

## 6. FREEDOMS AND RIGHTS OF INDIVIDUALS

### 6.1. Right to Privacy

#### 6.1.1. Surveillance by Intelligence Services

The issue of government surveillance on private communications and data retention was addressed by the HR Committee with respect to several States. The HR Committee recommended that the States review their legislation on surveillance and data collection to make them compliant with Article 17 of the Covenant, establish effective administrative oversight mechanisms with judicial authorization requirements and ensure effective redress to victims.<sup>472</sup>

The absence of appropriate and adequate oversight mechanisms in surveillance and monitoring of private communications, the lack of strict judicial authorization requirements for accessing such data, and the victims' difficulty in accessing remedies in **Honduras** and **Turkmenistan**<sup>473</sup> were noted by the HR Committee.

The HR Committee expressed concern about the interception of personal communications in **Italy** by intelligence agencies who employed hacking techniques without explicit authorization from judicial authorities,<sup>474</sup> and the intrusive surveillance powers given to **Switzerland's** intelligence services on the basis of insufficiently defined objectives such as 'national interest', without any limitation on the time period of retention of such data.<sup>475</sup>

The HR Committee noted that companies based in **Italy** were engaged in providing surveillance equipment to governments holding records of human rights abuses. It was recommended that **Italy** ensure that corporations under its jurisdiction, including technology corporations, respect human rights standards when engaging in operations abroad.<sup>476</sup>

In **Australia**, while there were administrative oversight mechanisms in place, the HR Committee noted that the metadata retained by telecommunication for 2 years was used extensively for 'national security', without any judicial authorization.<sup>478</sup> The HR Committee recommended that **Australia** strengthen the safeguards against arbitrary interference by introducing judicial control over such access.<sup>479</sup>

#### 6.1.2. Laws on Cybersecurity and Cybercrime

The HR Committee recommended strengthening and review of legislations on cybersecurity and cybercrime to ensure that the rules on data retention and access thereof are limited to what is strictly necessary and consistent with the Covenant.<sup>480</sup> It was noted that network operators and service providers were mandated to retain data on private communications for a period of 10 years in **Cameroon**,<sup>481</sup> and a year in **Pakistan**.<sup>482</sup>

<sup>472</sup> Australia, §46; Cameroon, §40; Honduras, §39; Italy, §37; Pakistan, §36; Switzerland, §47; Turkmenistan, §37  
<sup>473</sup> Honduras, §38; Turkmenistan, §36  
<sup>474</sup> Italy, §36  
<sup>475</sup> Switzerland, §46  
<sup>476</sup> Italy, §37  
<sup>478</sup> Australia, §46  
<sup>479</sup> Ibid, §46  
<sup>480</sup> Cameroon, §40; Pakistan, §37  
<sup>481</sup> Cameroon, §39  
<sup>482</sup> Pakistan, §36  
<sup>483</sup> Mongolia, §35

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### 6.1.3. Interference into Family Life

The HR Committee noted with concern the reports of the impact of urban redevelopment in Ulaanbaatar on the right to privacy and family life of residents facing the risk of forced eviction,<sup>483</sup> and recommended to **Mongolia** that it put in place adequate safeguards against forced evictions and guarantee alternative housing.<sup>484</sup>

### 6.1.4. DNA Profiling

While expressing its views on individual communications against Netherlands, the HR Committee found that mandatory DNA profiling of minors in conflict with law was not proportionate to the legitimate aim pursued by the State and it constituted an arbitrary interference into the privacy of such minors.

#### **S. L. v. Netherlands, UN Doc. CCPR/C/120/D/2362/2014, 2017; N. K. v. Netherlands, UN Doc. CCPR/C/120/D/2326/2013, 2017.**

These communications involved the legally mandated DNA profiling of convicted children in conflict with law. The HR Committee found that specific attention should be given to the need for the protection of children's privacy in criminal trials, as children differ from adults in their physical and psychological development, and their emotional and educational needs. Accordingly, the HR Committee found that, although lawful, the interference in the author's privacy was not proportionate to the legitimate aim of prevention and investigation of serious crimes and therefore arbitrary, and in violation of Article 17 of the Covenant.

The State party was recommended to provide the authors with adequate compensation and prevent such acts in the future.

