

# Recommendations to the Government of Norway on human rights issues at the United Nations in 2010

Oslo, 18 February, 2010

## Norwegian NGO-forum for Human Rights, on behalf of

Anti-rasistisk senter  
Amnesty International Norway  
Church of Norway Council on Ecumenical and International Relations  
FoodFirst Information and Action Network Norway  
Human Rights House Foundation  
International Commission of Jurists Norway  
Norwegian Children and Youth Council  
Norwegian Helsinki Committee  
Norwegian Organisation for Asylum Seekers  
Norwegian People's Aid  
Norwegian Psychological Association  
Norwegian Support Committee for Western Sahara  
Norwegian Tibet Committee  
Norwegian Mission to the East  
Plan Norway  
Save the Children Norway

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## Recommendations on countries and areas

### China

Recent years have seen an alarming increase in persecution and harassment of human rights defenders, including human rights lawyers, and oppression of freedom of expression and information in China. The situation appears to have been further aggravated by China's role in solving the international financial crisis, which seems to have made many governments even more reluctant to criticise human rights violations in the country.

Individual Chinese writers, journalists, and human rights defenders continue to be arrested and sentenced to prison terms for their writings and posting of articles on the internet. Access to the internet continues to be closely monitored and censored. After a brief phase of more openness during and after the Olympic Summer Games in Beijing, access to a number of international internet sites dealing with human rights and democracy issues were again blocked in January 2009.

Chinese authorities continue to use vaguely defined criminal charges, including "subverting state power", "disturbing public order", "endangering state security", and "leaking state secrets", to silence and imprison peaceful activists. 2009 also saw an unprecedented offensive against human rights lawyers, legal activists and legal aid organizations. Lawyers who engaged in human rights cases had their professional licenses invalidated by the judicial authorities, and a number of law firms employing human rights lawyers faced repercussions. The Chinese government has been increasingly employing police control, surveillance and arbitrary detention against human rights lawyers and activists and their families, particularly in the lead-up to and during significant public events.

Chinese government policies in the Xinjiang Uighur Autonomous Region are increasingly eroding the Uighur ethnic identity and fuelling discontent and ethnic tensions. The violent unrests in the region in 2009 highlighted government policies that claim to have improved the living conditions of the Uighur people, but in reality have placed restrictions on their ability to practice their own religion, to use their own language and to enjoy their own culture. Instead of dealing with these underlying causes, the Chinese authorities' only reaction to the unrests was increased oppression and a number of executions of suspected activists after unfair trials. In July, the Beijing Municipal Justice Bureau warned Beijing lawyers and law firms not to take up any cases related to the Xinjiang unrest.

### **We call on the Norwegian government to:**

- Be outspoken and unambiguous in criticising human rights violations in China and in reminding Chinese authorities of their obligation to respect freedom of expression and information;
- Make it clear to the Chinese government and third countries that economic cooperation cannot be bought for the price of sidelining human rights concerns;
- Demand that human rights lawyers in China are able to do their work without obstruction or harassment;
- Address individual cases of human rights defenders and their families who are being persecuted for their peaceful activities;
- Address the increasingly dire situation of the Uighur population in Xinjiang.

## Kenya

The 2002 transitional elections which ended Daniel arap Moi's nearly 25 year long rule, raised hopes of a new era for human rights and democracy in Kenya and the entire East and Horn of Africa region. Those hopes have largely been betrayed as human rights problems have persisted and in some areas gotten worse under the Kibaki regime.

Well into Kibaki's second term, there is still no sign of improvement with respect to the country's long-standing and serious corruption, even at the highest levels of the state bureaucracy. On the contrary, the constant disappearance of public funds into private pockets continues to contribute significantly to Kenya's growing poverty rates, with an ever larger percentage of the population living below UN poverty levels. Large scale corruption is a main reason why Kenya is unable to meet the Millennium Development Goals and fails to fulfill the most basic economic and social rights of its population.

