The authorities had denied him adequate medical care while he was in detention.

4. Human rights defenders tortured in detention

91. The torture of human rights defenders in any context is unacceptable. Many are tortured in attempt to extract false confessions.

92. In Morocco, defenders Khatri Dadda³⁶ (sentenced to 20 years in prison in 2020), Al-Hussein al-Bashir Ibrahim³⁷ (sentenced to 12 years in prison in 2019), Yayha Mohamed Elhafed Iazza³⁸ (sentenced to 15 years in prison in 2008) and Naama Asfari³⁹ (sentenced to 30 years in prison in 2013) were all engaged in peaceful advocacy for the right to self-determination for Western Sahara.

93. In each case, this had included participation in peaceful manifestations in support of this goal. Some were also engaged in other human rights work. In all of the cases there were due process concerns relating to the presentation of arrest warrants, access to lawyers, contact with family and evidence.

94. Confessions allegedly made under torture formed part of the case against Khatri Dadda, Naama Asfari and Al-Hussein al-Bashir. Torture was also allegedly used when gathering the evidence used to convict Yayha Mohamed.

³² See CHN 4/2021, CHN 4/2016, CHN 29/2010 and CHN 43/2006.

³³ See CHN 4/2021.

³⁴ See SAU 6/2021.

³⁵ See IND 18/2020 and IND 10/2021.

³⁶ See MAR 3/2020 and MAR 4/2021.

³⁷ See MAR 2/2020.

³⁸ See MAR 5/2020.

³⁹ See MAR 4/2021.

95. Bahraini human rights defender Naji Fateel⁴⁰ was arrested in May 2013 and reportedly taken to the “Criminal Investigation building”, where he was handcuffed and blindfolded. Sources report that while in the Criminal Investigation building, Mr. Fateel was subjected to torture, including electrocution, simulated drowning, beatings, suspension from the ceiling by hanging him from his hands without his feet touching the floor, sexual harassment and threats of rape.

96. In September 2013, he was sentenced to 15 years in prison under article 6 of the Anti-Terrorism Law, on charges which had previously been dropped. In March 2015, following an incident at Jau Prison, Mr. Fateel was unjustly sentenced to an extra 10 years for “assault” and “damage to prison property”, and is serving 25 years in combined sentences.

5. Dual citizens

97. Although some human rights defenders serving long terms in jail have another nationality, that has not meant they receive justice.

98. Abdulhadi al-Khawaja⁴¹ is a citizen of Bahrain and of Denmark. He was arrested and convicted in 2011 by a military court after a mass trial with 20 others.

99. His detention and sentence were preceded by a speech he gave during peaceful protests in Manama.

100. During his trial he was not permitted to present his own witnesses or to testify on his own behalf, although he informed the court that he had been subjected to torture while in detention. He reportedly had four fractures to the side of his face and continues to have problems eating as a result of injuries sustained while in detention.

101. His health continues to deteriorate in prison, in particular his jaw, as a result of problems from the fractures in his face and related surgery in 2011.

102. Dawit Isaak⁴² is a citizen of Eritrea and of Sweden. Prior to his detention he promoted freedom of expression in Eritrea. According to information received, he was detained in September 2001 after his newspaper reported on calls to hold elections in Eritrea.

103. In September 2020, after many years of uncertainty over his fate, the Special Rapporteur received credible information that he was alive and being held in Eiraeiro, a remote prison known for its extremely poor conditions.

104. There have been multiple reports that Mr. Isaak has been held in solitary confinement and tortured during his detention. The Government of Eritrea has not permitted anyone to visit him. At the time of writing, it was still unknown what crimes Mr. Isaak is accused of having committed, and he has been imprisoned without trial for almost 20 years.

105. Unfortunately, efforts by the Governments of Denmark and Sweden to advocate for the release of these defenders have not been pursued vigorously enough. More might have been done, and more should still be done, to explore avenues to have them immediately and unconditionally released.

106. In January 2021, the House of Commons of Canada voted to grant Canadian citizenship to Saudi human rights defender Raef Badawi,⁴³ who is serving a 10-year sentence in prison. In April 2021, the Italian Senate voted to award Italian citizenship

⁴⁰ See BHR 2/2021.