## 6.2. Freedom of Expression and Opinion

### 6.2.1. Regulation of Media and Content

The HR Committee noted the regulation of media content in **Bosnia and Herzegovina, DRC, Pakistan, Serbia** and **Turkmenistan**, and made recommendations to the States to guarantee full freedom of expression in the press and media by making all provisions on media regulation compliant with Article 19 of the Covenant,<sup>485</sup> and its General Comment No. 34.<sup>486</sup>

In **Bosnia and Herzegovina**, the HR Committee noted that the excessive influence of government, political and private interest groups on the media led to self-censorship and subjective reporting.<sup>487</sup> The HR Committee recommended that **DRC** ensure that the Superior Council for Audio-visual and Communication exercise its role, impartially and independently.<sup>488</sup> The HR Committee noted with concern the suspension of twenty programmes in the past four years in **Pakistan** as a form of media content regulation. Transparency in media ownership was noted

<sup>484</sup> Mongolia, §36

<sup>485</sup> Bosnia & Herzegovina, §22; DRC, §40; Pakistan, §34; Serbia, §39; Turkmenistan, §43

<sup>486</sup> Bosnia & Herzegovina, §22; Pakistan, §34; Serbia, §39; Turkmenistan, §43

<sup>487</sup> Bosnia & Herzegovina, §21

<sup>488</sup> DRC, §39

as necessary for genuine, free and independent media in **Serbia** and **Turkmenistan**.<sup>489</sup>

### 6.2.2. Criminalization of Speech

The HR Committee noted with concern the laws in **Jordan** and **Thailand** that penalised criticism against the King with prosecution and sanctions, including with imprisonment up to 15 years in **Thailand**.<sup>490</sup> The HR Committee recommended the decriminalization of blasphemy laws in **Bangladesh, Italy** and **Pakistan**.<sup>491</sup> It also noted with concern the provision for non-suspended sentences for online insult or defamation against state officials in **Madagascar**.<sup>492</sup>

#### ***Claudia Andrea Marchant Reyes et al. v. Chile, UN Doc. CCPR/C/121/D/2627/2015, 2017.***

This communication involved a violation of the freedom of expression by the removal of a previously authorized artistic work entitled 'Bridges of Memory' from nine bridges in Santiago de Chile. The HR Committee, noting that the right to freedom of expression constitutes the foundation stone for every free and democratic society, found that the State party failed to demonstrate the necessity and proportionality of the specific actions taken, in restricting the freedom. Accordingly, the HR Committee concluded that the State violated the authors' right to freedom of expression under Article 19 (2).

Thus, the State was recommended to locate the missing banners, and return them or provide the authors with information on them where possible. The State was further recommended to make a public acknowledgement of the violation of the rights and adopt any other appropriate measure of satisfaction. Additionally, the State was recommended to prevent such violations from happening in the future.

While stressing that imprisonment is not an appropriate penalty for defamation, it was recommended that States ensure that restrictions imposed on activities of the press and media, and on access to the Internet, are strictly in accordance with Article 19 (3) of the Covenant; and that States consider the decriminalization of defamation and ensure the application of criminal law in only the most serious cases.<sup>493</sup>

### 6.2.3. Intimidation, Harassment, Threats and Violence against Human Rights Defenders (HRDs), Journalists, Civil Society Organizations and Individuals

The HR Committee noted with grave concern various instances of intimidation, harassment, threats and violence against human rights defenders, journalists, civil society organizations, political opponents and individuals in **Bangladesh, Bosnia and Herzegovina, Cameroon, DRC, Dominican Republic, Honduras, Jordan, Madagascar, Mongolia, Pakistan, Serbia, Swaziland, Thailand** and **Turkmenistan**.

In the context of **Bangladesh**, the HR Committee expressed concern over the lack of police protection and legal response to

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<sup>489</sup> Serbia, §39; Turkmenistan, §43

<sup>490</sup> Jordan, §30; Thailand, §38

<sup>491</sup> Bangladesh, §28; Italy, §39; Pakistan, §34

<sup>492</sup> Madagascar, §49

<sup>493</sup> Bangladesh, §28; Honduras, §41; Italy, §39; Jordan, §31; Madagascar, §50; Pakistan, §34; Thailand, §36

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the violent killings of “secular bloggers”, noting that their arrest under *de facto* blasphemy laws limited the freedom of expression and opinion.<sup>494</sup>