Land rights issues remain unresolved across the country, leading to ethnic tension and frequent clashes, with lives lost every month. Extra-judicial killings continue at an undiminished or even increasing scale. The police reportedly carry out most of them. They are carried out with impunity, allegations of cover-up operations, and an ever clearer inter-ethnic component, as in the so-called Mungiki killings, which raise tensions further.

In the area of freedom of expression, a referendum on amendments to the constitution is scheduled to take place some time this year. One amendment would ensure that the constitution for the first time explicitly guarantees the freedom and independence of electronic, print and other media of all types. However, journalists and human rights defenders have found their security and working conditions deteriorating in recent years, with a growing number of both categories receiving threats, feeling the need to exercise various degrees of self-censorship, deciding to leave the country, particularly after some have even been killed.

### **We call on the Norwegian government to:**

- continue to support the independent human rights sector in the country, in the final stages of its UPR process and beyond, both through direct financial and moral support, and through raising the sector's main concerns, both in bilateral and multilateral fora.
- seize the opportunity of Kenya's forthcoming UPR hearing, scheduled for May 2010, to put pressure on the country's authorities, particularly in these areas;
  - alleviate poverty through increased efforts to combat corruption and distribute state revenue purely according to need,
  - make independent investigations into the numerous extrajudicial killings, with special emphasis on those reportedly carried out by members of the police, to end impunity and bring those responsible to justice,
  - take all necessary measures to guarantee journalists' and human rights defenders' security and working conditions, including the freedoms of assembly and expression,
  - guarantee by law equal rights and opportunities for, and make discrimination against punishable, all marginalised groups, including women, children, refugees, IDPs, people with disabilities, and ethnic, religious and sexual minorities.

## Russian Federation

The human rights situation in Russia continues to worsen. Especially alarming is the situation in the North Caucasus, where killings, attacks and harassment of human rights defenders peaked in 2009, when Natalia Estimirova, Zarema Sadullaeva and Maksharip Aushev were all killed within a period of four months. The prominent human rights organization Memorial had to close its office in Chechnya due to lack of security for human rights defenders there.

The practice of torture, enforced disappearances and extrajudicial executions by authorities in the North Caucasus region continues. At the same time, asylum applications from vulnerable groups from the North Caucasus are being rejected in Europe, despite recommendations of the UNHCR.

Russian mass media, especially television, remains under state control. NGOs, journalists and critical-minded persons are to an increasing degree subjected to criminal prosecution (e.g. under art 280, "extremism") for expression of political views or for criticizing the authorities. Journalists have been beaten, kidnapped, tortured and imprisoned, apparently for the expression of non-violent views. Human rights activists registered 308 such cases in 2009 from 43 regions of Russia, the comparable number for 2008 was 44 cases.

The fact that most assassinations of human rights defenders, witnesses and journalists remain unsolved raises serious concerns of impunity and of a lack of a proactive government policy to protect human rights defenders and journalists.

The increasing power of the Russian security services, including the Federal Security Services (FSB), Ministry of Internal Affairs (MVD), Special Police Force (OMON), is alarming. These structures are often used in suppressing demonstrations, in violation of the freedom of assembly. There has been registered use of torture in the closed institutions of Russia (i.e. prisons).

### **We call on the Norwegian government to:**

- urge the Russian Federation to respect the rule of law and to actively prosecute any alleged violation of human rights and international humanitarian law, to end impunity for crimes such as forced or involuntary disappearances, killings and torture by thorough investigation of each case and the provision of fair and public trials.
- urge that legal process for grave violations of human rights and humanitarian law committed in Chechnya and neighboring regions is established, in accordance with the Parliamentary Assembly of the Council of Europe resolution no 1323 (2003), and that in addition all relevant international mechanisms to document and respond to abuses are utilized.
- urge the Russian Federation to respect freedom of association, expression and assembly. Make sure that the security services do not go beyond orders in the cases when people use their constitutional rights to demonstrate.
- Urge the Russian Federation to repeal legislation pertaining to NGOs which conflict with international human rights standards, to immediately halt persecution of human rights defenders and honour its obligations to protect and support human rights defenders and give the opportunity for NGO to function freely.

