



# **Human Rights Advocates**

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## **Political Participation: A Fundamental Right in Need of Protection**

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## **I. Introduction**

Human Rights Advocates ("HRA") urges the Council to better enforce the right to political participation, as mandated by international law. The right to participate in one's political system is fundamental. Participation not only gives citizens a voice in their government, but also often protects human rights defenders, supports minority and underrepresented groups, including women, and prevents violent political transitions.

Around the world, citizens eager for a voice in their governance are acting publicly against entrenched regimes, as witnessed recently in Egypt and Tunisia. Elsewhere, minorities suffer in silence, lacking the rights to vote or run for office. No international body has established best practices for public participation amongst different political systems. HRA contends it is critical that the Council find and promote such standards to forestall the cycle of political stagnation, strife and human rights violations worldwide.

This Report first establishes the legal right to equal, free, public participation in politics.<sup>1</sup> Next, it catalogues recent illegal as well as legal discrimination that derogates the right. Finally, HRA offers recommendations, urging the Council to appoint a Special Rapporteur to investigate abuses and establish best practices for responsive elections.

## **II. Legal Bases of the Right to Political Participation**

In accordance with the principles of the International Bill of Rights, various investigators and bodies within the UN have recently reaffirmed the connection between political participation and other human rights, including the security of human rights defenders and minority groups.

### **a. Treaty Language**

The rights to vote, participate in, and benefit from public service are affirmed in both the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil

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<sup>1</sup> HRA has submitted several reports to the Commission on Human Rights and to the Human Rights Council concerning the right to vote. The HRA reports from 2007 through 2010 are available at <http://www.humanrightsadvocates.org/advocacy-at-the-un>.

and Political Rights (ICCPR). Article 21 of the UDHR provides, "(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives."<sup>2</sup> ICCPR article 25 declares that every citizen shall have the right and opportunity "to take part in the conduct of public affairs...; To vote and be elected at genuine periodic elections ...; To have access, on general terms of equality, to public service ... ."<sup>3</sup>

Similar rights are protected by regional documents, including article 23 of the American Convention on Human Rights (ACHR) and article 13 of the African Charter on Human and Peoples' Rights (ACHPR). The European Convention on Human Rights (ECHR) mandates free elections by secret ballot to ensure the free expression of the people in choosing their representatives (Protocol 1, Art. 3).

Equality of access to these political rights is guaranteed by the International Convention on the Elimination of All Forms of Racial Discrimination (Art. 5), and comment 25 to the ICCPR.<sup>4</sup> The right of women to vote on an equal basis with men is delineated in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). "State Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right ... [t]o vote in all elections."<sup>5</sup>

#### b. Forum on Minority Issues

The Forum on Minority Issues (FMI) stated, "At the most basic level . . . respect for fundamental human rights, including the right to non-discrimination, the right to vote and to be elected, and to freedom of expression, association and assembly, will contribute to the participation and representation of persons belonging to minorities, as well as to diminishing

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<sup>2</sup> G.A. Res. 217A(III), U.N. Doc. A/810 (1948).

<sup>3</sup> Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>4</sup> HRC General Comment 25, para. 14, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996).

<sup>5</sup> Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

tensions, thus leading to the maintenance of peace and stability."<sup>6</sup> The FMI similarly noted, "[t]he numerical disadvantage of minority status" can diminish enjoyment and protection of the group's political rights.<sup>7</sup>

c. General Assembly

The General Assembly (GA) noted "with deep concern that in many countries persons and organizations engaged in promoting and defending human rights and fundamental freedoms frequently face threats and harassment and suffer insecurity as a result of those activities, including through restrictions on freedom of association or expression or the right to peaceful assembly, or abuse of civil or criminal proceedings."<sup>8</sup> The GA stressed the important role individuals and civil society organizations play in promoting democracy, achieved through efforts to support participation, dialogue, openness, and justice.<sup>9</sup> The GA also proclaimed 2011 to be the International Year for People of African Descent.<sup>10</sup> It requested that member states and UN agencies identify initiatives to "benefit people of African descent in relation to their full enjoyment of . . . civil and political rights," and "their participation and integration in all political, economic, social and cultural aspects of society."<sup>11</sup>

d. Special Rapporteur on Human Rights Defenders

Margaret Sekaggya, the Special Rapporteur (SR) on the situation of human rights defenders, who has a mandate to uphold the rights of women in particular,<sup>12</sup> submitted to the Council that defenders face "heightened risks" during electoral periods. "Freedom of expression and assembly are often restricted before, during and after elections. In many cases,

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<sup>6</sup> FORUM ON MINORITY ISSUES, *Recommendations* (Nov. 12-13, 2009) U.N. Doc. A/HRC/13/25, para. 8.