The HR Committee expressed concerns over the reports of torture and ill-treatment of journalists; that lawsuits against the media or journalists that can be assimilated to opinion trials; prohibitions on the holding of press conferences; internet connection interruptions for several months; and the retaliation against human rights defenders in **Cameroon**.<sup>495</sup> For **DRC**, the HR Committee expressed concern over the allegations of the detention of journalists to prevent them from covering the events of September 2016 and judicial harassment, threats and abuse against media professionals, human rights defenders and political opponents.<sup>496</sup>

The HR Committee noted with concern the intimidation, harassment and ill-treatment of journalists, political opponents and human rights defenders; and the non-suspended sentences for online insult or defamation against State officials in **Madagascar**.<sup>497</sup> The HR Committee also noted the repeated reports of disappearance, killing and intimidation of journalists, human rights defenders and lawyers by State and non-State actors, and the low rate of prosecution and conviction of perpetrators in **Pakistan**.<sup>498</sup>

The HR Committee recommended that the States take steps to avoid unjustified or disproportionate interference with the freedom of expression of the media, and protect journalists from any form of torture or ill-treatment and investigate, prosecute and convict those responsible for such acts; take all necessary measures to ensure the protection of human rights defenders against threats and intimidation and to investigate, prosecute and convict those responsible for such acts, and ensure that victims obtain assistance, protection and comprehensive reparations.<sup>499</sup>

With regard to **Honduras**, **Swaziland** and **Thailand**, the HR Committee also recommended that law enforcement personnel be appropriately trained in this respect.<sup>500</sup> Additionally, the HR Committee recommended that **Bangladesh** repeal its law limiting foreign donation to NGOs,<sup>501</sup> and that **Honduras** collect disaggregated data on assaults and murders.<sup>502</sup>

The CEDAW recommended **Thailand** to adopt and implement, without delay, effective measures for the protection of women HRDs to enable them to freely undertake their important work, and to effectively investigate, prosecute and adequately punish all cases of harassment, violence and intimidation against them. The CESCR urged **Pakistan** to take every effort to protect human rights defenders from abduction, killings and intimidation; promptly and thoroughly investigate all reported cases of harassment, disappearance and killing of human rights defenders and bring the perpetrators to justice; and take all measures necessary to ensure a safe and favourable environment for human rights defenders and civil society actors.<sup>503</sup> The CESCR also released a statement on HRDs and their economic, social and cultural rights.<sup>504</sup>

### 6.2.4. Access to Information

On access to information, the HR Committee made observations on **Bosnia and Herzegovina**, **Cameroon**, **DRC**, **Italy**, **Mongolia** and **Turkmenistan** and recommended that all restrictions on the right to

<sup>494</sup> Bangladesh, §27

<sup>495</sup> Cameroon, §41

<sup>496</sup> DRC, §39

<sup>497</sup> Madagascar, §49

<sup>498</sup> Pakistan, §37

<sup>499</sup> Bosnia & Herzegovina, §38;

Cameroon, §42; DRC, §40; Dominican Republic, §32; Jordan, §31;

Madagascar, §50; Mongolia, §38;

Pakistan, §34; Swaziland, §45;

Turkmenistan, §43

<sup>500</sup> Honduras, §41; Swaziland, §45;

Thailand, §36

<sup>501</sup> Bangladesh, §28

<sup>502</sup> Honduras, §41

<sup>503</sup> CEDAW, Thailand, §§30-31; CESCR, Pakistan, §§13-14

<sup>504</sup> Statement of CESCR on HRD, U.N. Doc. ESCR/E/C.12/2016/2

access information be strictly compliant with Article 19(3) of the Covenant.<sup>505</sup>

The HR Committee noted the restrictions placed on access to Internet and disproportionate limitations on online content in **Cameroon**, **Mongolia** and **Turkmenistan**.<sup>506</sup> Concerned that authorities in **Italy** refuse to answer a request without proper justification, and that it is possible to challenge the non-disclosure decisions only through judicial proceedings, the HR Committee recommended the implementation of freedom of information Act, and that authorities be required to justify refusal, with the possibility of review of such refusal.<sup>507</sup>

The HR Committee expressed concern over the closure of public spaces following the events of September 2016 in **DRC**. The situation has been characterized by social media suspensions, television program suspensions and radio interference, restrictions on foreign media, and allegations of journalists being detained to prevent them from covering the news.<sup>508</sup> It was noted that the law on access to information was not implemented in **Bosnia and Herzegovina**.<sup>509</sup>