## Sudan

In March 2009, The International Criminal Court (ICC) issued an arrest warrant for Sudanese President Omar al-Bashir on charges of war crimes and crimes against humanity. Although the African Union in July 2009 urged its member states not to cooperate with the ICC in enforcing this arrest warrant, several states parties to the ICC treaty, including Botswana and South Africa, have indicated that they would fulfill their legal obligations and arrest al-Bashir if he were to enter their countries. AU's decision not to acknowledge the warrant is an insult to victims of human rights violations in Darfur.

Immediately following the issue of the arrest warrant against President Al Bashir, the government of Sudan revoked the permits of 13 international humanitarian aid organizations and closed down three national organizations. The closure of these three NGOs leaves a considerable gap in the level of aid delivery and particularly in human rights monitoring and documentation in Sudan.

The closure of the NGOs was accompanied by a clamp down on human rights activists in Sudan. More than 20 prominent human rights defenders were pushed to leave Sudan. Several human rights defenders were unlawfully arrested and kept in incommunicado detention. Some of them were tortured by the government's security apparatus, while others were subjected to various forms of intimidation.

In December 2009, the Sudanese National Assembly passed reforms to the National Security Act. The bill grants sweeping powers of arrest, search and seizure for the National Intelligence and Security Service, and provides immunities for human rights violations that are carried out in the course of their work. The laws also allow for extensive detention without trial, although reducing the period of detention.

In May 2008, the Justice and Equality Movement (JEM), a Darfur based armed opposition group, attacked Khartoum. Following the attack more than one thousand individuals, mainly from Darfur, were arrested in the streets of the capital. More than 200 arrested individuals remain unaccounted for today.

More than a hundred alleged members of the JEM were taken to trial before special counter-terrorism courts. Following unfair trials where confessions extracted under torture were accepted as evidence and without access to proper legal representation, 106 were sentenced to death between July 2008 and January 2010.

2009 witnessed a spike in inter-ethnic violence in South Sudan. The UN estimates that over 2,500 people were killed and 350,000 displaced. In Darfur, despite a decrease in attacks against villages, the conflict continues, with hundreds of civilians killed last year.

## **We call on the Norwegian government to:**

- Urge the Sudanese government to bring the National Security Act in line with international human rights standards. The impunity of National Security agents must be removed and they must be held accountable for the ill-treatment of detainees.
- Urge the Government of Sudan to immediately stop the harassment and persecution of human rights defenders and allow them their right to the peaceful exercise of their activities and freedom of expression and assembly. The three national human rights and humanitarian organizations that were shut down in March 2009, the Khartoum centre for Human rights and Environmental Development, the Sudan Social Development Organisation (SUDO), and AMAL centre for the treatment and rehabilitation of victims of torture, must be allowed to resume their activities safely. Particular attention must be paid to the situation for women human rights defenders in Sudan.
- Account for the whereabouts of the remaining individuals who were arrested in the aftermath of the JEM attack on Khartoum in May 2008, and call for the death sentences against the alleged JEM members to be overturned and to allow them a fair trial before normal courts.
- Condemn continuing violations of international human rights and humanitarian law in Darfur, and call on the government of Sudan to protect civilians in Darfur and to provide the needed support to the UN-African Union Mission in Darfur.
- Condemn violations of international human rights and humanitarian law in South Sudan, and support UNMIS to fulfill its mandate.

## **Turkmenistan**

The human rights situation in Turkmenistan is not improving, despite promises made by President Gurbanguly Berdymukhamedov when he took office as President three years ago. Human rights violations are still numerous, widespread, systemic in character, and purposefully supported by the authorities. The practice of collective punishment is widespread, for instance numerous Turkmen dissidents and civic activists and their relatives are imprisoned or blacklisted so they cannot leave the country. The penal system is one of the worst in the world, and court hearings are too often carried out behind closed doors, especially in cases involving activists, dissidents and members of their families.

