



**Fédération internationale des ligues des droits de l'Homme**

ORGANISATION INTERNATIONALE NON GOUVERNEMENTALE AYANT STATUT CONSULTATIF AUPRES DES NATIONS UNIES, DE L'UNESCO,  
DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

International Federation  
for Human Rights

Federación Internacional  
de los Derechos Humanos

الفدرالية الدولية لحقوق الإنسان

## **UN HUMAN RIGHTS COUNCIL**

### ***Maintaining Country Procedures***

**9<sup>th</sup> Session**

**8-23 September 2008**

- **Why Country Specific Procedures ?**
  - **Burundi**
  - **Cambodia**
  - **Somalia**
  - **Sudan**

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**Why Country specific procedures?**

The present report, published on the occasion of the 9<sup>th</sup> session of UN Human Rights Council, documents the situation of four countries which are currently under a public country procedure. The situations in Cambodia, Burundi, Somalia and Sudan. Although very different in many aspects, encompass patterns of grave and massive human rights violations. They have been singled out by the former Commission on Human Rights in accordance with its protection and monitoring mandate, with the view to **addressing grave and massive human rights violations**.

FIDH and its member organisations in each of these countries documenting on a day to day basis the evolution of the situation, sometimes putting their own lives at risk, call on members of the Council to extend these mandates.

FIDH is deeply concerned with the numerous calls within the Council to abolish all its country mandates and demonstrates in this report why these procedures remain necessary within the framework of the reformed human rights mechanisms and why the situations in Burundi, Somalia, Sudan and Cambodia still require a close follow-up at the Human Rights Council.

***The value of country procedures***

Country procedures are a distinct yet complementary mechanism to other mechanisms of the council. They represent the most accurate response the Human Rights Council can provide to the challenges of a situation of grave human rights violations. When such pattern of violations occur, the response from the Council should correspond to the level of required intervention and include :

- an expert and individualised dialogue with the authorities on how to address the whole pattern of violations,
- the provision of *in situ* visits, engaging with authorities, and beyond them civil society actors.a permanent monitoring of the evolution of the situation
- (where applicable) provision for technical assistance

***Country Procedures vs Thematic Mandates***

Country and thematic mandates are complementary.

- Thematic mandates cannot address the broad pattern of concerns arising from situations of grave and massive human rights violations, as they only focus on one issue
- Thematic mandates have a universal scope of intervention, and cannot provide the sustained attention that is required by a specifically grave

situation.. They indeed do not have the capacity to visit regularly the concerned country to monitor and assess thoroughly the evolutions, or more importantly, to pursue a sustainable dialogue with the concerned country on how to respond adequately to the violations.

***Country Procedures vs Special Sessions***

These two mechanisms are complementary and do not replace each other. Indeed :

- Special sessions represent an urgent reaction by the Council to emerging crises, an occasion for the international community to meet and initiate an appropriate response to such crises
- A country procedure can result from a Special session. It is a permanent mechanism, and not a one day meeting.

***Country Procedures vs the Universal Periodic Review (UPR)***

The newly established UPR has a cycle too long to provide the sustained attention required by a situation of grave human rights violations. In addition,

- the UPR does not undertake country visits, enabling a thorough evaluation and sustained scrutiny of the situation,
- the UPR is a three hours dialogue with a given State by the international community, thus different to a sustained dialogue with a human rights expert,
- the UPR does not provide a regular expert report on the pattern of violations but an occasional evaluation from States, that is not safe from partial evaluations.

**BURUNDI**

La situation des droits humains au Burundi ne s'améliore pas malgré la mise en place d'institutions démocratiquement élues en 2005, et la signature d'un accord global de cessez-le-feu entre le gouvernement et le dernier mouvement rebelle le Parti pour la libération du peuple hutu- Forces nationales de libération (Palipehutu-Fnl) le 7 septembre 2006.