### 6.3. Freedom of Religious Belief and Conscience

In this context, the HR Committee expressed concern over the lack of any protection against discrimination on the basis of religion at the federal level in **Australia**, and the HR Committee recommended that the State consolidate existing non-discrimination provisions in comprehensive federal law for procedural protection against discrimination on grounds of religion, as well as access to effective remedies.<sup>510</sup>

Concerned about the restrictions on freedom of religion, including the prevention of marriage or denial of inheritance rights to those who renounce Islam, the HR Committee advised **Jordan** to ensure the respect for freedom of religion or belief for all, and suggested the adoption of a unified personal status act for all citizens and residents of the State, regardless of religion.<sup>511</sup>

The inability to reach an agreement between two municipalities in **Liechtenstein** to amend the Constitution, and the resulting adverse effects on religious communities other than the Roman Catholic denomination raised further concern of the HR Committee.<sup>512</sup> The State was recommended to redouble efforts to reach an agreement, and to provide funding for religious organizations of all religious communities on a basis of equality.<sup>513</sup>

The HR Committee expressed its concern about blasphemy laws under the **Pakistan** Penal Code that carry severe penalties, including the mandatory death penalty, and reportedly have a discriminatory effect against Ahmadi persons.<sup>514</sup> Repeal or amendment of these laws in compliance with the Covenant and the HR Committee's General Comment No. 34 was recommended.<sup>515</sup> Due to numerous false blasphemy cases, and violence against those accused of blasphemy, the State was to ensure that all who incite or engage in such violence as well as falsely accuse others, are brought to justice;<sup>516</sup> and, judges and others involved in blasphemy cases who

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<sup>505</sup> Bosnia & Herzegovina, §38; Cameroon, §42; DRC, §40  
<sup>506</sup> Cameroon, §41; Mongolia, §37; Turkmenistan, §43  
<sup>507</sup> Italy, §§40-41  
<sup>508</sup> DRC, §39  
<sup>509</sup> Bosnia & Herzegovina, §37  
<sup>510</sup> Australia, §§17-18  
<sup>511</sup> Jordan, §§28-29  
<sup>512</sup> Liechtenstein, §27  
<sup>513</sup> Liechtenstein, §28  
<sup>514</sup> Pakistan, §33  
<sup>515</sup> Ibid, §34  
<sup>516</sup> Ibid, §§33-34

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are harassed and threatened are given adequate protection.<sup>517</sup> The HR Committee regretted the absence of information on the implementation of the Supreme Court judgment of 19 June 2014 and requested that it be fully implemented.

Moreover, the HR Committee suggested that religiously biased content of curricula in public schools be removed, that human rights education be incorporated therein, and that Madrasas be regulated.<sup>518</sup> Continued reports of hate speech and hate crimes against religious minorities and their places of worship raised further concern.<sup>519</sup> Investigation and prosecution in such cases were recommended.

The HR Committee also noted incidents of hate speech against religious minorities and obstacles to their exercise of religious freedom, such as conducting burials in accordance with their faith in **Romania**.<sup>520</sup> The State was recommended to enforce the prohibition of any advocacy of religious hatred, and to remove barriers to exercise of religious freedom.<sup>521</sup>

Regarding **Serbia**, the HR Committee reiterated its concerns about the practical consequences of the legal differentiation between 'traditional' and 'non-traditional' religions, and the State was asked to guarantee that Article 18 of the Covenant is respected.<sup>522</sup> As to **Switzerland**, the HR Committee expressed concern, about the proliferation of regulations relating to the school environment or the attire worn in public, and the imposition of significant fines that appear to affect Muslims in particular.<sup>523</sup> The State was asked to reconsider these regulations in the light of the Covenant.<sup>524</sup>

Reported denial of registration of religious minority communities; raids and confiscation of religious literature and intimidation; arrests and imprisonment of members of religious communities; and demolition of mosques and churches in Ashgabat in **Turkmenistan** were of concern.<sup>525</sup> The State was recommended to investigate all such undue interference.<sup>526</sup> Repeated prosecution and imprisonment of Jehovah's Witnesses refusing to perform compulsory military service caused concern, and legal recognition of the right to conscientious objection and alternative civilian service options were suggested.<sup>527</sup>

### 6.4. Right to Peaceful Assembly and Association

The HR Committee expressed concern about reports of violations of the freedom of assembly in **Cameroon**, such as the Anglophone crisis, and the excessive use of force by police officials in dissolving demonstrations, which led to many deaths and injuries on 1 October 2017.<sup>528</sup> The lack of information on the measures taken to guarantee the right to assembly and free association in the **Dominican Republic** caused further regret of the HR Committee, because the exercise of these rights leads to job losses or deportation in the State.