⁴¹ See BHR 2/2021 and BHR 5/2004.

⁴² See ERI 3/2021.

⁴³ See SAU 6/2021 and SAU 5/2016.

to Egyptian human rights defender Patrick Zaki,⁴⁴ who is being held in pretrial detention in Egypt.

6. Case studies

107. The cases below are illustrative examples of recurrent patterns in the long-term detention of human rights defenders.

108. Some have been sentenced, while others are awaiting trial but are charged with or accused in relation to offences that carry long jail terms. The examples are all taken from communications sent recently by the Special Rapporteur on the situation of human rights defenders, jointly or with other mandate holders.

Belarus

109. Maria Rabkova⁴⁵ is a woman human rights defender and volunteer coordinator at Human Rights Centre “Viasna” who was arrested in Belarus in September 2020. The human rights organization’s volunteer network has been monitoring respect for the right to peaceful assembly since mass protests began following the announcement of the results of the August 2020 presidential election. She has also been involved in documenting instances of torture and ill-treatment against detained protesters since the beginning of the demonstrations, and is in detention in relation to allegations of “training or otherwise preparing people for taking part in mass disorder”.

110. In February 2021, she was indicted under two further crimes, namely “involvement in a criminal organization” (part 2 of art. 285 of the Criminal Code of Belarus) and “intentional actions aimed at inciting racial, national, religious or other social hatred or discord on the basis of racial, national, religious, linguistic or other social affiliation” (part 3 of art. 130). The latter charge allegedly relates to her criticism of State institutions, owing to the fact that civil servants and members of the police can reportedly be considered a social group in Belarus, and are therefore covered by hate crime legislation. Ms. Rabkova faces up to 12 years in prison and is prevented from discussing further details on her case after she signed a non-disclosure agreement.

China

111. Chen Xi is a writer, human⁴⁶ rights defender and a member of the NGO Guizhou Human Rights Forum. He was arrested in November 2011 and, in December 2011, at the age of 57, he was sentenced to 10 years in prison and 3 years of deprivation of political rights by the Guiyang Intermediate People’s Court for the offence of “instigating subversion of the political power of the State” under the notorious article 105 (2) of the Criminal Code.

112. Mr. Chen’s human rights advocacy work is linked to his current and previous two convictions. Mr. Chen has been sentenced to 23 years in prison over the course of his lifetime. It is reported that Mr. Chen has been subjected to ill-treatment and possibly torture, including through harassment by cellmates and solitary confinement. He has developed chronic enteritis, which causes diarrhoea, dehydration and fever. Each winter he has contracted severe frostbite on his hands, ears and abdominal area.

⁴⁴ See EGY 19/2020 and EGY 10/2020.

⁴⁵ See BLR 4/2021 and BLR 8/2020.

⁴⁶ See CHN 4/2021, CHN 4/2016, CHN 1/2012, CHN 29/2010, CHN 34/2009, CHN 14/2006 and CHN 13/2004.

Egypt

113. Hoda Abdel Moneim Hassan⁴⁷ is a 61-year-old lawyer and human rights defender, known particularly for her work on women and children's rights.

114. Since her detention in November 2018 she has not been able to receive phone calls or visits, or send or receive letters from her family. According to information received, her health has significantly deteriorated since she was detained. She suffers from high blood pressure, kidney issues and other health problems, including deep vein thrombosis. In January 2020 she reportedly suffered symptoms consistent with a heart attack, for which she was sent to the prison hospital. A specialist recommended that she undergo an urgent echocardiogram, but this procedure never took place.

115. In September 2020, her family were given verbal permission to visit her in Al-Qanater Prison, but when they arrived at the prison they were told the visit had been cancelled, and they could leave medication and money for her.

116. In November 2020 she was transferred to Al-Manial hospital after suffering severe pain. She was informed that one of her kidneys had failed and the other was not functioning properly. The prison authorities did not inform her family about the examinations that she subsequently underwent.

117. In December 2020, during her pretrial renewal session, she reportedly had difficulty walking and showed signs of being in significant pain. She informed the judge that the prison clinic was ill-equipped to meet her medical needs. Her pretrial detention continues to be renewed every 45 days despite her having spent more than the legal limit of two years without trial.

