

# POLITICAL TRANSITION FROM A HUMAN RIGHTS PERSPECTIVE: EXPERIENCES AND CHALLENGES

Forum in the framework of FIDH 38th Congress, Istanbul, May 2013

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,





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# Introduction

FIDH and its member organisations in Turkey, the Human Rights Association of Turkey (IHD) and the Human Rights Foundation of Turkey (HRFT), held a Forum on Political Transitions on 23 and 24 May 2013 in Istanbul. This event gathered together more than 400 participants: representatives from FIDH member organisations from all regions of the world, experts in human rights, members of the diplomatic community and persons from the civil society of Turkey.

The governing bodies of FIDH wished to focus this Forum on transitions because this issue has seen renewed relevance in the wake of the Arab Spring. Moreover, this issue arouses the interest of the majority of the FIDH member organizations. It appeared important to attempt, through this Forum, to give key to analysis from an international human rights law perspective, so as to clarify the position of the FIDH movement on sometimes extremely sensitive and complex issues. Also, it gave participants the opportunity to exchange their respective national experiences with one another and to share lessons and define together strategies for action for the leagues and their federation.

The term “political transitions” was chosen deliberately because it meets a broad definition, which encompasses the post-conflict situations, but also situations in countries marked by revolutions followed by a change in regime, or even those experiencing economic crises likely to affect democratic institutions. The term “political transition” includes the transitions toward democracy, but also transitions marked by regressions in the areas of freedom. This choice is based on the observation that transitions do not necessarily lead to democracy.

Turkey was chosen to host this Forum because this country is engaged in a period of transition, marked by negotiations leading to an historic cease-fire, the persistence of systematic human rights violations and an offensive foreign policy, all driven by an Islamist AKP government in power for ten years now and which placed safety and moral order at the heart of its platform in a society that is nonetheless secular. Turkey is also closely observed by governments in Middle East and North Africa, who have themselves only recently assumed power and are currently undergoing the process of political transition. In several countries in the Arab world, constitutions and the legislative framework are being reformed. These moments are both an opportunity to make advances in human rights but also a risk in regression for the protection of human rights, and particularly for women’s rights.

The Turkish authorities participated in the Forum at the highest level: Deputy Prime Minister, Beşir Atalay, attended the opening session while the Chairperson of the Republic, Abdullah Gül attended the closing session of the Forum.

Opening ceremony of the Forum, from left to right: Beşir Atalay (Deputy Prime Minister of Turkey), Sang-Hyun Song (Chairperson of the ICC), Öztürk Türkođan (Chairperson of the Human Rights Association of Turkey - IHD), Stavros Lambrinidis (EU Special Representative for Human Rights).



These interactions with the Turkish authorities gave FIDH the opportunity to reiterate its calls for the release of journalists, lawyers and human rights defenders detained arbitrarily in Turkey; for the ratification of the Statute of the International Criminal Court by Turkey; for the respect of minority rights; for the respect of women's rights; to guarantee the independence and impartiality of the justice system; and to follow through with the peace process with the representatives of the Kurdish people. The protests held just after the FIDH Congress in Istanbul and in the other large cities of the country illustrate, if necessary, that the democratic transition in Turkey is still a work in progress, and the extreme fragility of such processes. FIDH and its member organisations in Turkey expressed their serious concern regarding those events<sup>1</sup>.



President Abdullah Gül during the Forum closing ceremony.

With respect to the experiences discussed, it is obvious that the transitions are not linear, but marked by advances and setbacks. The overthrow of a dictatorship can be followed by the emergence of another dictatorship, as was the case for example in Iran after the 1979 revolution. Vigilance is therefore required, and citizens in general and human rights defenders in particular are mobilised in this direction in Tunisia and Egypt, for example.

The discussions held during the Forum illustrated once again the indivisibility and interdependence of human rights. Periods of crisis and transition are all the more revealing. The Forum highlighted also the importance of the processes of justice in periods of transition, and the need for particular attention to the rights of women, minorities and indigenous peoples, often forgotten in periods of transition. The connection between religion and human rights has also attracted considerable interest and debate.

This Forum measured the increasing role of emerging countries, among which is Turkey, in regional landscapes and internationally. A certain number of these countries experience themselves political transitions, the result of which remains uncertain. Adapting advocacy, communication and alliances strategies within a constantly changing environment are among the principal challenges facing the human rights movement over the next few years.

The close relationship between development, human rights and environmental protection also appeared acutely, particularly during the discussion on the rights of indigenous peoples or on human rights violations due to corporate activities. This issue will require in the future, it also, innovative responses from organisations defending human rights.

This note summarises the principal elements emanating from the presentations and exchanges of experiences discussed during the Forum in Istanbul. Without claiming to be exhaustive, this note serves to emphasise the most salient points of analysis and the avenues for action identified by the participants. These will drive particularly the strategies put into place by FIDH within its Multi-year Strategic Plan.

