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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Argentina, Armenia*, Austria, Bosnia and Herzegovina*, Chile, Costa Rica, Côte d'Ivoire, Czech Republic, Estonia, France*, Georgia*, Germany, Honduras*, Hungary*, Iceland*, Ireland, Mexico*, Montenegro, Norway*, Paraguay*, Peru, Poland, Portugal*, Slovakia*, Spain, Sweden*, Switzerland, the former Yugoslav Republic of Macedonia*, Timor-Leste*, Turkey*, Uruguay*: draft resolution

22/... Protecting human rights defenders

The Human Rights Council,

Guided by the Universal Declaration of Human Rights,

Recalling General Assembly resolution 53/144 of 9 December 1998, by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms annexed to that resolution, and reiterating the importance of the Declaration and its promotion and implementation,

Recalling also the continued validity and application of all the provisions of the above-mentioned Declaration,

Recalling further all previous resolutions on this subject, in particular Human Rights Council resolutions 13/13 of 25 March 2010 and 16/5 of 24 March 2011, and General Assembly resolution 66/164 of 19 December 2011,

Recalling the Vienna Declaration and Programme of Action,

Reaffirming that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Acknowledging that human rights defenders play an important role at the local, national, regional and international levels in the promotion and protection of human rights,

* Non-Member State of the Human Rights Council.

Stressing that respect and support for the activities of human rights defenders, including women human rights defenders, is essential to the overall enjoyment of human rights,

Mindful that domestic law and administrative provisions and their application should facilitate the work of human rights defenders, including by avoiding any criminalization, stigmatization, impediments, obstructions or restrictions thereof contrary to international human rights law,

Reiterating the grave concerns expressed by the General Assembly in its resolution 66/164 regarding the serious nature of risks faced by human rights defenders due to threats, attacks and acts of intimidation against them,

Gravely concerned that, in some instances, national security and counter-terrorism legislation and other measures, such as laws regulating civil society organizations, have been misused to target human rights defenders or have hindered their work and endangered their safety in a manner contrary to international law,

Recognizing in this regard that new forms of communication, including the dissemination of information online and offline, can serve as important tools for human rights defenders to promote and strive for the protection of human rights,

Recognizing also the urgent need to address, and to take concrete steps to prevent and stop, the use of legislation to hinder or limit unduly the ability of human rights defenders to exercise their work, including by reviewing and, where necessary, amending relevant legislation and its implementation in order to ensure compliance with international human rights law,

Welcoming the steps taken by some States towards adopting policies or legislation for the protection of individuals, groups and organs of society engaged in promoting and defending human rights, including the decriminalization of defamation, that serve to protect human rights defenders from being prosecuted for peaceful activities, and against threats, harassment, intimidation, duress, arbitrary detention or arrest, violence and attacks by State and non-State actors;

1. *Welcomes* the work of the Special Rapporteur on the situation of human rights defenders, including her two latest reports submitted pursuant to General Assembly resolution 66/164 and Human Rights Council resolution 16/5, on the use of legislation affecting the activities of human rights defenders,¹ and national human rights institutions,² respectively;

2. *Urges* States to create a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity, in the whole country and in all sectors of society, including by extending support to local human rights defenders;

3. *Stresses* that legislation affecting the activities of human rights defenders and its application must be consistent with international human rights law, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and guided by the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and, in this regard, condemns the imposition of any limitations on the work and activities of human rights defenders enforced in contravention of international human rights law;

¹ A/67/292.

² A/HRC/22/47.

4. *Calls upon* States to ensure that legislation designed to guarantee public safety and public order contains clearly defined provisions consistent with international human rights law, including the principle of non-discrimination, and that such legislation is not used to impede or restrict the exercise of any human right, including freedom of expression, association and peaceful assembly, which are essential for the promotion and protection of other rights;

5. *Urges* States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law as an essential component of ensuring their protection, including by respecting the independence of their organizations and by avoiding the stigmatization of their work;

6. *Calls upon* States to ensure that human rights defenders can perform their important role in the context of peaceful protests, in accordance with national legislation consistent with the Charter of the United Nations and international human rights law and, in this regard, to ensure that no one is subject to excessive or indiscriminate use of force, arbitrary arrest or detention, torture or other cruel, inhuman or degrading treatment or punishment, enforced disappearance, abuse of criminal and civil proceedings or threats of such acts;

7. *Underlines* that the access to and use of information technologies and the media of one's choice, including radio, television and the Internet, should be promoted and facilitated at the national level, between States and at the international level as an integral part of the enjoyment of the fundamental rights to freedom of opinion and expression, and also encourages international cooperation aimed at the development of media and information and communications technologies in all countries;

8. *Calls upon* States to respect, protect and ensure the right to freedom of association of human rights defenders and, in this regard, to ensure, where procedures governing the registration of civil society organizations exist, that these are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration, in accordance with national legislation, and are in conformity with international human rights law;

9. *Also calls upon* States to ensure that reporting requirements placed on individuals, groups and organs of society do not inhibit functional autonomy, and that restrictions are not discriminatorily imposed on potential sources of funding aimed at supporting the work of human rights defenders other than those ordinarily laid down for any other activity unrelated to human rights within the country to ensure transparency and accountability, and that no law should criminalize or delegitimize activities in defence of human rights on account of the geographic origin of funding thereto;