Ainsi, la FIDH et son organisation membre, la Ligue burundaise des droits de l'Homme (ITEKA) expriment leur inquiétude concernant la recrudescence de l'insécurité liée aux assassinats et vols à mains armées qui s'observent à travers le pays. En 2007, la Ligue Iteka avait enregistré 641 cas d'atteintes au droit à la vie. En 2008, la tendance est plutôt à la détérioration. En effet, au cours du 1<sup>er</sup> semestre 2008, la Ligue Iteka avait déjà enregistré 409 cas.

Les cas de torture sont également nombreux : 301 enregistrés au cours du 1<sup>er</sup> semestre 2008. En 2007, la Ligue avait recueilli 537 cas de torture.

Par ailleurs, les cas de viol déclarés s'élevaient à 455 au cours du 1<sup>er</sup> semestre 2008. En 2007, ils étaient 2089.

Au niveau politique, l'année 2008 connaît de nombreuses turbulences avec les crises répétitives à l'Assemblée nationale qui se sont soldées par la radiation par la cour constitutionnelle de 22 députés qui n'étaient plus membres du Conseil national pour la défense de la démocratie – Forces de défense de la démocratie (CNDD-FDD), le parti au pouvoir.

La mise en application de l'accord de cessez-le-feu entre le gouvernement et le Palipehutu-Fnl connaît beaucoup d'entraves malgré le retour le 30 mai 2008 à Bujumbura du leader de ce mouvement.

En outre, les autorités ont une fois de plus porté atteinte aux libertés d'expression et d'opinion. C'est ainsi que l'activité syndicale a connu des entraves depuis le début de l'année (cas des syndicats de la SOSUMO, COGERCO, ministère de la justice). Les partis politiques dits d'opposition ont également des difficultés pour tenir leurs réunions statutaires dans les régions.

La société civile, qui semblait épargnée, est depuis le mois de juillet 2008 dans le collimateur du pouvoir. Depuis le 23 juillet 2008, date à laquelle la radio Rema FM, proche du pouvoir a diffusé une interview d'un présumé dissident du Palipehutu-Fnl qui a accusé des membres de la Ligue Iteka de lui avoir confié une mission d'incriminer le responsable du service national de renseignement et le chef d'Etat d'Etat-major adjoint de l'armée dans un plan d'élimination des leaders de l'opposition. Trois membres de la Ligue Iteka et un correspondant d'International Crisis Group ont été appelé à comparaître au parquet de la mairie

de Bujumbura. Le président de l'OLUCOME (Observatoire de lutte contre la corruption et les malversations économiques) subit aussi des pressions judiciaires.

Face à ce constat, le travail de l'Expert indépendant des Nations unies sur le Burundi est essentiel. Il permet d'informer la communauté internationale sur les graves violations des droits de l'Homme dans ce pays et l'état de mise en oeuvre de l'accord de cessez-le-feu entre le gouvernement et le Palipehutu-Fnl. Ses interventions auprès des autorités nationales sont importantes pour le respect des libertés fondamentales dans le pays. Par ailleurs, la persistance de ses propos en faveur d'un mécanisme de justice et de réconciliation engage la responsabilité de la communauté internationale pour la création d'un tel mécanisme.

**Par conséquent, la FIDH et la ligue ITEKA demandent au Conseil des droits de l'Homme d'adopter une résolution :**

**Condamnant les violations des droits de l'Homme perpétrées contre la population civile, les responsables d'organisations de la société civile et des défenseurs des droits de l'Homme et les représentants des partis politiques ;**