1. See FIDH Open letter to Abdullah Gül, published on 11 June 2013 and FIDH public statement subsequent to the death of protesters published on 11 July 2013, available at <http://www.fidh.org/en/Europe,178/Turkey,278/>. See also IHD report on [http://en.ihd.org.tr/index.php?option=com\\_content&view=article&id=739:report-on-incidents-during-the-gezi-park-resistance-27-may-2013-10-july-2013&catid=17:special-reports&Itemid=37](http://en.ihd.org.tr/index.php?option=com_content&view=article&id=739:report-on-incidents-during-the-gezi-park-resistance-27-may-2013-10-july-2013&catid=17:special-reports&Itemid=37)

# I. Institutional and judicial reforms for the establishment of a Rule of Law

Democracy cannot be reduced to the reign of the majority. It implies pluralism, citizen participation and respect for human rights. Women's rights, the place of religion in the public sphere, the respect of the freedom of expression and the rights of minorities reveal the degree of democratisation and advancement of the Rule of Law. They are integral parts and are the foundation on which to build transitions. No violation of human rights can be justified not even under the guise of an economic crisis or the alibi of religion.

The organisation of free and equitable elections is a necessary condition but not sufficient to guarantee democracy and the Rule of Law. An independent authority must be in charge of organising the elections. These elections can be done on the basis of a specific electoral law establishing a voting system as was the case in Tunisia. In every case, a constitution must be drawn up in a participatory process. It is also essential to ensure that the security situation is consistent with the organisation of elections.

The Rule of Law implies a strict separation - and therefore no confusion - of powers. Transition periods must adhere to putting an end to the practices of the past by fighting against impunity of grave violations of human rights committed under the former regime, against corruption and by putting an end to the hegemony of economic actors to lay the foundations for social equality. Constitutional reforms should be an opportunity to reaffirm unequivocally the universality and the primacy of international human rights law on the internal standards and international agreements on trade and investment. The independence of the judiciary should be absolutely protected, it implies independence from the executive and legislative branches of government, but also from other powers (particularly political or economic). Moreover, the army must be subjected to civilian power.

Transition cannot in any way impose reconciliation; it should create the conditions of an independent and efficient judicial process and assist in addressing individual and institutional responsibilities. Reparation cannot be reduced to a financial dimension; instead it should be integral (including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition). In compliance with internationally recognised standards, the rights to truth, justice and reparation of victims and their families should be respected, including the right of the community to know. Guarantees of non-repetition should be adopted (constitutional, institutional, legal, security and economic reforms). Ratification of the Statute of the ICC and of instruments establishing regional human rights bodies is important for contributing to the reinforcement of the administration of justice.

The adoption of mechanisms of universal jurisdiction also favours the global fight against impunity of the gravest crimes, thereby strengthening the Rule of Law.

In terms of reform of the criminal justice system, the death penalty should be abolished, and the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition the death penalty ratified. This would contribute to put an end to this inhuman

punishment which is often applied in an unfair and discriminatory way.

Finally, it is fundamental that an inclusive process be guaranteed during periods of transition. Civil society should be consulted and involved in the different steps of constitutional and legislative reforms; this is especially so for women, but also for the media, the education sector, the administration of justice and security sectors, and minorities. This participative process, taking into account cultural and linguistic diversity, guarantees a better appropriation for reforms, their legitimacy and their sustainability. It also ensures that cultural rights are enshrined in the texts adopted.



Meeting between representatives of FIDH member organisations under preliminary examination or investigation and the ICC Prosecutor.

As such, it is important that FIDH continues to call on states to:

- ➔ Reaffirm unequivocally within the legislative and constitutional reforms accompanying transitions, the universality and primacy of international human rights law on domestic standards; the separation of powers and the independence of the judiciary; the guarantee of fundamental rights, the criminalisation of their violation and the fight against impunity; the establishment of effective mechanisms to fight against corruption, ensure political pluralism and respect diversity while prohibiting discrimination; and the superiority of human rights on international trade and investment agreements.
- ➔ Guarantee under transition the rights to truth, justice, reparation and guarantees of non-repetition concerning grave violations of human rights.
- ➔ Place human rights and justice at the heart of debates on the resolution of conflicts with the UN Security Council, and in policy forums of regional bodies.
- ➔ Adhere to and support more broadly international or hybrid courts, and specifically the International Criminal Court, in their development of missions of investigation, sanction, reparation and prevention, in tandem with national legal systems.
- ➔ Adopt the mechanisms based on the universal and extra-territorial jurisdiction.
- ➔ Establish a moratorium on the death penalty in view of its abolition.
- ➔ Establish a timetable for reform of regional bodies to enable them to play a political role in supporting the success of transition processes.

## II. Women, drivers of transitions



If women played a key role in revolutions or the Arab Spring, the degree of public recognition of this role varied largely according to the conservatism of the societies of the countries of the region. Steadily, the demands of women in these revolutions were expressed in two ways: equality for all and the development of their own rights to full citizenship. If the claims of women in the development of their own rights have mostly not been completed, so far there is an undeniable historical movement: the issue of women's rights is now central in each society of the countries marked by these revolutions.

Souhayr Belhassen, FIDH President, during the Forum opening ceremony.

In **Tunisia**, women played a key role in the revolution, but the authorities wished to limit their rights. The inclusion of at least 50 percent women candidates in parliamentary elections should be welcomed. However, the resistance to an egalitarian representation remains very strong. Furthermore, a campaign took shape against the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Some women participated by challenging the right to abortion and the provisions of CEDAW limiting the possibility for children to marry and prohibiting forced marriages.

Generally, participation of women in the peace negotiations and the transition processes remain limited. Thus, for example, women have a reduced role in the peace negotiations in Turkey. However, the participation of women in peace processes is essential in order that issues relating to the distribution of power, as well as the legacy of the war, including sexual violence in armed conflicts, also be addressed.