10. *Calls upon* States to ensure that measures to combat terrorism and preserve national security:

(a) Are in compliance with their obligations under international law, in particular under international human rights law, and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights;

(b) Clearly identify which offences qualify as terrorist acts by defining transparent and foreseeable criteria, including, inter alia, considering without prejudice those formulated by the Special Rapporteur on the promotion and protection of human rights while countering terrorism;

(c) Prohibit and do not provide for, or have the effect of, subjecting persons to arbitrary detention, such as detention without due process guarantees, the deprivation of liberty that amounts to placing a detained person outside the protection of the law, or the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, nor

the unlawful deprivation of the right to life or the trial of suspects without fundamental judicial guarantees;

(d) Allow appropriate access for relevant international bodies, non-governmental organizations and national human rights institutions, where such exist, to persons detained under anti-terrorism and other legislation relating to national security, and to ensure that human rights defenders are not harassed or prosecuted for providing legal assistance to persons detained and charged under legislation relating to national security;

11. *Further calls upon* States to ensure that all legal provisions and their application affecting human rights defenders are clearly defined, determinable and non-retroactive in order to avoid potential abuse to the detriment of fundamental freedoms and human rights, and specifically to ensure that:

(a) The promotion and the protection of human rights are not criminalized, and that human rights defenders are not prevented from enjoying universal human rights owing to their work, whether they operate individually or in association with others, while emphasizing that everyone shall respect the human rights of others;

(b) The judiciary is independent, impartial and competent to review effectively legislation and its application affecting the work and activities of human rights defenders;

(c) Procedural safeguards, including in criminal cases against human rights defenders, are in place in accordance with international human rights law in order to avoid the use of unreliable evidence, unwarranted investigations and procedural delays, thereby effectively contributing to the expeditious closing of all unsubstantiated cases, with individuals being afforded the opportunity to lodge complaints directly with the appropriate authority;

(d) Any provision or decision that may interfere with the enjoyment of human rights must respect fundamental principles enshrined in international law so that they are lawful, proportionate, non-discriminatory and necessary in a democratic society;

(e) Information held by public authorities is proactively disclosed, and that transparent and clear laws and policies provide for a general right to request and receive such information, for which public access should be granted, except for narrow and clearly defined limitations;

(f) Restrictions are not invoked on access to information regarding grave violations of human rights;

(g) That provisions do not prevent public officials from being held accountable, and that penalties for defamation are limited in order to ensure proportionality and reparation commensurate to the harm done;

(h) Legislation aimed at preserving public morals is compatible with international human rights law;

(i) Legislation does not target activities of individuals and associations defending the rights of persons belonging to minorities or espousing minority beliefs;

(j) Dissenting views may be expressed peacefully;

12. *Expresses particular concern* about systemic and structural discrimination and violence faced by women human rights defenders, and calls upon States to integrate a gender perspective in their efforts to create a safe and enabling environment for the defence of human rights;

13. *Reaffirms* the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms;

14. *Strongly calls upon* all States:

(a) To refrain from, and ensure adequate protection from, any act of intimidation or reprisals against those who cooperate, have cooperated or seek to cooperate with international institutions, including their family members and associates;

(b) To fulfil the duty to end impunity for any such acts of intimidation or reprisals by bringing the perpetrators to justice and by providing an effective remedy for their victims;

(c) To avoid legislation that has the effect of undermining the right reaffirmed in paragraph 13 above;

15. *Reaffirms* the necessity for inclusive and open dialogue between civil society actors, particularly human rights defenders, and the United Nations in the field of human rights and, in this context, underlines that participation by civil society should be facilitated in a transparent, impartial and non-discriminatory manner;

16. *Underlines* the value of national human rights institutions, established and operating in accordance with the Paris Principles, in the continued monitoring of existing legislation and consistently informing the State about its impact on the activities of human rights defenders, including by making relevant and concrete recommendations;

17. *Stressing in particular* the valuable contribution of national human rights institutions, civil society and other stakeholders in providing input to States on the potential implications of draft legislation when such legislation is being developed or reviewed to ensure that it is in compliance with international human rights law;

18. *Invites* leaders in all sectors of society and respective communities, including political, social and religious leaders, and leaders in business and media, to express public support for the important role of human rights defenders and the legitimacy of their work;

19. *Encourages* States to include in their reports for the universal periodic review and to treaty bodies information on the steps taken to create a safe and enabling environment for human rights defenders, including by bringing legislation and its application affecting the activities of human rights defenders into line with international human rights law;

20. *Encourages* national human rights institutions, civil society and other stakeholders to provide information, including to States, in the context of the universal periodic review and the work of treaty bodies, on the enabling environment for human rights defenders, including legislation and its application affecting the activities of human rights defenders;

21. *Encourages* the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur, relevant regional mechanisms and national human rights institutions to offer their assistance for the consideration of States in bringing their legislation and its application into line with international human rights law;

22. *Invites* States to seek assistance, including that which may be provided by the above-mentioned actors, in the process of reviewing, amending or developing legislation that affects or would affect, directly or indirectly, the work of human rights defenders;

23. *Invites* the Special Rapporteur on the situation of human rights defenders to continue to execute the activities under her mandate, including in the follow-up to the present resolution, by monitoring progress and by providing guidance, assistance and follow-up with States, as needed;

24. *Decides* to remain seized of the matter.