**Appellant les autorités burundaises à :**

- **Mettre pleinement en oeuvre l'accord de paix conclu avec le Palipehutu-Fnl en septembre 2006, notamment la démobilisation, le désarmement et la ré-insertion des combattants afin de garantir aux Burundais la paix, la sécurité et la justice ;**
- **Garantir l'intégrité physique, la liberté d'opinion et d'expression des défenseurs des droits de l'Homme et des membres des organisations de la société civile, des journalistes et des membres des partis politiques;**
- **Identifier et poursuivre en justice les auteurs des assassinats qui sont commis à travers tout le pays et lutter contre l'impunité des auteurs des crimes les plus graves, particulièrement en allouant les ressources budgétaires propres à garantir l'indépendance de la justice ;**
- **Finaliser les négociations en cours avec les Nations unies pour la mise en place d'un double mécanisme de justice et de réconciliation garantissant le droit des victimes à la vérité, à la justice et à réparation ;**
- **Finaliser la mise en place de la commission indépendante des droits de l'homme conforme aux principes de Paris ;**

**Reconduisant le mandat de l'expert indépendant sur la situation des droits de l'Homme au Burundi jusqu'à la mise en place effective de la commission indépendante des droits de l'homme et lui fournissant l'assistance nécessaire au bon accomplissement de son mandat.**

**CAMBODIA**

The International Federation for Human Rights (FIDH) and its affiliated members<sup>1</sup> in Cambodia, the Cambodian League for the Promotion & Defense of Human Rights (LICADHO) and the Cambodian Human Rights & Development Association (ADHOC), fully support the renewal of the mandate of the Secretary General's Special Representative for Human Rights in Cambodia. We wish to draw the Council's attention to the compelling reasons why this mandate is not only justified but still crucial.

The human rights situation in Cambodia remains grave, characterized by systematic human rights violations, a pervasive climate of impunity and an absence of rule of law. A growing land crisis, in which tens of thousands of people have been evicted, jeopardizes social and economic stability. Human rights defenders are routinely harassed and imprisoned or worse. The judiciary is still not independent. There are no truly independent institutions to provide any meaningful checks and balances on the ruling party which means the Cambodian political system increasingly resembles to a one-party State.

In this context, there is a pressing need for continued engagement with Cambodia by UN human rights mechanisms to the fullest extent possible. The position of the Secretary-General's Special Representative on human rights, in particular, is the most important as it offers an unique avenue for dialogue with the Royal Cambodian Government, ensuring that the international community is objectively informed of the human rights situation on the ground, and, most importantly, assisting the Government in enhancing the independence of the judiciary and establishing an independent Human Rights Commission, and conveying support and protection to local human rights groups and activists.

Now would be an especially unfortunate time for the Special Representative's mandate to be abolished or downgraded, as Cambodia is at a precarious crossroads. Recent developments are increasingly raising fears of a return to a one-party state. In national elections held in July - elections which, as the European Union observation mission concluded, failed to meet "key international standards for democratic elections" - the ruling Cambodian People's Party (CPP) won an overwhelming majority. The CPP is now in its strongest-ever position in parliament, with enough seats to give it sweeping powers including to change the country's Constitution at will. The parliament has long been feeble and prone to bullying by the CPP but, as a forum for debate and scrutiny of government policy, it now seems destined to fall to new depths. Other

<sup>1</sup> Cambodian League for the Promotion & Defense of Human Rights (LICADHO) and the Cambodian Human Rights & Development Association (ADHOC)

institutions which should provide accountability, such as the Constitutional Council and the Supreme Council of Magistracy, have long been similarly tethered to the CPP.

The assassination of opposition newspaper journalist Khim Sambo two weeks before the elections demonstrates the stark limits to freedom of expression in Cambodia, and the risks faced by news media and other human rights defenders. Those responsible for this crime have not been arrested. At least nine other journalists have been murdered because of their work in the past 15 years, and none of the perpetrators have been brought to justice. Such impunity remains the most pervasive and destructive facet of the human rights problem in Cambodia, with numerous assassinations and other serious crimes going unpunished. They include the 2007 murder of trade unionist Hy Vuthy, who along with Ros Sovannareth and Chea Vichea was the third official from the same union to be shot in three years. The case of Chea Vichea, assassinated in 2004, remains the most blatant example of impunity, miscarriage of justice and executive interference in the judiciary. His killers walk free while two innocent, who were clumsily framed by the police and convicted by the judiciary in an unfair trial, remain in prison despite overwhelming evidence of their innocence.