<sup>7</sup> FORUM ON MINORITY ISSUES, *Recommendations* (Dec. 14-15, 2010) para. 8.

<sup>8</sup> UNITED NATIONS GENERAL ASSEMBLY, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (March 17, 2010) U.N. Doc. A/RES/64/163, at 1.

<sup>9</sup> *Id.* at 2.

<sup>10</sup> G.A. Res. 64/169, U.N. Doc. A/RES/64/169 (2009) <http://www.un.org/en/ga/64/resolutions.shtml>.

<sup>11</sup> *Id.*

<sup>12</sup> HUMAN RIGHTS COUNCIL, Resolution 7/8, *Mandate of the Special Rapporteur on the situation of human rights defenders* (March 27, 2008) U.N. Doc. A/HRC/RES/7/8, at para. 2(e).

acts of intimidation start long before the beginning of election campaigns."<sup>13</sup> Abuses also continue long after the disputed elections, as occurred in many countries throughout 2010.<sup>14</sup>

### **III. Recent Derogations of the Right to Political Participation**

In 2010, various governments illegally obstructed political organizing, campaigning, voting, and the counting of ballots through force and fear. Some examples of misconduct, reported by UN Special Rapporteurs, underscore the connection between political participation and other human rights. In one notable case, a clear election winner was prevented from taking office.

#### **a. Derogations by Force, Fraud or Fear**

##### **i. West African Nations**

The nation of Côte d'Ivoire successfully voted its will in a November 28 run-off presidential election. However, incumbent Laurent Gbagbo never recognized results declaring Alassane Ouattara the winner. Since then, the head of the UN Operation in Côte d'Ivoire (UNOCI) Y. J. Choi estimated some 33,000 refugees have fled into Liberia and 20,000 are displaced internally.<sup>15</sup> Nearly 300 have been killed.<sup>16</sup> Women and children constitute the majority of those displaced, according to Margot Wallström, UN Envoy on Sexual Violence in Conflicts. Wallström linked reports of sexual assaults to a campaign of political targeting after the election.<sup>17</sup> "I condemn in the strongest possible terms the employment of sexual violence as a means to political ends," she said.<sup>18</sup> Clearly, the

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<sup>13</sup> HUMAN RIGHTS COUNCIL, *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya* (Dec. 30, 2009) U.N. Doc. A/HRC/13/22, para. 56.

<sup>14</sup> See the discussion in Part III of this Report.

<sup>15</sup> UN NEWS CENTRE, *Countries ready to reinforce UN peacekeepers in Côte d'Ivoire amid tense impasse*, Feb. 4, 2011, <http://www.un.org/apps/news/story.asp?NewsID=37475&Cr=ivoire&Cr1=>.

<sup>16</sup> REUTERS, *Nearly 300 killed in Ivory Coast violence, UN says*, Feb 10, 2011, available at <http://af.reuters.com/article/topNews/idAFJJOE7190KY20110210>.

<sup>17</sup> UN NEWS CENTRE, *UN envoy urges protection from sexual violence amid Côte d'Ivoire crisis*, Jan. 27, 2011, <http://www.un.org/apps/news/story.asp?NewsID=37395&Cr=ivoire&Cr1=&Kw1=sexual+violence&Kw2=&Kw3=>.

<sup>18</sup> *Id.*

executive's failure to transfer power following the election led to the ongoing human rights abuses.

Political transitions in West Africa will continue to draw international attention in 2011. Secretary-General Ban Ki-moon acknowledged Côte d'Ivoire's election results, and said that altering the results of the presidential election "would be a grave injustice and set an unfortunate precedent. . . . We have an obligation to remain firm and unified, and to signal to Africa's peoples that our commitment to our principles is real."<sup>19</sup> With refugees streaming into Liberia, UN Humanitarian and Resident Coordinator for Liberia Moustapha Soumare said, "We should not forget that Liberia is in a post-conflict mode and just emerging from a 14-year civil war with presidential elections coming up very soon."<sup>20</sup> Already, in Nigeria, there have been numerous reports of politically motivated attacks, killings, threats and intimidation targeting political candidates and their supporters.<sup>21</sup> Voters who registered ahead of April's election have had trouble verifying their names.<sup>22</sup> Human rights defenders, who will play a key role in monitoring Nigeria's April election, are at increased risk of violence.<sup>23</sup>

#### ii. Arab, Middle-, and Near-Eastern Nations

Across several Arab countries, uprisings during January and February 2011 were met with disproportionately violent responses from state security forces. The spreading unrest stems from the absence of free and fair democratic elections, violating the right to political participation, and the intransigence of rulers, many of whom have held power for decades.