In **Guatemala**, the recent trial of former dictator Rios Montt has enabled female victims of sexual violence to break the silence that has weighed on this for thirty (30) years. Thus, they have been able for the first time to express themselves before the judges, but also for many of them before their own families. Many other women found the testimonies very similar to what they had experienced themselves. The participation of victims in this historic trial has shown that access to justice for indigenous women is possible.



Women's representation in political bodies of their country is essential to allow a democratic transition, taking into account the protection of women's rights. The threshold of 30% generally proposed as the minimum cannot be considered as sufficient. Some so-called democratic countries unfortunately have little lessons to give on the subject.

How to confront attempts led by conservative forces to limit women's rights?

In **Ireland**, it should be remembered that the divorce was introduced less than 20 years ago, amid strong resistance. Today, it is largely accepted. The issue of abortion continues to polarise the Irish society. Civil society organizations, including those that defend women's rights, have made great efforts to raise awareness, challenging the perceptions of "anti-choice" groups and the Catholic Church. But it is the judgements of the European Court on human rights which have assisted really in advancing reforms. On some issues, such as trafficking and prostitution, alliances between organisations defending human rights and religious groups have been forged.

Thus, FIDH should:

- ➔ Continue to call on states to take the necessary institutional, political and cultural measures to promote the participation of women in public life in general, and, in particular, in the processes and institutions of transition.
- ➔ Continue to call on states in transition to take constitutional and legislative measures to guarantee equality between men and women and the protection of their rights under international and regional human rights instruments.
- ➔ Contribute to the participation of women in the processes of prevention and settlement of conflicts and the implementation of the entire Resolution 1325 of the UN Security Council and subsequent follow-up resolutions.
- ➔ Strengthen its activities concerning the access of women to justice and the use of judicial and quasi-judicial redress mechanisms so as to enforce women's rights.
- ➔ Strengthen its action in the fight against impunity of the perpetrators of sexual crimes.
- ➔ The organisations defending human rights, and in particular FIDH and its members, should ensure equal representation between men and women in their decision making bodies.

# III. Religious freedom and political transitions

The relationship between religious freedom and the other human rights is posed in a number of countries in transition, in which the definition or redefinition of the place of religion in a Rule of Law raises a number of questions. It is necessary to reaffirm the primacy of individual rights and not those of religion. Beliefs must be respected, but must remain an individual and private exercise. Thus, religious traditions cannot triumph over universal human rights standards: it is individuals who hold the rights and freedoms of conscience and expression of opinion and belief. The emergence of religion in the public sphere may lead to a shift of a majority religion in a religious state, with the risks it poses for restricting freedoms.

The challenge resides in the conciliation of all possible opinions, whether religious or not. Among these opinions, there is the critical opinion, including the radical critique of religion which, insofar as it does not exceed its own limits (discrimination, inciting hate, etc) must have its place in a society that respects fundamental rights. Any attempt to limit the possibility of criticism is a hindrance to freedom of thought and conscience. However, inciting hate in the name of religion cannot be allowed. Such is the case, for example, of TV channels that broadcast calls for murder, whether Jewish extremists calling for the killing of Palestinians, or Imams pronouncing fatwas.

**The example of Turkey:** initially, secularism<sup>2</sup> put into place by Mustafa Kemal involved the strict separation of the church and the state. Today, in Turkey, each person can practise, or not, the religion of one's choice, wear, or not, the symbols of his/her religion, and can also believe in no religion. This means in principle that the state and public policies are equidistant from all faiths. Today, the Turkish authorities adopt regulations based on alleged Muslim values (closing times of bars serving alcohol, plans to build mosques in symbolic locations, etc). In addition, criminal proceedings are instituted supposedly to protect the values of the majority of the population, or to restrict freedom of expression under the guise of fighting against the defamation of Islam.

Civil society organisations and particularly organisations defending human rights must be able to work with religious organisations when the principles to which they ascribe do not contravene fundamental freedoms. Working with such organisations can promote a broader vision of religious freedom.

As such, FIDH should:

- Call for the inclusion within national institutions for anti-discrimination mechanisms, notably discrimination based on religion.
- Develop strategies to encourage religious leaders to integrate human rights into their approach and develop a pluralistic religious concept, favourable to freedom of expression and conscience and respectful of women's rights.

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2. Secularism is the principle of separation between Church and State.

# IV. Freedom of expression and political transitions

Only 14% of the world's population lives in a society which guarantees freedom of the press<sup>3</sup>. A number of countries practise censorship. Repression is practised particularly on the basis of the provisions of the Criminal Code or, as in Turkey, the anti-terrorism legislation.

The media are often in government hands or economic powers and stigmatise human rights defenders, exposing them to an increased risk in repression, as for example in Nicaragua. Furthermore, in a number of countries, governments try to neutralise the divergent voices by establishing GONGs (governmental NGOs, ie so-called NGOs actually subservient to the authorities), which simply relay the positions of their authorities to the international community.



Empty chair symbolizing arbitrarily detained human rights defenders, prevented as a consequence to participate in the FIDH Congress.