The frequency of visits by Westerners to Turkmenistan has greatly increased over the last years, especially visits by foreign diplomats and representatives of multinational companies in the hydrocarbon sector have become commonplace. However, while increased openness and a higher level of contact between the country and the outside world is a step ahead, revenues from this industry do not reach the wider public. International human rights organisations have been systematically denied access to Turkmenistan. In December 2009, even the humanitarian organisation Médecins Sans Frontières (MSF) was forced to close down their activities in the country.

The only visit by a UN Human Rights Mechanism to Turkmenistan has been by Asma Jahangir, the UN Special Rapporteur on freedom of religion or belief, who was allowed to enter the country only in September 2008, 5 years after her first request was submitted. Requests from other UN Human Rights Special Procedures from 2003, 2004, 2006 and 2007 remain without a response. This

demonstrates clearly how promises undertaken by Turkmen authorities are not adhered to in practice.

Without the possibility for international human rights organisations and Special Procedures to enter the country, or for local civil society organisations to operate freely, the numerous violations continue without attention.

**We call on the Norwegian government to urge the Turkmen government to:**

- Allow access to Turkmenistan to international civil society and human rights organisations, in particular to the Special Procedures of the UN Human Rights Council.
- Stop the practice of collective punishment, immediately and unconditionally release all those family members which are imprisoned for this reason and lift the practice of black lists limiting the freedom of movement of Turkmenistan's citizens.
- Guarantee freedom of association by ensuring the possibility for the creation and independent operation of public organizations and trade unions, and to revise the existing NGO law to this effect.
- Create standards to guarantee economic transparency, in particular ensuring public access to information on the return of finances from the sale of energy resources and the creation of mechanisms to influence the use of this revenue.

## Thematic recommendations

### Business and Human Rights

When acting in inter-governmental institutions – such as those of the World Bank Group (WBG) - states must ensure that the actions of these institutions are consistent with, and do not violate, international human rights law and standards. States cannot abdicate their own international human rights obligations when they act through inter-governmental bodies or multilateral institutions.

In order that the operations of the WBG do not cause or contribute to human rights harms, the WBG must have in place adequate human rights due diligence processes. Given the WBG's mandate to work towards eradicating poverty, its projects, programmes and policies are frequently implemented in some of the poorest parts of the world. Failure to ensure that the WBG has in place – and implements – adequate human rights due diligence can result in serious human rights abuses which disproportionately affect the poorest.

The WBG has largely resisted the view that it has to take human rights into account - on the basis that its Articles of Agreement prevent it from interfering in the political affairs of its members and that it can only take economic considerations into account, without regard for political or other non-economic factors. However, academics, legal scholars, practitioners and UN Treaty monitoring bodies are increasingly challenging this view of the WBG.

The Committee on Economic Social and Cultural Rights (CESCR) has consistently held that the obligations of states which are parties to the International Covenant on Economic, Social and Cultural Rights extend to state action as part of inter-governmental organisations, including international financial institutions such as the World Bank, and has required that all states parties take due account of their obligations under the Covenant when acting as members of such institutions.

As the Special Representative of the Secretary-General on the issue of Human Rights and Transnational Corporations and other Business Enterprises (SRSG), Professor John Ruggie, has articulated, business can potentially have an impact on all human rights. So too can institutions such as the WBG.

We contend that the WBG's own due diligence policies, processes and mechanisms must be based on – and explicitly refer to - human rights principles and standards and that such due diligence should be applied to all stages of a project or activity.

### **We call on the Norwegian government to recommend that the SRSG Professor Ruggie draws the attention of member states to the need to:**

- Ensure they uphold their human rights responsibilities when acting as members of the WBG. This means they must ensure that the human rights of communities directly and indirectly affected by private investment projects supported by the WBG are not harmed as a consequence. This, in turn, necessitates robust due diligence and safeguard policies, which explicitly reference human rights, and which are properly implemented and monitored.



- Ensure there is effective and meaningful consultation with, and participation of, all affected communities in the scoping, planning, implementation and monitoring phases of a given project or activity.
- Ensure there is sufficient transparency and access to information on the Group's activities which have an impact on people's human rights.
- Ensure there is access to an effective remedy for those whose human rights have been adversely affected by projects or activities supported by the WBG.