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<sup>19</sup> UN NEWS CENTRE, *Côte d'Ivoire: UN and African blocs must remain united to ensure respect of poll results – Ban*, Jan. 29, 2011, <http://www.un.org/apps/news/story.asp?NewsID=37417&Cr=ivoire&Cr1=>.

<sup>20</sup> UN NEWS CENTRE, *Côte d'Ivoire: UN reinforces peacekeepers as officials warn of risks of genocide*, Jan. 19, 2011, <http://www.un.org/apps/news/story.asp?NewsID=37311&Cr=ivoire&Cr1=>.

<sup>21</sup> AMNESTY INTERNATIONAL, *African Union: Make Human Rights the Basis of Shared Values*, Jan. 24, 2011, available at <http://www.amnesty.org/en/library/info/IOR63/001/2011/en>

<sup>22</sup> Jon Gambrell, *Voter verification lists hard to find in Nigeria*, ASSOCIATED PRESS, Feb. 18, 2011.

<sup>23</sup> AMNESTY INTERNATIONAL, *African Union: Make Human Rights the Basis of Shared Values*, Jan. 24, 2011.

Tunisian ruler Zine El Abidine Ben Ali was swept from power by popular protest in January.<sup>24</sup> His 23-year reign, credited for achieving stability but criticized for suppressing political freedoms, came to a quick end in the face of massive street protests. The huge crowds revealed their resentment against the perceived corruption of the ruling elite and their frustration with economic inequality.<sup>25</sup> More timely transfers of political power likely could have prevented January's tempestuous events.

In Egypt, Shura Council elections in June 2010 received praise for the increased participation of female candidates, including from the Muslim Brotherhood political group.<sup>26</sup> However, violence at polling stations and apparent vote rigging marred the elections. International elections monitors were barred from the country.<sup>27</sup> Local female election monitors were arrested and detained despite having adequate identification. Women-only voting stations suffered understaffing and vote-stealing.<sup>28</sup>

The repression continued, largely out of public view, until the Tunisian example led protestors onto the streets over 18 days of unrest early in 2011. In response, Egyptian police forces arrested and detained an estimated 10,000 citizens.<sup>29</sup> They targeted political organizations and human rights defenders, including journalists. During a raid on the Hisham Mubarak Legal Center, for example, authorities seized technological equipment and led away 30 human rights activists in blindfolds and handcuffs.<sup>30</sup>

Reflecting the unrest in Tunisia and Egypt, several nations scattered across the region have experienced political turmoil. Police struggled to contain clashes between pro- and anti-

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<sup>24</sup> GLOBAL VOICES ONLINE, *Tunisia: Celebrations Welcome the End of Ben Ali's Rule*, Jan. 14, 2011, <http://globalvoicesonline.org/2011/01/14/tunisia-celebrations-welcome-the-end-of-ben-alis-rule>.

<sup>25</sup> BBC, *Profile: Zine al-Abidine Ben Ali*, Jan. 14, 2011, <http://www.bbc.co.uk/news/world-africa-12196679>.

<sup>26</sup> EGYPTIAN CENTER FOR WOMEN'S RIGHTS

<sup>27</sup> HUMAN RIGHTS FIRST, *Elections in Egypt: a Critical Moment for Human Rights*, <http://www.humanrightsfirst.org/our-work/human-rights-defenders/defenders-in-egypt/elections-in-egypt-a-critical-moment-for-human-rights> (last visited Feb. 12, 2011).

<sup>28</sup> EGYPTIAN CENTER FOR WOMEN'S RIGHTS, *First Monitoring Press Release: Shoura Council Election*, June 1, 2010.

<sup>29</sup> CNN, *Egypt Unrest: Day 16; Secret Detentions in Egypt; Silvio Berlusconi to Face Court?*, Feb. 9, 2011, transcript available at <http://edition.cnn.com/TRANSCRIPTS/1102/09/nwsm.01.html>.