The abolition of the right to freedom of association and trade union activity on the part of employers or employees were concerning.<sup>529</sup> Moreover, the HR Committee expressed concern over allegations that the requests for authorization of protests by

<sup>517</sup> Ibid, §34

<sup>518</sup> Pakistan, §34

<sup>519</sup> Ibid, §33

<sup>520</sup> Romania, §43

<sup>521</sup> Pakistan, §44

<sup>522</sup> Serbia, §§36-37

<sup>523</sup> Switzerland, §44

<sup>524</sup> Ibid, §45

<sup>525</sup> Turkmenistan, §38

<sup>526</sup> Ibid, §39

<sup>527</sup> Ibid, §§40-41

<sup>528</sup> Cameroon, §41

<sup>529</sup> Dominican Republic, §31

the political opposition in the **DRC** were systematically refused, contrary to cases of demonstrations supporting the Government.<sup>530</sup>

Concerning **Honduras**, the HR Committee regretted the excessive recourse to defamation and other criminal offence provisions against persons exercising rights to freedom of assembly and association. Concerns were caused by the conviction of three students on 7 June 2017, and by the criticism that members of the Government levelled at the Office of the High Commissioner for Human Rights (OHCHR) and the Office of the NHRI, in relation to their work promoting respect for the right to peaceful protest.<sup>531</sup> The State party was recommended to consider the decriminalization of defamation, applying criminal law only in the most serious cases.<sup>532</sup>

**Jordan** was requested by the HR Committee to guarantee the right to peaceful assembly, in conformity with Article 21 of the Covenant.<sup>533</sup> The Act on public gatherings of 2011 to facilitate peaceful assembly was noted as being circumvented: many demonstrations have been prohibited and civil society organizations have been subjected to severe restrictions; participants and organizers have been detained under the Acts on crime prevention and prevention of terrorism; many have been forced to sign pledges not to demonstrate.<sup>534</sup>

Denial of permits for public protests by trade unions and NGOs, and restrictions on joining trade unions in **Madagascar** raised the HR Committee's concern. Political opponents are reportedly systematically denied the right to protest publicly, even when exercised peacefully.<sup>535</sup> Thus, the State was asked to ensure that individuals and political parties enjoy the right to peaceful assembly and freedom of association.<sup>536</sup>

The HR Committee expressed concern at the broad and vague grounds for cancellation of the registration of NGOs under the Policy for Regulation of International Non-Governmental Organizations in **Pakistan**, which also may constrict the registration of NGOs and their activities, and a review of the legislation was suggested.<sup>537</sup>

Proposed amendments to the Public Order Act in **Swaziland** will reportedly severely restrict freedom of assembly and association, and the State was therefore asked to take all measures necessary to protect the right to freedom of peaceful association and assembly.<sup>538</sup>

With regard to **Switzerland**, the HR Committee expressed its concern about the law of 1 November 2008 on public demonstrations and the law of 14 October 2016 on the charging of security costs incurred during demonstrations in the Canton of Geneva. The excessive nature of the conditions that must be satisfied in order to organize a mass event, including an event of a political nature, was of concern, a review of the legislation was suggested.<sup>539</sup>

The HR Committee expressed concern over the banning of any public gathering of more than five people, and political

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<sup>530</sup> DRC, § 41

<sup>531</sup> Honduras, § 40

<sup>532</sup> Honduras, § 41

<sup>533</sup> Jordan, § 33

<sup>534</sup> Jordan, § 32

<sup>535</sup> Madagascar, § 51

<sup>536</sup> Ibid, § 52

<sup>537</sup> Pakistan, §§ 39-40

<sup>538</sup> Swaziland, §§ 44-45

<sup>539</sup> Switzerland, §§ 48-49

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gatherings of more than four people in **Thailand**. The Public Assembly Act (2015) establishing criminal penalties for failing to provide prior notification to authorities regarding the organization of peaceful assemblies, and the arrest of hundreds of people for organizing or participating in peaceful gatherings were of concern.<sup>540</sup> The State was requested to avoid restrictions that are not compliant with Article 4 of the Covenant, and refrain from detaining individuals who do not present a serious risk to national security or public safety.<sup>541</sup>