## **Illegal detentions and other human rights violations in the name of security**

Terrorism-related security concerns are still used as a pretext for serious human rights violations. Around the globe, thousands of people are being held without charge or trial, in clear violation of international law, for prolonged periods of time or even indefinitely. Most of the detainees concerned have very little or no access to legal remedy. They are denied the right to appeal against their detention to ordinary courts. They have no or only very limited contact with their families or lawyers. They often are not even informed about why they are being held. In addition, human rights monitors are seldom granted access to such prisoners and the conditions under which they are being held are generally harsh and often cruel, inhuman or degrading.

In March a study on the use of secret detention linked to counter terrorist measures will be presented to the Human Rights Council by a group of UN experts. Among other things, the report points out that secret detention in connection with counter-terrorism policies remains a serious problem on a global scale, either through the use of secret detention facilities; through declarations of a state of emergency, which allow prolonged secret detention; or through forms of "administrative detention" which also allow prolonged secret detention. It also underlines that secret detention, no matter under which circumstances, is a clear violation of international human rights law and may under certain circumstances even constitute a crime against humanity.

People held without charge or trial, without proper legal protection or even in secret detention in connection with counter terror measures, are also at especially high risk of being subjected to torture. Even though some countries, like the USA, have recently been promising a return to respect for human rights in their fight against terrorism, very little has been done to investigate alleged cases of torture or other ill treatment and to bring those responsible to justice. President Obama, very shortly after declaring his government's commitment to respecting the absolute ban on torture, made it quite clear that the USA would not prioritize the investigation and criminal prosecution of alleged torture of terror suspects. Such expressions of disrespect both for international law and for the sufferings of torture victims and their families set a very dangerous example and need to be contradicted in the strongest possible terms.

### **We call on the Norwegian government to**

- Make sure the issue of secret detention and other illegal detention in connection with security measures is addressed thoroughly by the Human Rights Council, and work for a strong statement by the Human Rights Council demanding an immediate end to such practice;
- Take up cases of prolonged detention without charge or trial, including secret detentions, in bilateral contacts with countries like the USA, Pakistan, Algeria, Egypt, China, Russia and

others. Make clear Norway's view that such measures are completely unacceptable and demand that all persons held under such conditions are either charged and given a fair trial in a civilian court, or immediately released;

- Assist the dissolution of the US detention camp at Guantánamo by granting protection to a limited number of persons who are to be released from the camp but cannot return home safely;
- Oppose any undermining of the principle of non-refoulement of people at risk of torture if returned to their country of origin;
- Resist vigorously any attempt of undermining the absolute ban against torture and give strong support to the United Nation's Special Rapporteur on Torture as well as similar monitoring mechanisms at regional and national level.

## **Individual Communication procedure for violations of the Convention of the Rights of the Child**

Twenty one years after the adoption of the Convention on the Rights of the Child (CRC), the basic human rights of millions of children are still not being met. The Convention will soon be the only international human rights treaty with mandatory reporting that is lacking an individual complaints mechanism. Such a mechanism needs to be put in place to better protect children's human rights.

While children and their representatives can use the mechanisms already established under other international instruments to pursue many of their rights, those instruments do not cover, separately or together, the full range and detail of rights in the CRC.

Furthermore, complaints made on behalf of children to other treaty bodies are not considered by experts with special expertise on children's rights. Similar persuasive arguments were made for the adoption of the communications' mechanisms under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and under the new Convention on the Rights of Persons with Disabilities.

### **We call on governments to:**

- Be supportive of an individual communications procedure to the CRC, and use the position as member of the Human Rights Council to work for a strengthening of the mandate of the working group, so that the drafting process can start.
- Once adopted, sign and ratify the Optional Protocol, promote rapid ratification by other States Parties and work to ensure that adequate resources are provided to support the Committee on the Rights of the Child in responding to complaints.