<sup>30</sup> *Id.*

government crowds in Yemen, where young people demanded an immediate end to the authoritarian rule of President Ali Abdullah Saleh.<sup>31</sup> In power since 1978, President Saleh presented his resignation to Parliament in 2006, but then withdrew it and won re-election.<sup>32</sup> Opposition protestors fear that could happen again, and do not trust Saleh's recent promises that he would not seek re-election in 2013.<sup>33</sup>

South Sudan successfully completed a referendum election, voting overwhelmingly for independence in a relatively peaceful voting process.<sup>34</sup> However, recently North Sudanese riot police used batons and teargas to break up recent protests inspired by Tunisia and Egypt. One student reportedly died and scores were injured, and at least 70 were arrested after one demonstration.<sup>35</sup> Protestors cried for democratic reforms and an end to the civil war.<sup>36</sup>

Iranian elections in 2009 sparked a vocal, active opposition movement. The government responded with oppressive arrests and security crackdowns, and also passed regulations barring reporters from the streets to cover such protests. Such regulations were apparently revived in protests recently.<sup>37</sup> Opposition leaders were effectively barred from leaving their homes, while the administration called street protests illegal assemblies.<sup>38</sup>

In Azerbaijan, two members of an opposition youth organization were apparently targeted after calling for anti-government protests on the website Facebook.<sup>39</sup> Jabbar Savalan,

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<sup>31</sup> Laura Kasinof & J. David Goodman, *Protesters Clash With Government Supporters in Yemen*, THE NEW YORK TIMES, Feb. 14, 2011, available at [http://www.nytimes.com/2011/02/15/world/middleeast/15yemen.html?\\_r=1&hp](http://www.nytimes.com/2011/02/15/world/middleeast/15yemen.html?_r=1&hp).

<sup>32</sup> Laura Kasinof, *Yemen's Saleh agrees not to run again. Is that good enough for protesters?*, THE CHRISTIAN SCIENCE MONITOR, Feb. 2, 2011, available at <http://www.csmonitor.com/World/Middle-East/2011/0202/Yemen-s-Saleh-agrees-not-to-run-again.-Is-that-good-enough-for-protesters>.

<sup>33</sup> *Id.*

<sup>34</sup> BBC, *South Sudan backs independence – results*, Feb. 7, 2011, available at <http://www.bbc.co.uk/news/world-africa-12379431>.

<sup>35</sup> AMNESTY INTERNATIONAL, *Sudan Urged To End Protest Crackdown*, Jan. 31, 2011, <http://www.amnesty.org/en/news-and-updates/sudan-urged-end-protest-crackdown-2011-01-31>.

<sup>36</sup> *Id.*

<sup>37</sup> Alan Cowell, *Iranian Police Fire Tear Gas at Protesters*, THE NEW YORK TIMES, Feb. 14, 2010, available at <http://www.nytimes.com/2011/02/15/world/middleeast/15iran.html?hp>.

<sup>38</sup> *Id.*

<sup>39</sup> AMNESTY INTERNATIONAL, *Azerbaijan Must Stop Harassment Of Activists Inspired By Egypt Protests*, Feb. 11, 2011, <http://www.amnesty.org/en/news-and-updates/azerbaijan-must-stop-harassment-activists-inspired-egypt-protests-2011-02-11>.

a member of the Azerbaijan Popular Front Party's (APFP) youth group, has been jailed for two months pending trial on drugs charges since soliciting participation in a "Day of Rage" inspired by protests in the Middle East and North Africa.<sup>40</sup> Another member of the group, Elcin Hasanov, has been detained and questioned by police.<sup>41</sup> Beyond these incidents, journalists and civil society activists in Azerbaijan frequently suffer threats, harassment and violence for their work.<sup>42</sup> One family has ruled the country since its independence.<sup>43</sup> Opposition groups boycotted the last presidential election, which Western observers said showed improvements from previous contests but fell short of fully democratic standards.<sup>44</sup>

Margaret Sekaggya, the Special Rapporteur (SR) on the situation of human rights defenders, witnessed the connection between human rights abuses and elections during her Mission to Armenia in June 2010.<sup>45</sup> The SR reported, "The most traumatic events of recent Armenian history took place following presidential elections on 19 February 2008."<sup>46</sup> The SR recounted that in Yerevan's Freedom Square, crowds had gathered in protest of perceived fraud in the election.<sup>47</sup> On March 1, 2008, police forcibly dispersed demonstrators at Freedom Square.<sup>48</sup> Ten people were killed, including two police, and at least 102 arrested. Later that month, 81 opposition political leaders were also detained. According to the SR, human rights

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> BBC, *Azerbaijan country profile*, Dec. 1, 2010, [http://news.bbc.co.uk/2/hi/europe/country\\_profiles/1235976.stm#leaders](http://news.bbc.co.uk/2/hi/europe/country_profiles/1235976.stm#leaders).

<sup>44</sup> *Id.*

<sup>45</sup> HUMAN RIGHTS COUNCIL, *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, Addendum: Mission to Armenia* (Dec. 23, 2010) U.N. Doc. A/HRC/16/44/Add.2, at 1.