The Bianet experience in **Turkey**: Bianet is an alternative online media outlet which aims to give a voice to those who often do not appear in the media - women, the opposition, minorities - and reflects different cultures in their diversity. Bianet considers it important that the media transmit messages from those who cannot be heard. Bianet promises the use of a language of peace in transition periods, and seeks to exercise restraint in the choice of words used (eg to avoid the word «terrorist,» «martyrdom» and other symbolically charged and emotional terms). This media outlet refrains from transmitting calls for vengeance and avoids simplistic slogans in preference for analyses deciphering the root causes of conflicts.



President Abdullah Gül listens to Souhayr Belhassen's speech during the closing ceremony of the Forum. At the back, the wife and children of Muharrem Erbey, a member of IHD in jail..

3. According to Freedom House, less than 14 percent of the world's people—or roughly one in six—live in countries where coverage of political news is robust, the safety of journalists is guaranteed, state intrusion in media affairs is minimal, and the press is not subject to onerous legal or economic pressures. See <http://www.freedomhouse.org/report/freedom-press/freedom-press-2013>

Freedom of expression is a fundamental basis for democracy, including if opinions shock or scandalise. In international law, freedom of expression restrictions are particularly regulated and must meet cumulative conditions of strict interpretation. They must be prescribed by law, pursue a legitimate aim, such as the protection of the law or citizens, and must be justified in a democratic society, such as the protection of individuals against the discourse of racial and social hatred, and calls for violence. Thus, the separatist propaganda in Turkey is considered by the European Court of Human Rights as protected by the freedom of expression if the call for autonomy of Kurdistan does not incite violence or terrorism. In the United States, however, even very virulent hate speeches are protected by the freedom of expression.

Şebnem Korur Fincancı,  
Chairperson of the Human Rights Foundation of Turkey (HRFT).



The degree of protection against defamation varies depending on the features, and must be minimal with respect to rulers and maximum for citizens. Defamation is prohibited, but a journalist cannot be convicted criminally under the pretext that he defamed agents of the state. Defamation of a religion does not constitute a violation of human rights. As international and regional bodies for the protection of human rights widely noted it is the individual, subject of law, who can thereby claim protection against defamation, and not religion.

**Kirghistan:** NGOs which defend human rights launched a travelling film festival. Today this festival has evolved to include participation by schools, artists, representatives from the diplomatic community and defenders. National television grants organisers thirty (30) minutes to broadcast documentaries on social issues. However, in 2012, the Chairperson of one of the member organisations of FIDH in Kirghistan was indicted for a film shown at the festival on a Muslim homosexual. A local Imam presented her as an extremist putting public order and security at risk. The authorities have requested that the film be removed from the festival program under threat of prosecution, and in spite of the fact that freedom of expression is enshrined in the Constitution. In this case, the risks stemmed both from the authorities and radical groups.

It is therefore important for FIDH to:

- ➔ Call for the full respect of freedom of expression as enshrined in regional and international human rights instruments. Support the victims of violations of freedom of expression in societies in transition.
- ➔ Urge the public radio and television services to ensure pluralism and balance between the different currents of opinion.
- ➔ Continue to explore areas of cooperation with the alternative media in countries in transition.

# V. The rights of minorities and indigenous peoples

The respect of the rights of minorities is often the corollary of the level of democratisation and the degree of political transition. Ethnic and religious minorities are the target of sometimes systematic hate speech, violence and discrimination. The membership of each individual in the human race cannot be reduced to his or her origin, nationality, opinions, beliefs or religion, sex or sexual orientation.

This issue of the rights of indigenous peoples queries states on the notion of citizenship, nation, access to political power, including through the recognition of the right to self-determination and cultural rights and the right to property on land. Effective respect for individual and collective rights of indigenous peoples involves addressing key issues such as the redistribution of wealth, including natural resources, political and educational models, the structure of societies as well as the approach to environmental issues. The development model adopted by most countries is based on the use and exploitation of natural resources, often in violation of the collective rights of local communities and indigenous populations. The world-view of indigenous peoples is ignored, while they may not necessarily wish to adopt the productivist, consumerist and anthropocentric model; harmony with nature is essential for them. Social movements challenging such policies are criminalised and punished in many countries, particularly in the Americas and Asia. In Colombia alone, 24 indigenous leaders were murdered between January and May 2013.

Finally, lesbians, gays, bisexuals and transsexuals see their rights sacrificed in many countries, in the name of public morality. They are a little visible minority, notably because of the repression suffered. Rights defenders of LGBTI rights (lesbian, gay, bisexual, transgender, and intersex) are often harassed. NGOs which defend human rights must adopt clear positions in favour of the respect of the rights of LGBTI and their non-discrimination.

Therefore, FIDH should:

- ➔ Continue to advocate for the inclusion of the rights of minorities and the principle of pluralism in constitutions and laws.
- ➔ Continue to demand that the right to education in minority languages be recognised and promoted.
- ➔ In Europe in particular, seek affirmative action specifically to ensure respect for the rights of Roma and guarantee their formal and substantive equality.
- ➔ Continue and strengthen its work on the protection of indigenous peoples' rights, including their right to participation, prior consultation and consent for projects that may have an impact on their rights.
- ➔ Strengthen its work on the protection of LGBTI rights in the future, and encourage the sharing of information on this issue within the FIDH network and beyond, especially in areas where it remains taboo.