The lack of rule of law, as well as corruption, is also at the center of one of the most burning human rights issues in Cambodia - an epidemic of land-grabbing which continues to threaten to destabilize the country. Rich and powerful individuals routinely steal the land of the poor while politically well-connected companies obtain huge swathes of the countryside through economic land concessions from the government. Some 20% of rural Cambodians are landless, and many of their urban compatriots in the capital Phnom Penh are also being displaced by rapid commercial development. An estimated 30,000 Cambodians have been evicted in the past five years in Phnom Penh alone, and a further 150,000 nationwide are said to currently live under threat of eviction. The ramifications from this mounting landlessness for poverty reduction efforts in the country are obvious.

Victims of land grabbing, and other rights violations, cannot rely on the corrupt and politicised courts to protect them. To the contrary, the judiciary is often part of the problem, not the solution. It routinely ignores or misinterprets the law in order to 'legalize' the stealing of land by the rich and powerful and to punish the poor who resist. A favored tactic of land-grabbers is to file unjustified criminal complaints against community leaders and land activists who oppose their attempts to take land, and prosecutors and judges have proven themselves willing accomplices to this. The courts have charged, detained and/or convicted dozens of community activists - often without a evidence and in blatant violation of the rights to security of the persons and to fair trial disregarding all legal procedures - over recent years. The judiciary is similarly used to obstruct and silence other human rights defenders and government critics, particularly journalists and trade unionists, on a regular basis.

The lack of progress made in strengthening human rights in Cambodia remains a serious concern to our Organisations. The government fails to meet its human rights obligations on a daily basis, ignoring the provisions of international conventions and covenants it has signed as well as the country's own Constitution and domestic laws. While the government continues to promise judicial, legal and other reforms, its actions consistently speak otherwise. The authorities promote the so called development policy without a human rights - based approach, in clear violation of the Paris Peace Accord principles.

Domestic protections for human rights remain fragile, and the democratic space for human rights defenders and civil society in general grows smaller and smaller. The current situation demands firmer action from the UN and Cambodia's biggest foreign donors. It demands more engagement, not disengagement.

Cambodian civil society continues to struggle for human rights, democracy and social justice. The people of Cambodia expect support in this endeavor from the UN and from this Council. By renewing the mandate of the Secretary General's Special Representative, through the passing of a robustly-worded resolution, this Council can support and protect the work of Cambodian rights defenders as it is its role and responsibility

**FIDH, LICADHO and ADHOC request the Council to renew the mandate in a resolution calling the authorities of Cambodia to :**

- **implement the previous recommendations of the UN Secretary-General's Special Representative for Human Rights in Cambodia and engage in a constructive dialogue with him, thereby respecting its international human rights commitments, regarding in particular its co-operation with the UN special procedures ;**
- **put an end to impunity for acts of repression against community leaders, journalists, human rights defenders and trade unionists ;**
- **engage necessary reforms in the justice sector as well as relevant anti-corruption policies ;**
- **establish a moratorium on all involuntary evictions until the adoption and the proper and vigorous implementation of a strict legislative framework.**

## SOMALIA

The International Federation for Human Rights (FIDH) expresses its concern over the human rights situation in Somalia and urges the Human Rights Council to continue the mandate of the Independent Expert on Somalia.

On 7<sup>th</sup> August, John Holmes, the United Nations Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, issued a press statement underlining his growing alarm at the continuing abuses and civilian casualties resulting from the conflict in Somalia, and underlining that “[a]ll parties to this conflict have an obligation under international law to protect civilians and to refrain from indiscriminate attacks”.