Honduras

118. Jennifer Sarina Mejía Solórzano and Marianela Mejía Solórzano⁴⁸ are sisters and woman human rights defenders from the Garifuna indigenous community, and members of the Black Fraternal Organization of Honduras. The criminalization of these defenders is allegedly related to the work they carry out in the defence of human rights of the Garifuna people.

119. In March 2021, Jennifer Sarina Mejía Solórzano was arrested on her way to the Santa Fe municipality and charged with the offences of "usurpation of land" (art. 227 of the Criminal Code), "damage" (art. 254) and "threats" (art. 207) against the Canadian company Sociedad de Responsabilidad y Bienes Raíces. She was also separately charged with "theft" (art. 218).

120. Marianela Mejía Solórzano was arrested under the same charges when she went to inquire at the police station for information about her sister, Jennifer Sarina Mejía Solórzano. Both face prison sentences of 10 years or more. According to the Honduran Criminal Code, a person guilty of two or more offences shall be subject to all the penalties corresponding to the different offences.

Iran (Islamic Republic of)

121. Nasrin Sotoudeh⁴⁹ is a woman human rights defender and lawyer who has worked on legal cases defending individuals who have challenged compulsory veiling laws for women and those who have been denied the right to a fair trial. She has also

⁴⁷ See EGY 2/2021 and EGY 6/2019.

⁴⁸ See HND 3/2021.

⁴⁹ See IRN 16/2021, IRN 14/2021, IRN 12/2021, IRN 21/2020, IRN 6/2020, IRN 11/2018, IRN 10/2018, IRN 6/2013 and IRN 18/2012.

advocated against the death penalty, particularly when the sentence was handed down to individuals for crimes they allegedly committed before the age of 18.

122. She has been imprisoned since July 2018 and is serving time for seven public order- and national security-related offences. For these, she will be required to serve the longest applied sentence, 12 years. Since ending a 46-day hunger strike on 25 September 2020, Ms. Sotoudeh has suffered serious cardiac and pulmonary issues. Although, after being hospitalized for five days in September 2020, she was granted temporary furlough on three occasions, she was returned to prison while still ill and has reportedly been repeatedly denied an adequate level of medical care since her return.

123. Esmail Abdi⁵⁰ is a labour rights defender and former Secretary-General of the Iranian Teachers' Trade Association, the largest teachers' rights organization in the country. With the Association, he campaigned for union rights for students and teachers, including through organizing and participating in peaceful demonstrations.

124. Mr. Abdi has been imprisoned on numerous occasions since 2006. In 2011, he was sentenced to a 10-year suspended sentence, subject to 5 years' probation, for "propaganda against the State" and "espionage". In October 2016, just before the completion of his probation period, he was convicted of "propaganda against the State" and "collusion against national security" and sentenced to six years in prison, of which he was required to serve five years. His lawyer was reportedly not permitted to view the evidence brought against the human rights defender in advance of the 2016 trial. He was furloughed in the context of COVID-19 from mid-March to mid-April 2020, but in May 2020 he was informed his original 10-year sentence of 2011 would come into force at the end of his current 5-year sentence in January 2021.

125. The end of his previous sentence and the commencement of his 10-year sentence began on 11 January 2021.

126. Mr. Abdi has repeatedly undergone hunger strikes to protest the conditions in prison. He most recently underwent a hunger strike from 7 to 10 March 2021 in protest against the restriction of his access to telephone calls.

127. From late February until 17 March 2020, Mr. Abdi has reportedly been transferred multiple times from his original prison, Evin Prison, to other prisons and prison wards. He is reportedly in a quarantine ward with 30 other prisoners in Albroz Central Prison. The precise reasons for the transfers remain unclear at the time of writing.

Saudi Arabia

128. Waleed Abu al-Khair⁵¹ is a human rights lawyer and former head of Monitor for Human Rights in Saudi Arabia, an independent human rights organization founded in 2008. He first faced trial in late 2011 after signing a statement criticizing the authorities' persecution of 16 reformists. In October 2013, he was accused of charges almost identical to the ones he had already been convicted of. They included "breaking allegiance to and disobeying the ruler", "setting up an unlicensed organization" and "participating in establishing another organization", namely, the Saudi Civil and Political Rights Association.