# VI. Impact of economic crises on human rights

Too often, public policies led by states are guided by economic considerations instead of being anchored in democracy and human rights. The current strategies in the countries of Southern Europe, under the influence especially of international financial institutions in reaction to the economic crises, respond essentially to ideological motivations and erode the democratic space and social rights, especially union rights. Social protest in response to violations of economic and social rights is subject to repression, which illustrates once again the inextricable link between civil and political rights and economic, social and cultural rights. These countries therefore are undergoing a somewhat reversed transition.

Austerity measures are inherently discriminatory in that they have an increased impact on the poorest and most vulnerable sectors of society. The cuts in public services, freezing or reducing the minimum wage and violations of the right to collective bargaining, are violations of human rights. Such measures have the effect of reinforcing the extremes of the political spectrum and the polarization of society. The extreme right and populist movements are growing alarmingly in Europe, especially in Greece, where hate speech and crimes against migrants are increasing.

It remains difficult today to ensure the effective implementation of economic and social rights before national courts, especially since the causal link between the violation and the action or inaction of the state is complicated to establish. The justiciability of economic, social and cultural rights remains inadequate.

The following courses of action have been identified for FIDH and its member organisations :

- ➔ Continue to mobilise in favour of ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and in Europe, the European Social Charter and its collective complaints mechanism.
- ➔ Develop arguments on the causes of the crisis and possible responses in order to show that austerity measures are not the solution. Explain that the economic situation cannot in any case justify human rights violations. Develop the discourse on the obligations of international financial institutions in the field of human rights. Strengthen alliances, including with trade unions, to consolidate strategies of resistance to current policies, particularly in Europe.
- ➔ Develop equality impact assessments of austerity measures to demonstrate their profoundly discriminatory nature (including cuts in public spending in the social sector).
- ➔ Strengthen monitoring of social protest, document and communicate about the repression of social movements, make institutions in charge of law enforcement accountable in this area.
- ➔ Call for consistently meeting standards for the behaviour of security forces when they manage social protests.
- ➔ Defend those who are prosecuted for participating in peaceful social protests in court.

- ➔ Conduct lawsuits for the fulfillment of economic and social rights, to develop case law involving the liability of the state in this area, including at the regional level (European Committee of Social Rights, the African Court of Human Rights, etc.). National organisations may provide legal assistance to workers who wish to manage bankrupt firms or firms that their owners have abandoned in cooperative.
- ➔ Strengthen the use of reports and recommendations of the UN mechanisms as tools for advocacy with national authorities.

# VII. Businesses and human rights in periods of transition

Political transitions are sometimes associated with economic transformations. Moments of political transition are also key periods to discuss economic models, and this is an opportunity for states in transition to negotiate or renegotiate agreements with international financial institutions and trading partners. It is commonly accepted in the dominant economic discourse that economic openness promotes democracy. However, the negative impacts of trade and foreign investment have been documented in many countries, whether they be impacts in the areas of the right to food, health, a healthy environment or land.

Businesses can be an actor of violations, benefiting from them or being accomplices. Victims are often deprived of effective remedies against violations involving companies, despite advances in recent years at the international level in the recognition of the respective responsibilities of the various actors, including companies (The UN Guiding Principles on Business and Human Rights adopted in 2011, and the Guiding Principles of the OECD for multinational enterprises).

**Cambodia:** land grabbing related to economic projects abounds in the country, and the moratorium on the granting of concessions on national lands adopted in May 2012 is a lure devoid of practical effects; new concessions were granted since its adoption. Yet the European Commission demonstrated inaction despite the alleged links between trade preferences granted to Cambodia under the GSP (Generalised System of Preferences) and violations of human rights. Indeed, encouraging agricultural exports has reportedly promoted forced evictions to develop sugar plantations. An October 2012 resolution of the European Parliament called for an inquiry into this issue.

**Kenya:** the ACP (African, Caribbean and Pacific) agreements are reviewed today in a liberal perspective. It is feared that the negative impacts on the most vulnerable are significant. In Kenya, 65% of agricultural products are likely to be affected, with severe implications for farmers and the right to food for local populations. This risk is further increased by the fact that the European Union offers subsidies to certain agricultural sectors.

In this regard, the following courses of action were highlighted:

- Call on states to regulate business activities, including their activities in third countries, especially by imposing a duty of due diligence and publication of information on their impacts on the environment and human rights, with penalties for non-compliance. Call for the reversal of the burden of proof when it comes to examining the causal link between injury and the activities of a company, in case of legal proceedings initiated by victims. Advocate for the parent companies to be held, in principle, responsible for the behavior of their subsidiaries. Engage multinationals to implement a greater responsibility for their strategies and practices, in proportion to their influence in the societies where they operate.



- Call on states and international financial and trade institutions to introduce the primacy of human rights at the heart of their development, investment and trade policies. These policies must be accompanied by impact indicators related to human rights, measured by independent mechanisms interacting with civil society in the countries and regions concerned.
- To mobilise so that states do not enter into treaties violating their international obligations in the field of human rights.
- Advocate so that the parliaments of states in transition are more involved in monitoring the negotiations of trade agreements, and that transparency prevails in this area to allow the citizen control. This is to prevent the executive branch from negotiating in opacity, by promoting economic private interests at the expense of the public interest.
- Develop case law, particularly in the context of international arbitration, allowing states to reconsider the provisions of already signed trade or investments agreements that appear to have a negative impact on human rights, without being therefore subject to heavy economic sanctions.
- Push governments so that impact studies are carried out prior to the conclusion of trade agreements, to contribute to transparency and democratic debate with the people concerned. These impact studies must be conducted in an independent, transparent and inclusive manner, following a rigorous methodology. Protection of the environment and the necessary consultation with indigenous people should gain importance in these processes.
- Establish a progressive interpretation of the UN Guiding Principles on Business and Human Rights, concerning the extraterritorial obligations of states. These obligations require countries where companies have their headquarters to regulate these companies, including when acting abroad and provide a remedy for victims of the actions of these companies in third countries (see Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights).
- Generally advocate strengthening remedies for victims of corporate behaviour at the regional and international levels and provide legal assistance to local communities wishing to sue companies for human rights violations.
- Strengthen the national legal framework so that states, particularly in the wake of regime change, have the necessary legal basis to regain their sovereignty and force companies to respect human rights, including those of indigenous peoples. Criminal responsibility of companies should be enshrined in domestic legislation.
- Begin to invest in corruption issues.