<sup>46</sup> *Id.* at para. 7.

<sup>47</sup> HUMAN RIGHTS WATCH, *Democracy on Rocky Ground: Armenia's Disputed 2008 Presidential Election, Post-Election Violence, and the One-Sided Pursuit of Accountability* 13 (2009). "Electoral politics in Armenia since independence has remained stuck in a cycle of uneven contests, fraud, and disputes that more often than not spill onto the streets. There is low public confidence in the way elections are run, and widespread cynicism about their outcome." *Id.* at 3. The Organization for Security and Cooperation in Europe (OSCE) decried voting irregularities and procedural errors in ballot tabulation. *Id.* at 13.

<sup>48</sup> HUMAN RIGHTS COUNCIL, *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, Addendum: Mission to Armenia* (2010) (A/HRC/16/44/Add.2) at para. 7.

defenders have complained about the lack of any meaningful investigation into the 2008 incidents, and today work in an "increasingly politicized environment."<sup>49</sup>

The Special Rapporteur drew links between Armenian elections and derogation of the rights of journalists, politicians, and their supporters. The SR found "a correlation between violence against reporters and recent political events in the country," including the 2009 Yerevan Municipal Elections.<sup>50</sup> Looking forward to Armenia's 2012 parliamentary elections, the SR expressed concern about tightened restrictions on the rights of defenders, demonstrators, and other non-State political groups.<sup>51</sup> For instance, several applications to assemble in outdoor demonstrations at Freedom Square have been rejected recently.<sup>52</sup> It is also difficult for groups to hold indoor campaign events.<sup>53</sup> Many hotels denied non-governmental organizations the right to rent conference rooms. Reportedly, hotel employees needed government approval to permit certain groups to access meeting spaces.<sup>54</sup> Such derogations of the right peaceably assemble and politically organize violate the fundamental right to political participation and lead to more severe human rights abuses.

### iii. Belarus

On Dec. 19, 2010, presidential election day in Belarus turned bloody when police arrested nearly 700 demonstrators and beat many with batons.<sup>55</sup> Thousands of peaceful protestors had massed outside the main government office in Minsk to decry the fraudulent vote count, which secured a fourth term for authoritarian leader Alexander Lukashenko.<sup>56</sup> The top opposition leader, Vladimir Neklyayev, was beaten unconscious and taken to a

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<sup>49</sup> *Id.* at paras. 14–15.

<sup>50</sup> HUMAN RIGHTS COUNCIL, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekagya, Addendum: Mission to Armenia (Dec. 23, 2010) (A/HRC/16/44/Add.2) at para. 84.

<sup>51</sup> *Id.* at para. 79.

<sup>52</sup> *Id.* at para. 75.

<sup>53</sup> *Id.* at para. 78.

<sup>54</sup> *Id.* at paras. 77–78.

<sup>55</sup> Valery Kalinovsky, *Belarus places KGB agents in reform leader's flat*, AFP, Jan. 30, 2011.

<sup>56</sup> AMNESTY INTERNATIONAL, *Video: An Assault On Human Rights In Belarus*, Feb. 2, 2011, <http://www.amnesty.org/en/news-and-updates/report/video-assault-human-rights-belarus-2011-02-02>.

hospital, where unknown men in civilian clothes wrapped him in a blanket and forcibly abducted him.<sup>57</sup> By the morning after the election, police had arrested seven of the nine opposition candidates.<sup>58</sup> Neklyayev spent more than a month in prison following his abduction and has since been monitored very closely by government agents.<sup>59</sup> These derogations of human rights, in particular the right of political participation, should be investigated thoroughly in light of the pattern of disputed elections and rights abuses.

#### **b. Derogations by Law**

Article 25 of the ICCPR explicitly extends to "every citizen" the rights to vote and take part in public affairs and calls for "universal and equal suffrage." Some countries have taken positive steps, extending to minority groups the right to vote and articulating the need for structural reforms. Yet some citizens, political candidates, and their supporters are denied their right to political participation as a matter or consequence of law. The derogations take many different forms, including laws and regulations, court decisions, and executive orders.

One disturbing trend in the United States involves public financing of elections. In January, the United States Supreme Court ruled that the government may not keep corporations or unions from spending money to support or denounce individual candidates in elections.<sup>60</sup> In June, the Supreme Court froze an effective system of public financing of election candidates in the state of Arizona.<sup>61</sup> The public campaign financing law was popular in the state, and had come into effect only after severe corruption hampered governmental operations there.<sup>62</sup> These rulings severely curtail individual citizens' political participation.