As to **Turkmenistan**, the HR Committee expressed its concern over reports that assemblies are rare due to fear of reprisals for expressing dissenting views, and that insufficient venues are designated for holding authorized assemblies. The HR Committee noted forcible mass mobilization of the population for participation in mass events organized by the authorities.<sup>542</sup> The State was asked to revise its laws and practices, including the 2015 Organization and Conduct of Gatherings, Meetings, Demonstrations and Other Mass Events Act, according to Article 21 of the Covenant.<sup>543</sup> Also of concern in **Turkmenistan** was the 2014 Voluntary Association Act, with its provisions allowing wide monitoring powers to authorities, over activities and finances of associations and the broad legal grounds for closing them down by court order. The HR Committee expressed concern about the limited number of registered human rights NGOs.<sup>544</sup> The State party was therefore advised to revise relevant laws and practices to make them compliant with Articles 19 and 22 of the Covenant.<sup>545</sup>

The HR Committee expressed concern about provisions permitting representatives of the Central Election HR Committee and of the Ministry of Justice in **Turkmenistan** to monitor meetings of political parties.<sup>546</sup> Thus, the State was recommended to take all measures necessary to guarantee the proper functioning of political parties in accordance with the principles of legality, necessity and proportionality.<sup>547</sup>

### 6.5. Freedom of Movement

The HR Committee noted that various lists exist to control entry into or exit from **Pakistan** and regretted the lack of information on the grounds for the listing, its process and the safeguards against misuse of these lists.<sup>548</sup> The HR Committee raised further concern that the Exit Control List is allegedly used to restrict the freedom of movement of dissenting persons and that the circumstances under which passports are cancelled or confiscated are not stated in Article 8 of the Passports Act.<sup>549</sup> **Pakistan** was asked to review its legislation and policies relating to the Exit Control List, the Black List, the Passport Control List and the Visa Control List to comply with Article 12 of the Covenant.<sup>550</sup>

The HR Committee expressed its concern regarding arbitrary restrictions on freedom of movement in **Turkmenistan**, including overly broad grounds for restricting travel abroad under the Migration Act; the alleged use of informal and arbitrary travel bans on individuals, such as journalists, activists, religious leaders and former government officials holding opposition views, as well

<sup>540</sup> Thailand, §39

<sup>541</sup> Thailand, §40

<sup>542</sup> Turkmenistan, §44

<sup>543</sup> Ibid, §45

<sup>544</sup> Ibid, §46

<sup>545</sup> Ibid, §47

<sup>546</sup> Ibid, §48

<sup>547</sup> Ibid, §49

<sup>548</sup> Pakistan, §29

<sup>549</sup> Ibid, §29

<sup>550</sup> Ibid, §30



as the reported application of a non-official curfew requiring the population to return home before 10 pm and arrest of non-compliant individuals for 24 hours for explanation and identification purposes.<sup>551</sup> The HR Committee advised the State to end the informal and arbitrary system, and review its laws and practices to ensure that any travel restrictions or curfews are justified under Articles 9, 12 and 17 of the Covenant.<sup>552</sup>

## 6.6. Political Participation and Participation in Public Life

### 6.6.1. Right to Vote and Be Elected

The HR Committee made observations on the right to vote and be elected in its review of **Australia, Bosnia and Herzegovina, Bangladesh, DRC, Honduras, Madagascar, Mongolia, Pakistan, Swaziland** and **Turkmenistan**. The safety and security of individuals was stated as necessary for unhindered and free exercise of the right to vote and be elected in **Bangladesh, DRC, Honduras** and **Serbia**.<sup>553</sup>

Restrictions on the right of persons to vote included the exclusion of persons of 'unsound mind' and prisoners serving a prison sentence, most of whom are indigenous persons, in **Australia**;<sup>554</sup> removal of Ahmadis from the general electoral list in **Pakistan**;<sup>555</sup> exclusion of persons not belonging to 'constituent peoples' in **Bosnia and Herzegovina**;<sup>556</sup> and exclusion of prisoners in **Mongolia** and **Turkmenistan**.<sup>557</sup> A blanket denial of the right to all convicted prisoners in **Turkmenistan** was found to be inconsistent with Articles 10(3) and 25.<sup>558</sup>