# VIII. Human rights, transitions and new information technologies

New technologies represent both an opportunity and a risk for human rights, as exemplified by the abuses in Iran in 2009.

**Iran:** In 2009, during the green revolution, the Iranian government has abused the technology provided by Nokia and Siemens to wiretap mobile phones. Many journalists were arrested: one of them was hiding out of Tehran and used his cell phone to transmit information. He was arrested and tortured before being sentenced to six years in prison. He said he was arrested because of these technologies.

Nokia issued a statement stressing that the Iranian government abused its technology at the expense of human rights and freedom of expression. Nokia cancelled its contract with Iran. But the Chinese government now provides a similar technology to the Iranian authorities.

The Internet allows citizens to document human rights violations by streaming directly on social networks, especially in times of conflict as in Syria, where it is extremely difficult to conduct field surveys. It is a tool which helps to break the silence. Social networks cannot only report violations, but can also play a protective role. Social networks can also help to get people physically into the street, as shown by the demonstrations in the Arab world.

But the Internet can also play a negative role in the abuse of freedom of expression, for example broadcast unverified rumours and calls for violence or murder, including against the defenders. In addition, the Internet is monitored and a number of journalists, human rights activists and bloggers are repressed as a result of this monitoring.

**China:** More than 500 million people use the Internet in China. The Chinese authorities continue to censor the web through the use of technology, in which businesses play a key role, contributing to serious violations of the freedom of information. Since 2005, Human Rights in China, a FIDH member organisation, conducts advocacy and litigation actions vis-à-vis companies like Yahoo and Facebook. In parallel, information technology businesses have come together in an initiative called the Global Network Initiative (GNI) to develop principles to guide their investments and activities in China, and develop a framework to clarify their responsibilities. This work is still ongoing, and HRIC will participate as long as the organisation considers it a credible process.



FIDH members call for the liberation of Alès Bialiatski (FIDH Vice-President from Belarus) and Nabeel Rajab (FIDH Deputy Secretary General from Bahrain).

European companies have sold surveillance software to **Bahrain**, for example, which were used to repress human rights defenders in the country. Organizations defending human rights have therefore seized the contact point of the OECD.

Finally, participants noted that GONGOs («Governmental NGOs - ie the so-called NGOs that serve the interests of the authorities) are no longer just on the ground, but also on the canvas in the virtual world, which implies an adaptation of the strategy of independent NGOs.

In light of these findings, several courses of action were identified by the participants:

- ➔ Mobilise (advocacy, reporting, litigation activities) against companies that sell technology used abusively to restrict the rights to freedom of information and expression.
- ➔ Continue to protect defenders, particularly in cases of violations of freedom of expression.
- ➔ Make more use of social networks, especially in authoritarian regimes, and be able to strengthen the capacity of independent local actors who request it.
- ➔ Start a reflection on how to check the veracity of information, including videos circulating on the Internet, and how to fight against the use of the Internet for purposes of inciting hatred.
- ➔ Be creative in using new technologies, not only the Internet but SMS, which disseminate information to people living in rural areas where Internet access is limited or non-existent.
- ➔ Strengthen the work of networking of FIDH member organisations through new technologies (days of action on specific issues, mobilising the entire FIDH network, multilingualism, etc).
- ➔ Continue traditional methods of mobilisation (demonstrations, petitions, being in the street, Forums of the peoples in parallel to major events) associated with the development of mobilisation through social networks, focusing on mobilising, beyond elites, the most vulnerable populations. Support local actors who want to develop new communication tools to address the challenges related to the use of new information technologies.

- ➔ Consider video conferencing as a means of mass broadcasting, eg for certain hearings historically important as the symbolic court hearings.
- ➔ Continue to denounce violations of freedom of expression, including that of bloggers, perpetrated in the name of the fight against terrorism and denounce support by the EU and the United States of such policies on behalf of the fight against terrorism. Continue to seek legislative reforms for compliance of national legislation with international standards on freedom of expression.

# IX. Alliances and partnerships for human rights

Participants stressed that it is essential to build broad alliances at all levels to deal with attacks against human rights that we are witnessing today. The forged alliances to promote human rights can take different forms depending on the country - with organisations defending women's rights, organisations defending the rights of LGBTI, organisations representing indigenous peoples, workers, youth groups, peaceful movements, migrant workers groups, development NGOs, associations of environmental protection or research institutes to help develop arguments along the lines of the human rights cause. It may also be to participate in multi-stakeholder initiatives involving companies.