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<sup>57</sup> Yuras Karmanau, *Belarus opposition leaders arrested after riots*, ASSOCIATED PRESS, Dec. 19, 2010, available at [http://www.msnbc.msn.com/id/40740639/ns/world\\_news-europe](http://www.msnbc.msn.com/id/40740639/ns/world_news-europe).

<sup>58</sup> RFI, *Seven Belarus opposition candidates arrested, Lukashenko reelected*, Dec. 20, 2010, available at <http://www.english.rfi.fr/europe/20101220-seven-belarus-opposition-candidates-arrested-lukashenko-reelected>.

<sup>59</sup> Valery Kalinovsky, *Belarus places KGB agents in reform leader's flat*, AFP, Jan. 30, 2011.

<sup>60</sup> *Citizens United v. Federal Election Commission*, SCOTUS BLOG (visited Feb 24, 2011) <http://www.scotusblog.com/case-files/cases/citizens-united-v-federal-election-commission>.

<sup>61</sup> Editorial, *Keep Arizona Elections Clean*, THE NEW YORK TIMES, Dec. 20, 2010, available at <http://www.nytimes.com/2010/12/21/opinion/21tue1.html>.

<sup>62</sup> *Id.*

Felony disenfranchisement in the United States violates norms of prisoner rehabilitation and political equality for men of African descent.<sup>63</sup> Around 13 percent of African-American men are denied voting rights nationwide. Virginia, one of the states with harsh penalties, has streamlined a process to extend voting rights to felons: 1,269 applicants were approved to vote there last year. However, in Iowa, a newly elected governor quickly *rescinded* a 2005 law that restored voting rights to those who had completed their felony sentences.<sup>64</sup>

Elsewhere, the United Kingdom appears set to end its 140-year disenfranchisement law barring prisoners from voting,<sup>65</sup> following a 2004 ruling by the European Court of Human Rights that such an indiscriminate exclusion from the democratic process was unlawful.<sup>66</sup> South Africa's Constitutional Court made a similar finding in 2004.<sup>67</sup>

Though it is changing rapidly, Egyptian law currently requires a candidate for president to collect 250 signatures from Egypt's lower and upper houses and municipal councils, all of which are overwhelmingly dominated by the ruling party. Thus, the ruling party has an effective veto over who can run against it.<sup>68</sup> In 2007, the Mubarak government abolished judiciary supervision over elections, removing these guarantees against fraud.<sup>69</sup> In 2010, Parliament renewed the Emergency Law for an additional two years. Despite claiming to employ the law only to stop drug trafficking and terrorism, the government routinely uses

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<sup>63</sup> HRC General Comment 25, para. 14, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996) ("If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence.").

<sup>64</sup> THE SENTENCING PROJECT, *Disenfranchisement News*, Jan. 6, 2011, [http://www.sentencingproject.org/detail/news.cfm?news\\_id=1056](http://www.sentencingproject.org/detail/news.cfm?news_id=1056).

<sup>65</sup> THE INDEPENDENT, *Leading article: The case for democracy behind bars*, Nov. 3, 2010, <http://www.independent.co.uk/opinion/leading-articles/leading-article-the-case-for-democracy-behind-bars-2123389.html>.

<sup>66</sup> *Hirst v. United Kingdom*, no. 74025/01, ECHR (2005), *available at* <http://www.bailii.org/eu/cases/ECHR/2005/681.html>. The Court found that restricting the voting rights of all convicted prisoners violates article 3 of Protocol No. 1 of the ECHR. *Id.*

<sup>67</sup> *Minister of Home Affairs v. Nat'l Inst. for Crime Prevention & the Re-Integration of Offenders (NICRO)*, 2004 (5) BCLR 445 (CC) (S. Afr.).

<sup>68</sup> Mona El-Naggar, *New Call for Election Boycott in Egypt*, THE NEW YORK TIMES, Sep. 7, 2010, *available at* <http://www.nytimes.com/2010/09/08/world/middleeast/08egypt.html>.