129. In October 2013, the Criminal Court in Jeddah sentenced him to three months' imprisonment. In April 2014, he was again arrested after appearing at the fifth hearing

⁵⁰ See IRN 12/2021, IRN 21/2020 and IRN 10/2016.

⁵¹ See SAU 6/2021, SAU 3/2020, SAU 12/2017, SAU 4/2016, SAU 14/2014 and SAU 5/2014.

of his trial. He was taken to Al-Ha'ir prison in Riyadh and reportedly placed in solitary confinement and ill-treated.

130. In April 2014, when his defence team attended court to enquire about the reasons for his detention, they discovered he was attending his sixth hearing. The judge reportedly refused to provide an explanation for his arrest and detention.

131. Mr. Al-Khair was finally sentenced in January 2015 to 15 years' imprisonment, a 15-year travel ban and a fine for "disobeying the ruler and seeking to negate his legitimacy; insulting the judiciary and questioning the integrity of judges; setting up an unlicensed organization; harming the reputation of the State by communicating with international organizations; and preparing, storing and sending information harmful to public order".

Turkey

132. Erol Önderoğlu⁵² is a dual French-Turkish national, human rights defender and correspondent of Reporters Without Borders in Turkey. He is also the editor of a Turkish website called Bianet, which covers political, social and cultural affairs with a particular focus on human rights and fundamental freedoms, including women's rights, in Turkey.

133. Şebnem Korur Fincancı⁵³ is the President and a founding member of the Turkish Medical Association and a board member of the Human Rights Foundation of Turkey. The Human Rights Foundation of Turkey documents cases of torture, and provides rehabilitation and legal assistance to victims of human rights violations and torture. As a founding member of the Turkish Medical Association, she assisted in developing the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), a set of international guidelines on the investigation and documentation of the cases of torture. She has been at the forefront of defending human rights in Turkey and has conducted investigations into and uncovered incidents of torture in many countries.

134. According to the information received, in June 2016, the two defenders and another colleague were detained because of their alleged involvement in propagating terrorism. Their arrest came after a ruling by the Istanbul First Criminal Judgeship of Peace. At this first hearing, the human rights defenders were questioned in relation to their participation and editorial role in the freedom of expression and solidarity campaign with the *Özgür Gündem* newspaper. The human rights defenders were accused of "inciting the committing of crimes", "praising crime and criminals" and "conducting propaganda for a terrorist organization", punishable under the Law on the Fight Against Terrorism.

135. In July 2019, the court acquitted Mr. Önderoğlu, Ms. Fincancı and their colleague based on a lack of substantial evidence linking them to the publications in question. But in November 2020 the Istanbul Regional Court of Appeal overturned the human rights defenders' acquittal. The retrial of Mr. Önderoğlu and Ms. Fincancı began on 3 February 2021 and they face possible convictions of up to 14 years in prison.

United Arab Emirates

136. Mohamed Abdullah al-Roken⁵⁴ is a human rights defender, lawyer and academic. In his legal work, he provided legal assistance to victims of human rights violations

⁵² See TUR 9/2021.

⁵³ Ibid.

⁵⁴ See ARE 1/2021, ARE 3/2019, ARE 4/2013, ARE 1/2013 and ARE 7/2006.

and human rights defenders in the United Arab Emirates, most notably some members of the “UAE 5” and the “UAE 7” – individuals who were persecuted for their criticism of government policies and their membership in the Reform and Social Guidance Association (Al-Islah), respectively. He previously served as President of the country’s Jurist Association before its dissolution by the authorities in 2011, and was formerly a member of the International Association of Lawyers and the International Bar Association. He has also authored books on human rights, international law and counter-terrorism.

137. According to the information received, in July 2013, Mr. Al-Roken was sentenced to 10 years in prison by the State Security Chamber of the Federal Supreme Court in Abu Dhabi and banned from practicing as a lawyer. He was sentenced along with 64 other defendants in the “UAE 94” trial on charges of “plotting against the Government” for signing an online petition in March 2011 calling for democratic reforms in the country. He was convicted based on self-incriminating confessions allegedly extracted under torture while in pretrial detention. Following his initial arrest in July 2012 by State security officers, he had been held for three months at an unknown location without contact with his family or lawyer.