Social media are used to transmit messages to millions of people, but it is also important to strengthen alliances with groups that have members on the ground.

A policy of alliances requires that there be clarification on the points of agreement, on priorities and strategies to be implemented. It also means that the respective roles of the different partners must be clearly defined. Some may play a more critical role and others may be found more in a position of engagement and dialogue, in a complementary and agreed fashion.

It is also worth reflecting upon from the outset the terms for managing disagreements, the limits of partnerships and their duration.

→ FIDH affirms its policy of broad and renewed alliances, occasional or long term, with all those who identify with the universal standards of human rights and share its principles.

# Appendices

The Programme for the Istanbul Forum - "Political Transition from a Human Rights Perspective: Experiences and Challenges"

**fidh**

## 38<sup>th</sup> FIDH Congress

23 - 24 May 2013, Istanbul (Turkey)

### Political Transition From a Human Rights Perspective: Experiences and Challenges

This Forum takes place within the framework of FIDH's International Congress, a major event, bringing together human rights defenders from FIDH's 164 member organisations and other partners from all over the world, every three years.

FIDH has chosen to hold this event in Turkey, and dedicate it to the issue of viewing political transition from a human rights perspective. Turkey is currently at a crossroads, with peace negotiations under way with representatives of the Kurdish people, after many years of bloody conflict. Turkey is also closely observed by governments in Middle East and North Africa, who have themselves only recently assumed power and are currently undergoing the process of political transition.

Thursday 23 May 2013

The Forum will foster exchange between human rights defenders and organisations from over one hundred countries. Participants will debate challenging impunity, strengthening justice, supporting institutions and NGOs, the place of religion, the role of women as drivers for transition, the rights of minorities, the promotion of economic and social rights, and the role of private businesses and international financial institutions in transition periods. Alliances will be developed and strategies for action identified on these key challenges.

#### Morning (09:00-12:00)

##### Plenary session

Cemal Reşit Rey Concert Hall

Interpretation: *Arabic, English, French, Kurdish, Russian, Spanish, Turkish*

#### 08:00 / Registration

#### 09:00-11:00 / Opening session

- Beşir Atalay, *Deputy Prime Minister of Turkey*
- Souhayr Belhassen, *President, FIDH*
- Öztürk Türkdoğan, *Chair, IHD, Turkey*
- Sang-Hyun Song, *President, International Criminal Court*
- Shirin Ebadi, *Nobel Peace Laureate (Iran)*
- Stavros Lambrinidis, *European Union Special Representative for Human Rights*

Moderator: Feray Salman, *General Coordinator, IHOP (Turkey)*

#### 11:00-12:00 / New power balance: actors for the future and challenges ahead

- Ahmet Insel, *Political Scientist, Galatasaray University, Istanbul*
- Fatou Bensouda, *Prosecutor, International Criminal Court*

Thursday 23 May 2013

Thursday 23 May 2013

**Afternoon (14:30-18:30) Two Parallel panel sessions**  
ICEC (Lütfi Kırdar International Convention & Exhibition Centre)

### **Panel 1. Institutional reforms as a condition for the Rule of Law**

Interpretation: *Arabic, French, English, Spanish, Turkish, Russian*  
Marmara Room

#### **SESSION 1**

##### **Institutional reforms for the Rule of Law**

Moderator: Mabassa Fall, *FIDH Permanent Representative to the African Union (Senegal)*

##### **14:30-15:15 / Introductory addresses**

- Priorities for establishing long-lasting Rule of Law in countries in transition, Luis Guillermo Perez Casas, FIDH Secretary General (Colombia)
- What leverages there are in encouraging reforms in repressive contexts, Toilekan Ismailova, Chairperson of Human Rights Movement Bir Duino-Kyrgyzstan
- Elections during transition: the Tunisian experience, Kamel Jendoubi, Former President of the High Authority for Elections (Tunisia)

##### **15:15-16:00 / Debate, with presentations from the floor:**

- Strategies for working under severe restrictions in Belarus (Viasna)
- How to support forces for change inside China (HRIC)
- The role of sanctions in the transition in Zimbabwe (Zimrights)

##### **16:00-16:15 / Coffee break**

#### **SESSION 2**

##### **Reform of Justice for the Rule of Law**

Moderator: Amina Bouayach, *FIDH Vice President (Morocco)*

##### **16:15-17:00 / Introductory addresses**

- From transitional justice to justice in transition, Sidiki Kaba, FIDH Honorary President (Senegal)
- What guarantees for an independent judiciary?, Gaston Chillier, Director, CELS (Argentina)
- How to reform the security sector, Navaz Kotwal, Commonwealth Human Rights Initiative (India)

##### **17:00-18:30 / Debate, with presentations from the floor**

- Transition in Peru, obstacles and good practices (APRODEH)
- Transitional Justice in Tunisia: overview and perspectives (FIDH Tunis)

### **Panel 2. Economic and social rights, and the role of economic and financial actors**

Interpretation: *French, English, Spanish, Turkish, Arabic*  
Dolmabahçe Room

#### **SESSION 1**

##### **Economic and social rights in political transition**

Moderator: Debbie Stothard, *FIDH Deputy Secretary General (Malaysia/Burma)*

##### **14:30-15:15 / Introductory addresses**

- Social protest as a force for change, Cai Chongguo, Deputy Director, China Labour Bulletin (China)
- Human rights, a tool for social demands, Jacob van Garderen, National Director, Lawyers for Human Rights (South Africa)
- The impact of the economic and financial crisis in Europe on human rights and democracy, Dimitris Christopoulos, Vice-Chairperson, Hellenic League for Human Rights (Greece)