<sup>69</sup> *Id.*

the measure to disrupt and prevent campaign rallies and detain people, it is reported.<sup>70</sup> Some days into the recent political crisis there, Vice President Omar Suleiman had yet to recommend repealing these measures, which are critical to transitioning into democracy.<sup>71</sup>

In Europe, many Roma EU citizens were not able to register their residence in the destination country, a direct violation of the Free Movement Directive. This has a "domino effect" on their enjoyment of key privileges, including the right to vote.<sup>72</sup>

In Haiti, popular political party Fanmi Lavalas was excluded from legislative and presidential elections, possibly a cause of the low 22% voter participation rate. More than 100,000 voters who had registered did not receive their voting cards, and 15 presidential candidates were denied space on the ballot without explanation.<sup>73</sup>

As 2011 is the International Year for People of African Descent, the situation of Afro-Colombians in Colombia merits attention. In 2009, the Colombian Constitutional Court ruled that Afro-Colombian groups deserve a greater voice in governance of their vulnerable communities.<sup>74</sup> Two years later, however, "the violation of the fundamental right to participation . . . continues to be pervasive."<sup>75</sup> Scholars have condemned the destruction of local biological and environmental resources through mining and fumigation, and say human right activists are endangered.<sup>76</sup> They ask Colombian leaders "to strengthen communal forms of government" and protect Afro-Colombian organizations and their leaders.<sup>77</sup>

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<sup>70</sup> Michael Slackman, *Egyptian Emergency Law Is Extended for 2 Years*, THE NEW YORK TIMES, May 11, 2010, available at [http://www.nytimes.com/2010/05/12/world/middleeast/12egypt.html?\\_r=2](http://www.nytimes.com/2010/05/12/world/middleeast/12egypt.html?_r=2).

<sup>71</sup> THE NEW YORK TIMES, *Mr. Suleiman's Empty Promises*, Feb. 8, 2011, available at <http://www.nytimes.com/2011/02/09/opinion/09wed1.html>.

<sup>72</sup> Jesse Gutman, *The Romani People and the Free Movement Directive*, LEGAL FRONTIERS, <http://www.legalfrontiers.ca/2010/10/the-romani-people-and-the-free-movement-directive>.

<sup>73</sup> Brian Concannon Jr. & Jeena Shah, *US will pay for Haitian vote fraud*, BOSTON GLOBE, Dec. 15, 2010.

<sup>74</sup> *Colombian Government Fails to Protect Afro-descendants Right to Previous Consultation*, AFRO-COLOMBIAN NEWS, Feb. 2, 2011, <http://news.afrocolombians.com/news/?sectionid=8>.

<sup>75</sup> NATIONAL CONFERENCE OF AFRO-COLOMBIAN ORGANIZATIONS (CNOA) & BLACK COMMUNITIES PROCESS (PCN), *Contempt of Court and Incompliance With Constitutional Court Decision 005 of 2009*, Jan. 21, 2011, available at <http://www.afrocolombians.com/pdfs/Auto005RoundtableDeclaration.pdf>.

<sup>76</sup> COLOMBIA SUPPORT NETWORK, *Letter to President Juan Manuel Santos on the 17th anniversary of the promulgation of Act 70 of 1993*, Oct. 25, 2010, <http://colombiasupport.blogspot.com/2010/10/letter-to-president-juan-manuel-santos.html>.

<sup>77</sup> *Id.*

China's two-year National Human Rights Action Plan 2009-2010 clearly articulated the goal of expanded, orderly political participation at all levels of society.<sup>78</sup> The government promised to extend direct democracy in villages, and increase participation and placement of non-Communist Party members into more powerful political and governmental positions.<sup>79</sup> However, new regulations restrict domestic NGOs that receive foreign funding, posing a threat to citizens' freedom of association, by requiring notarized agreements and detailed application forms to receive foreign funds. The laws impair independent groups, including important legal and women's rights organizations, more than government-connected non-profits, and contribute to "ongoing violations of Chinese citizens' right to participate."<sup>80</sup>

#### **IV. Recommendations and Conclusion**

The right to political participation is fundamental and must be accorded the highest defense by the international community. HRA urges all nations to give full effect to the right and to take all necessary legislative measures to comply with relevant international instruments, including the UDHR, ICCPR, CERD, CEDAW, ACHR, ACHPR, and ECHR.

Although the UN has promoted voting rights, no structured effort to establish and enforce elections guidelines and best practices has taken hold. HRA urges the Council to appoint a Special Rapporteur on the right to political participation who will investigate derogations before they lead to massive, severe human rights violations, especially against women. In this International Year for People of African Descent, the Council should take extra measures to ensure adequate and equal political representation for minority groups suffering disenfranchisement.<sup>81</sup>

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<sup>78</sup> CHINA VIEW, *Full Text: National Human Rights Action Plan of China (2009-2010)*, at (6) Right to Participate, last visited Feb. 14, 2011, available at [http://news.xinhuanet.com/english/2009-04/13/content\\_11177126\\_15.htm](http://news.xinhuanet.com/english/2009-04/13/content_11177126_15.htm).