Indeed, the Transitional Federal Government (TFG) troops, the Ethiopian army members and the insurgents are responsible for serious violations of humanitarian law and human rights, which can be qualified as war crimes according to the provisions of the Geneva Conventions and the Statute of the International Criminal Court. And the recent Djibouti Peace agreement signed in June between the TFG and the Alliance for the Reliberation of Somalia (ARS), is not at all implemented.

In the last two months, civilians in Somalia have yet again been under attack, although the scale of civilian casualties has been significantly higher than in previous months. All incidents are associated with civilians being caught in the cross-fire between parties to the conflict, or when civilians have allegedly been intentionally targeted by these parties. The United Nations recently reported the killing of over 60 civilians in the Afgooye corridor between 15<sup>th</sup> and 16<sup>th</sup> August; at least 12 civilians were killed during shelling of Belet Weyne town on 16<sup>th</sup> August; approximately 12 civilians were killed during shelling of Bakara market on 21<sup>st</sup> August; and over 40 civilians were killed and 100 injured during fighting for control of Kismaayo between 20<sup>th</sup> and 22<sup>nd</sup> August.

Moreover, the security situation in the capital city, Mogadishu, and its outskirts remains extremely volatile, with heavy clashes between insurgents and TFG/Ethiopians. A large number of clashes have resulted in reduced humanitarian access and in heavy civilian deaths.

Nearly 95,000 people were displaced in July, out of which roughly 10,000 persons were displaced due to insecurity in Mogadishu, and 74,000 due to insecurity in Belet Weyne. The overall total number of displaced persons in Somalia from the beginning of the year is approximately 400,000.

Several incidents, such as attacks on and closing down of media houses, assassinations, and arbitrary arrests of journalists continued with seven journalists arrested, two killed, and one deliberately shot and injured.

Since January 2008, about 109 security incidents involving humanitarian workers and assets occurred. The extremely

worrying trend of aid workers and aid assets being directly targeted continues. Since the beginning of January, 20 aid workers have been killed. Several aid workers were abducted and some of them are currently being held in Somalia.

**As a consequence, FIDH urges the Human Rights Council to hold a special session on the human rights situation in Somalia, and adopt a resolution**

- **Condemning the increasing violence in Somalia and the killing of civilians**
- **Calling upon the Transitional Federal Government, Ethiopian troops and all non-state warring parties to desist from harassing, intimidating, assaulting, arresting and detaining innocent civilians**
- **Calling upon the TFG, Ethiopian troops and insurgents to immediately end systematic attacks on human rights defenders and journalists**
- **Insisting on creating an enabling environment for human rights defenders and journalists to conduct their work freely and without hindrance**
- **Urging the international community to step up their support to Somalis living under terrible conditions in IDP camps and in exile in neighbouring countries and who are currently without assistance;**
- **Encouraging the TFG to end impunity by bringing those responsible for the current and past violations to justice whilst ensuring access to a fair trial, which adheres to international standards;**
- **Encouraging the international community to ensure that a genuine peace and reconciliation process is carried out, a process which includes all the parties in the conflict, and which places particular emphasis on the establishment of accountability mechanisms;**

## SUDAN

The International Federation for Human Rights (FIDH) and its partner organisation the Sudan Organisation Against Torture (SOAT) express their concern over the human rights situation in Sudan and urge the Human Rights Council, at its 9<sup>th</sup> session, to sustain and support the mandate of the Special Rapporteur on Sudan established by the Commission on Human Rights according to resolution 2005/82.

The Special Rapporteur (SR) is vital in her role of investigating and documenting the human rights situation across Sudan. Although the government has agreed to new policies and bills, this has failed to impact on the situation on the ground where gross violations of political, civil and cultural rights remain commonplace. Laws which seriously violate the Constitution and international human rights standards are still in use.