## Protecting the Right to Thought, Conscience and Belief especially for religious minorities

Respect for freedom of religion or belief is a cornerstone for building peaceful co-existence between divergent religious and life-stance communities. It is essential, therefore, for governments and international organisations, such as the UN and regional organisations, to give priority to the protection of freedom of religion or belief and to the eradication of all forms of intolerance and of discrimination based on religion or belief.

However, we note with growing concern the tendency many places in the world to limit various aspects of this human right. Clear cut examples of this are seen in Egypt where there has been an increase in mob attacks on Coptic villages, properties, religious centers and clergymen. In the city of Nag Hammadi, on January 6, 2010, Christmas Eve in the Orthodox tradition, seven people were shot down and murdered in front of the Coptic cathedral as they were leaving Christmas Eve mass. Religious minorities fear that the culprits will be let loose or given very lenient sentences following a pattern established in similar cases earlier.

Likewise, in Iran, recently, the Government has stepped up its persecution of the Bahá'ís. Seven leaders of the Bahá'í community in Iran are currently on trial in Teheran. They have been detained for more than one year without proper charges or access to defense counsel. The seven community leaders are alleged to have acted as spies for Israel as well as having planned a terrorist attack on the Iranian Government. Including the seven leaders, 50 Bahá'ís have been arrested and detained because of their beliefs.

Similar trends are apparent in Turkey where state sponsored disinformation about religious minorities has increased. Many minorities are afraid that such smear campaigns may lead to similar events as those that transpired in Malatya three years ago where three Protestant Christians were brutally murdered. Religious minorities, especially converts from Islam are often accused of "insulting Turkishness; in essence they are seen as traitors to the Turkish state and thus free game for any radical elements within Turkish society.

### **We call on the Norwegian government to:**

- Encourage all states to review educational textbooks and curricula, as well as practices of state-controlled media, to remove or end expressions of hatred and intolerance based on religion or belief.
- Monitor trials in Egypt relating to abuses against religious minorities in order to ensure that the trials are just and to help combat impunity.
- Focus in more detail and more specifically on the situation of the Bahá'ís in talks with the Iranian Government. Special attention needs to be paid to the trial of the seven Bahá'í leaders.
- Strongly urge Turkish authorities to monitor that all legal steps are being taken to bring to justice all those who commit violent crimes against persons based on religion.

## Water and Human Rights

Globally, one in five persons lack access to clean drinking water. Two in five lack access to adequate sanitation. Marginalisation and discrimination, over exploitation of freshwater resources, pollution, lack of investment and an absence of accountability at the local, national and international levels are among the causes for today's situation.

In many areas, water scarcity is increasing due to climate change. The UN Panel on Climate Change has declared that climate change is a fact, and that the temperature will rise between 1.1 and 6 degrees the next 100 years. Climate change will alter the living conditions to millions of people in developing countries and their access to water can become even more insecure and unpredictable. A rise in temperature of two degrees can make it more difficult for almost three billion people to access sufficiently clean water.

The right to water was recognised by states in 1977 in the Mar Del Plata Declaration. Norway has supported recent efforts in the UN Human Rights Council to entrench the recognition of the right to water and sanitation. While there has been progress in some countries in adopting new laws and policies (with some based on the right to water) and expansion of access there is a long way to go before the obligations set out in the UN Committee of Economic, Social and Cultural Rights General Comment No. 15 on the Right to Water is met. The lack of political will to ensure this right is leading to a large-scale violation of the right to water, whose impact is affecting most heavily on those already marginalised; the poorest, women and children.

### **We therefore call on the Norwegian government to:**

- Continue to support the right to water and sanitation in the UN Human Rights Council and the work of the UN Independent Expert on the Issue of Human Right Obligations Related to Access to Safe Drinking Water and Sanitation.
- Ensure that the right to water and sanitation is sufficiently highlighted and prioritized in the universal periodical reviews and in country resolutions.
- Ratify the Optional Protocol to the UN Convention on Economic, Social and Cultural Rights and support the development of an Optional Protocol for a complaints procedure to the Convention on the Rights of the Child, which also includes the right to water.
- Work to ensure that a new climate change agreement takes adequate account of re-allocations in water resources in terms of prevention, mitigation and adaptation.