<sup>79</sup> *Id.*

<sup>80</sup> HUMAN RIGHTS WATCH, *Promises Unfulfilled: An Assessment of China's National Human Rights Action Plan* (2011) at 43.

<sup>81</sup> Following and attached to this report is HRA's proposed resolution on the Right to Vote.

## **PROPOSED DRAFT RESOLUTION ON THE RIGHT TO VOTE**

*Reaffirming* article 21, as well as other relevant provisions of the Universal Declaration of Human Rights,

*Recalling* article 25 of the International Covenant on Civil and Political Rights, as well as General Comment 25 of the Human Rights Committee,

*Recalling* article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination,

*Recalling* article 7 of the Convention on the Elimination of All Forms of Discrimination against Women,

*Recalling* that the World Conference on Human Rights reaffirmed the importance of ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues,

*Affirming* that the right to vote at fair, free, transparent, and accountable periodic elections by universal and equal suffrage and by secret ballot is a prerequisite for progress in setting up a lasting order of peace, security, justice, and cooperation, and is the basis of the authority and legitimacy of all government,

*Recognizing* the need to establish meaningful parameters of election-related norms, commitments, principles, and good practices, in light of the derogation of the right to vote both by operation of law and fraudulent means,

1. *Urges* all States:

(a) To give full effect to the right to vote and to take all necessary legislative measures to prohibit discrimination and any distinction in the right to vote on the basis of race, colour, descent, national, ethnic or social origin, gender, language, religion, political or other opinion, property, disability, or other status which has the purpose or effect of nullifying or impairing equal and universal suffrage;

(b) To guarantee a person the right to vote once he or she reaches the age of majority;

(c) To recognize that the need for more effective representation of women, national minorities, persons with disabilities, or other groups, may justify measures to provide them enhanced voting rights;

(d) Not to suspend or withdraw a person's right to vote except for reasons of legal incapacity (e.g., based on mental incapacity) or conviction for a serious criminal offence. Suspension or withdrawal of a person's right to vote shall be objective and reasonable, based on judicial action, and in the case of criminal conviction, proportionate to the nature of the offence and the sentence, and limited in time;

(e) To accomplish the registration of voters in an accurate, timely, and transparent manner, and to give individuals effective opportunity to understand their rights, check the accuracy of their registration, and ensure that errors are corrected;

(f) To guarantee that votes are cast by secret ballot;

(g) To implement procedures that safeguards the integrity of ballots and other sensitive election materials before, during and after the vote;

(h) To ensure that all voting is conducted in a secure, orderly, personal, and secret manner at regular polling places, as well as in other special locations;

(i) To implement procedures to ensure the unbiased administration of polling places and counting of ballots and ensuring that officials administering such polling places are non-partisan and selected through a uniform, transparent and competitive process;

(j) To ensure a calm and orderly atmosphere within all polling places and to the extent possible, in the immediate vicinity, such that voters are not subjected to any form of harassment, intimidation, or coercive influence;

(k) To ensure that, inside the polling place, there is no display of party symbols, photographs of officials affiliated with a particular party, or political paraphernalia of any sort or broadcasting of news or other programming with political relevance;

(l) To ensure that all voting is personal, except when a voter who is not able to cast a ballot requires personal assistance in order to do so, and the assistance is provided by someone of the voter's own choosing or by another person chosen in a neutral manner, who shall be obligated to respect the secrecy of the vote;

(m) To ensure absolute secrecy of voting in all aspects of operations at the polling place including with respect to the issuance of ballot papers, arrangement and number of voting booths or screens, and casting of ballots;

(n) To ensure that votes are reported honestly with the official results made public and respected;

(o) To ensure that any new technology such as electronic voting is safeguarded with appropriate security measures and paper trails essential to maintaining the integrity of the vote;

(p) To ensure that the media reports on elections objectively and reasonably towards all candidates without state interference and ensure that voters receive all information possible to enable them to vote effectively;

(q) To ensure the safety and security of all candidates, before, during and after elections;

(r) To hold elections at regular intervals, and to permit candidates and organizations to register, collect and expend resources, and express themselves reasonably before the vote;

2. *Decides* to establish a Special Rapporteur on the right to vote to investigate cases of derogation of voting rights in a manner inconsistent with the relevant international standards set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, or in the relevant international legal instruments accepted by the States concerned, who may commence by authorizing a study on meaningful parameters of election-related norms, commitments, principles, good practices, and the interrelationship with other rights.

3. *Decides* to continue its consideration of this question at its nineteenth session under the relevant agenda item.