138. He has been detained at Al-Razeen Prison since March 2013. The location of the prison in the desert means that prisoners are subjected to extreme temperatures, and reports indicate that prison guards deliberately turn off air conditioning for detainees during periods of high temperatures.

139. In November 2015, prison authorities reportedly played extremely loud music in Mr Al-Roken’s cell for several hours, causing him to lose consciousness. Violent searches of cells reportedly take place during the night, with prison guards physically and verbally assaulting detainees, including Mr. Al-Roken.

140. His family last visited him in prison in March 2020, and have not been able to visit him since, as a result of COVID-19 measures that prevent visits to the facility. His family have also reportedly been harassed by the authorities since he has been detained.

Viet Nam

141. Tran Huynh Duy Thuc⁵⁵ is a human rights defender from Ho Chi Minh City who blogged about social, political and economic issues in Viet Nam under the pen name Tran Dong Chan. According to the information received, he was arrested on 24 May 2009 and allegedly tortured in pretrial detention in an attempt to solicit a coerced confession. Initially arrested for “theft of telephone wires”, he was later charged under article 79 of the Criminal Code of 1999 for subversion. He was tried on 20 January 2010, with three co-defendants, at the High People’s Court in Ho Chi Minh City, and sentenced to 16 years in prison and 5 years of probation.

142. Throughout his imprisonment, Mr. Tran Huynh has endured harsh treatment and has often been targeted for advocating for the rights of other prisoners, and his communication with family has been limited by the authorities. In May 2016, he was transferred to a prison farther away from his family. The reason for the transfer was unclear.

⁵⁵ See VNM 4/2016 and VNM 1/2010.

7. Government responses to communications sent and advocacy efforts regarding long-term cases

143. State responses to communications sent on the long-term detention of human rights defenders by the Special Rapporteur are a mix of denial, dismissal and refusal to engage.

144. As at 30 June 2021, 11 replies had been received to the 28 communications sent between 1 January 2020 and 30 June 2021. Of the responses received, the vast majority were fully or partially substantive. The term “substantive response” denotes a reply that is fully or partially responsive to the allegations and/or that substantively clarifies the facts. It does not, however, imply that the action taken necessarily complies with international human rights law.

145. The Special Rapporteur notes with appreciation the efforts made by local, national and international NGOs in keeping the cases of human rights defenders in long-term detention on the international political and media agenda.

146. Some States have re-evaluated their decisions to jail defenders. The Special Rapporteur is aware that there is often a debate within States between officials who want to detain defenders and those who want to uphold the international standards to which the State is committed and release them. The Special Rapporteur welcomes recent releases of defenders in some States, including Burundi, Egypt and the Islamic Republic of Iran.

147. She reiterates that when States do the right thing and release defenders from detention, she will publicly acknowledge positive moves.

148. When three human rights defenders from the Egyptian NGO the Egyptian Initiative for Personal Rights, Karim Ennarah, Mohammed Basheer and Gasser Abdel-Razek,⁵⁶ were arrested in November 2020, a number of Members of Parliament, United Nations independent experts, celebrities and NGOs called for their release. The following month they were released from detention, although at the time of writing the charges against them have not been dropped.

149. Human rights defender Germain Rukuki⁵⁷ was sentenced to 32 years in prison in 2018 on fabricated charges related to national security crimes. After sustained advocacy for his release by United Nations independent experts and members of various parliaments and NGOs, his sentence was reduced to one year in prison in June 2021, and he was released later that month.

150. Continually raising the cases of defenders in incarceration year after year, often with little results, is exhausting and expensive work. The Special Rapporteur applauds the many initiatives aimed at reminding defenders they are not forgotten and pressing for their release.

151. She notes too the usefulness of international awards in keeping a focus on defenders who are in long-term detention. Defenders have told the Special Rapporteur how winning, or being nominated, for an award can help their morale.

152. She encourages further efforts focused on defenders serving long terms in detention, and urges NGOs and other stakeholders to continue to press States for their release, including by focusing press attention on these cases.

153. The Special Rapporteur notes the efforts made by parliamentarians in various countries in bringing to attention otherwise “forgotten” human rights defenders who

⁵⁶ See EGY 15/2020.