Under the National Security Act, arbitrary arrests, detentions and interrogations are carried out and freedom of expression curtailed. Following the 10 May Omdurman attacks, widespread arbitrary arrests took place with the police and the National Intelligence and Security Service (NISS) reportedly targeting Darfuris. Released detainees, some as young as 14, had to be treated for severe injuries from physical abuse in custody. There remain approximately 3,500 detainees held throughout Sudan. In addition, students, political activists and human rights defenders have continued to be targeted. Under current Sudanese law, a person can be detained for up to nine months without charge. Current legislation gives state officials effective protection from prosecution.

The conditions in the newly formed 'Special Courts', set up to try suspected rebels under Sudan's 2001 Anti-terrorism law, violate both national and international legal and human rights standards. Defendants have been stripped of their rights to a fair trial, access to lawyers has been denied and confessions extracted in custody taken as evidence. Through these courts, 50 defendants have been sentenced to death and have only one week to appeal. The government is in the process of creating more courts to try more individuals under the same legislation.

The situation in Darfur continues to be a key focus particularly after the International Criminal Court (ICC) Prosecutor issued the indictments against Al-Bashir including genocide. The SR has devoted attention to the conflict, which is essential as Darfur remains a region where gross violations of human rights are perpetrated, mass internal displacement continues and where insecurity reigns affecting the whole neighbouring region. SOAT has documented several attacks on settlements in January and February in Western Darfur, perpetrated by government forces and allied militias; at least 115 people were killed and several women raped. In May 2008, aerial bombings hit villages in North Darfur. Such crimes frequently remain

uninvestigated with existing legislation often granting – immunity to state officials.

Against this background, the UNAMID mission is deteriorating due to a lack of essential equipment and troops; Al-Bashir continues to refuse European and American support against the advice of the UNAMID commander. Moreover, the peacekeepers themselves have become the targets of sustained attacks, nine having been killed since January. The peacekeepers' inability to conduct their work in safe conditions free from the threat of violence seriously undermines the UNAMID mission and renders the government in violation of its international commitments which further threatens the lives of civilians. Al-Bashir has also threatened that the troops will be removed if the ICC issues arrest warrants. As a result, monitoring the implementation of the mandate and the safety of the troops is currently critical.

Freedom of expression has also been restricted as Sudanese authorities have launched a harsh crackdown on the media. Censorship has further intensified following the Justice and Equality Movement (JEM) attacks and the ICC indictments of Al-Bashir. Journalists have been intimidated and Newspapers have been closed down or stopped from going to print under the National Security Act.

The SR's attention to the implementation of the Comprehensive Peace Agreement (CPA) is also crucial. The violence in Abeyei is a symptom of the agreement's fragility. A successful implementation of the CPA and the Interim National Constitution (INC) is necessary for Sudan's democratisation process, protecting human rights, assessing the root causes of its conflicts, achieving justice and reaching a lasting peace throughout the country as a whole. The transition to democracy and the protection of freedom of speech is vital if the approaching elections in 2009 are to be free and fair.

The SR in seeking to reach national and international human rights standards also fulfils an essential role in officially monitoring, documenting and disseminating the situation from the ground. To achieve widespread peace and stability in Sudan, the CPA must be implemented, the INC fully applied, impunity questioned and human rights law respected; the SR is crucial to this process.

**FIDH and SOAT call on the Council:**

**To maintain and support the mandate of the Special Rapporteur on Sudan;**

**To call on the Government of Sudan to:**

- **Continue cooperating with the mandate of the Special Rapporteur;**
- **Respect its constitutional, legislative and international human rights obligations particularly regarding torture and fair trials;**

- **Speed up the harmonisation of its laws in line with the Interim National Constitution including the National Security Act;**
- **Cease harassment and the arbitrary detention of Darfuris, students, journalists and human rights defenders and remove restrictions on local media;**
- **End the culture of impunity and ensure accountability for the crimes perpetrated in Darfur in order to end the conflict, including cooperating with the international community and in particular with the International Criminal Court, and agreeing to the deployment of more troops for the UN/AU force and ensuring thier safety.**