In **Bosnia and Herzegovina**, the HR Committee recommended adoption of an electoral system that guarantees equal enjoyment of the rights of all citizens under Article 25, irrespective of ethnicity, by amending offending laws and strengthening anti-corruption measures.<sup>559</sup>

The HR Committee recommended that **Swaziland** adopt constitutional reforms to devolve power from the hands of the King to democratically elected branches of government.<sup>560</sup> Noting the concern that corruption remains fairly widespread within the political community and the lack of independence of the Independent National Electoral Commission in **Madagascar** which may undermine the national reconciliation process, perpetuate the lack of trust in the State party's institutions among the citizens and foster impunity for some perpetrators of human rights violations, **Madagascar** was recommended to ensure strict respect for the principle of separation of powers and redouble its efforts to combat corruption and related impunity; to ensure that free and fair elections are held; to speed up the national reconciliation process before the next electoral deadlines; and to ensure the participation of all citizens in forthcoming elections.<sup>561</sup>

Concerned about excessive restrictions on the establishment and functioning of political parties in **Turkmenistan**, the HR Committee recommended that it take steps to guarantee the proper functioning of political parties, free from unnecessary interference, and ensure that any limitations on the establishment of a political party are construed narrowly.<sup>562</sup>

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<sup>551</sup> Turkmenistan, §28

<sup>552</sup> Turkmenistan, §29

<sup>553</sup> Bangladesh, §30; DRC, §48;

Honduras, §44; Serbia, §40

<sup>554</sup> Australia, §47

<sup>555</sup> Pakistan, §47

<sup>556</sup> Bosnia & Herzegovina, §11

<sup>557</sup> Mongolia §39; Turkmenistan, §50

<sup>558</sup> Turkmenistan, §50

<sup>559</sup> Bosnia & Herzegovina, §12

<sup>560</sup> Swaziland, §53

<sup>561</sup> Madagascar, §§11-12, 53-54

<sup>562</sup> Turkmenistan, §48

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### 6.6.2. Impartiality and Independence of Electoral Monitoring Bodies

Concerned about reports of lack of independence and impartiality of the members of the electoral monitoring body, ELECAM, in **Cameroon**, the HR Committee recommended that it take necessary measures to guarantee its independence, and to ensure holding of successful elections in 2018 and the future.<sup>563</sup>

The HR Committee expressed its concern over reports of delays by the National Independent Electoral Commission in the process of voter registration in **DRC**, particularly in Kasai, as well as delays in the implementation of the agreement to conduct presidential, legislative and provincial elections by 31 December 2017.<sup>564</sup>

The HR Committee recommended the establishment of an independent and effective election monitoring body in **Serbia** in response to the reports of coerced voting and allegations of attacks on opposition figures.<sup>565</sup> The HR Committee also recommended the fostering of political pluralism and ensuring the independence and effectiveness of the Elections and Boundaries Commission in **Swaziland**.<sup>566</sup> The security of ballot boxes was recommended to **Honduras** to prevent the possibility of fraud while in transit from polling stations.<sup>567</sup>

### 6.6.3. Low Participation

The HR Committee made recommendations to **Jordan**, **Liechtenstein**, **Madagascar**, **Mauritius**, **Pakistan** and **Serbia** to take measures, including temporary special measures to address the low participation of certain sections of their population, such as women,<sup>568</sup> persons with disabilities<sup>569</sup> and minorities,<sup>570</sup> in the public affairs of the State and their access to public services.

The CEDAW made observations on the low degree of political participation of women and the need for temporary special measures in **Jordan**, **Italy**, **Romania** and **Thailand**. The CESCR also noted this in its review of **Liechtenstein** and **Sri Lanka**.<sup>571</sup>

<sup>563</sup> Cameroon, §§43-44

<sup>564</sup> DRC, §47

<sup>565</sup> Serbia, §41

<sup>566</sup> Swaziland, §53

<sup>567</sup> Honduras, §45

<sup>568</sup> Jordan, §35; Liechtenstein, §16;

Madagascar, §54; Mauritius, §41;

Pakistan, §47

<sup>569</sup> Madagascar, §54; Pakistan, §47

<sup>570</sup> Mauritius, §41; Pakistan, §48; Serbia,

§40

<sup>571</sup> CEDAW, Italy, §§31-32; CEDAW, Jordan, §27; CEDAW, Romania, §§24-25; CEDAW, Thailand, §§16-17; CESCR, Liechtenstein, §15-16; CESCR, Sri Lanka, §§23-24