⁵⁷ See BDI 2/2020, BDI 1/2018 and BDI 2/2017.

are serving long terms in detention, and again notes the positive effects of these initiatives reported to her by those in custody and by their families and colleagues.

154. She encourages more initiatives like these, where members of international, national and local parliaments and councils regularly advocate for the release of defenders in long-term detention. Such initiatives include the Defending Freedoms Project managed by the Tom Lantos Human Rights Commission in the United States House of Representatives, where members of the United States Congress advocate for human rights defenders in long-term detention and other prisoners.⁵⁸

II. Conclusions and recommendations

A. Conclusions

155. Many Governments are failing in their legal and moral obligations by sentencing human rights defenders to long terms in prison, and then denying that they have done so.

156. This is due primarily to the presence of a political will to silence those who peacefully defend the rights of others, and the negligible international consequences for States that commit these violations. States can and should immediately stop this practice, and abolish the mechanisms which enable it, including the misuse of anti-terrorism legislation and other national security laws against human rights defenders, the use of unfair trials and coerced confessions and the denial of legal access to defenders.

157. Targeting human rights defenders with long jail terms destroys lives, families and communities. States should end this unjustifiable, indefensible and contemptible practice immediately and forever.

B. Recommendations

158. States should:

- (a) **Desist from jailing human rights defenders for their legitimate human rights work, and stop subjecting them to long terms in detention;**
- (b) **Immediately and unconditionally release all human rights defenders currently held in detention;**
- (c) **Stop subjecting human rights defenders to unfair trials;**
- (d) **Stop subjecting human rights defenders to torture or cruel, inhuman or degrading treatment or punishment to exact false confessions or for any other purpose;**
- (e) **Stop denying human rights defenders their legal rights, including prompt access to their lawyers;**
- (f) **Stop using vague anti-terror, national security and other laws to jail human rights defenders for doing their legitimate human rights work;**
- (g) **Desist from trying civilian human rights defenders in military courts;**
- (h) **Provide human rights defenders with independent legal aid;**

⁵⁸ See <https://humanrightscommission.house.gov/defending-freedom-project/prisoners-by-country>.

(i) **Take appropriate measures against media outlets running vilification campaigns against defenders during the pretrial and trial stages of their cases;**

(j) **Provide adequate care to all human rights defenders in detention, including ensuring that they have access to:**

(i) **Family, and especially regular access to children when a defender is a parent, and ensure that they are jailed close to their home cities/towns and are not transferred to prisons in other parts of the country to further punish them;**

(ii) **Phone calls;**

(iii) **Reading materials;**

(iv) **Medical treatment;**

(v) **Adequate assistance for disability-related needs;**

(vi) **Adequate nutrition;**

(vii) **Adequate sanitation;**

(k) **Permit representatives of the United Nations, other international and regional organizations, NGOs and diplomats of other Governments access to visit defenders in detention;**

(l) **Regularly make public statements about the importance of the role of human rights defenders in promoting justice, equality, accountability and sustainable development, and speak out in cases of threats and attacks against defenders;**

(m) **Not prioritize attention on cases according to political selectivity or expediency but should work on a broad range of cases, whether the defenders are held by allies or adversaries.**

159. Governments carrying out advocacy efforts should:

(a) **With the defenders' consent, regularly and publicly call for the release of defenders held in detention;**

(b) **Raise with other States the cases of human rights defenders in long-term detention;**

(c) **Request that their officials be allowed to visit human rights defenders in detention;**

(d) **State publicly if a trial of a human rights defender their representative has observed met international legal standards.**

160. National human rights institutions and NGOs should:

(a) **When a defender is arrested, immediately mobilize intense attention and assertive intervention on behalf of the detainee;**

(b) **Invite relatives of the defender to speak at international forums;**

(c) **Raise the case of defenders held in long-term detention in the media.**

161. In addition, more coordinated action should be considered by NGOs and others working on the release of defenders in prison. For example, while the HRD Memorial project coordinates the work of many NGOs to commemorate human rights defenders who have been killed, there is little such collective or coordinated action by NGOs to pool resources and information and advocacy efforts for human rights defenders in prison.

162. Members of parliaments and other elected bodies and members of civil society organizations, including trade unions, should maintain a long-term focus on human rights defenders in detention, raising (with the consent of the defenders) their cases in public and private forums.