##### **15:15-15:45 / Debate, with presentations from the floor**

- Ecuador: the role of peasants and indigenous people in the transition (CEDHU)
- How to promote the economic and social rights of migrants in Russia (ADC Memorial)

##### **15:45-16:00 / Coffee break**

#### **SESSION 2**

##### **The role of economic and financial actors during political transition**

Moderator: Yusuf Alataş, *FIDH Vice President (Turkey)*

##### **16:00-16:30 / Introductory addresses**

- Foreign investments and international trade: obstacle or force for political transition, Olivier de Schutter, United Nations Special Rapporteur on the Right to Food (Belgium)
- Bringing corporations to account, Alirio Uribe, Colectivo de Abogados (Colombia)

**Thursday 23 May 2013**

**16:30-17:00 / Debate, with presentations from the floor**

- Land-grabbing in Cambodia and link with EU trade preferences (LICADHO)
- Kenya and economic partnership agreements (KHRC)
- The Amesys case (FIDH Litigation Action Group)

**17:00-18:30 / Participants split into two functional workshops**

**FUNCTIONAL WORKSHOP 1**

**The human rights movement and marginalised or vulnerable communities**

Interpretation: *Arabic, English, French, Spanish, Turkish*

Dolmabahçe B Room

Moderator: Raji Sourani, *FIDH Vice President (Palestine)*

**Experiences:**

- Mobilisation strategy against a hydropower plant project in Tajikistan (BHRRL)
- Forest exploitation and the rights of local communities in Congo Brazzaville (OCDH)

**FUNCTIONAL WORKSHOP 2**

**Rights in times of economic and financial crisis: which human rights response?**

*English only*

Dolmabahçe A Room

Moderator: Meriç Özgüneş, *Hellenic League for Human rights*

**Experiences:**

- Key human rights violations resulting from austerity policies, FLAC (Ireland) and APDHE (Spain)
- Response from the human rights movement, ITUC and LDH (Belgium)
- Looking back at the Argentinean debt crisis (CELS)
- What alliances to develop (LDL, Quebec)

Concluding remarks: Olivier de Schutter



Friday 24 May 2013

**Morning (09:00-12:30)**

ICEC (Lütfi Kırdar International Convention & Exhibition Centre)

**09:00-10:30**

**Panel 1. Individual liberties, equal rights for all and their role in the strengthening of the Rule of Law**

Interpretation: *Arabic, English, French, Russian, Spanish, Turkish*

Marmara Room

Moderator: Dan Van Raemdonck, *FIDH Vice President (Belgium)*

**Introductory addresses**

- Religion, the public sphere and the Rule of Law, Asma Jahangiri, FIDH Vice President (Pakistan)
- Women driving transition: for what rights? Sophie Bessis, FIDH Deputy Secretary General (Tunisia/France)
- Minority rights: universalism or communitarianism? Nancy Yanez Fuenzalida, Observatorio Ciudadano (Chile)

**Debate, with presentations from the floor**

- Strategies to defend minorities in Egypt (EIPR)
- Litigation for Roma and Travellers' rights in Belgium (LDH)
- Discriminatory governance in Mauritania (AMDH)

**10:30-10:45 / Coffee Break**

**10:45-12:30 / Participants split into three workshops to discuss experiences on building democracy**

**FUNCTIONAL WORKSHOP 1**

**Ensuring respect of freedom of thought, conscience and religion**

Interpretation: *Arabic, English, French, Turkish*

Dolmabahçe A Room

Moderator: Haris Azhar, *Coordinator of Kontras (Indonesia)*

Friday 24 May 2013

Presentations:

- Religion and the public sphere in the USA (CCR)
- Freedom of expression and religion (LDH, France)
- Religion and conflict in the two Sudans (ACJPS)
- Freedom of religion and laicism in Turkey, Prof. Dr. Bekir Berat Özüpek, Lecturer, International Relations Department, İstanbul Commerce University

**FUNCTIONAL WORKSHOP 2**

**Women as drivers of transition**

Interpretation: *Arabic, English, French, Russian, Spanish, Turkish*

Marmara Room

Moderator: Guissou Jahangiri, *Director of Armanshahr/OpenAsia (Afghanistan)*

Presentations:

- Women's representation in the peace process in Turkey, İlknur Üstün (Women's Coalition, Turkey)
- Women's participation in transition institutions in Tunisia (ATFD, Tunisia)
- Women's access to justice in Guatemala (Guatemala)
- How to work with conservative sections of society to promote women's rights in Ireland (FLAC)

**FUNCTIONAL WORKSHOP 3**

**Promoting the rights of minorities and fighting discrimination: the way forward**

Interpretation: *English, Russian, Spanish, Turkish*

Dolmabahçe B Room

Moderator: Alice Mogwe, *Director of Ditswanhelo (Botswana)*

Presentations:

- Promoting the rights of Roma people in Eastern Europe (ADC Memorial, Russia)
- Democracy and Plurilingualism: the Turkish Experience, Levent Korkut, Member of the Steering Committee of Human Rights Joint Platform (IHOP, Turkey)
- The experience of indigenous people's rights in Ecuador (INREDH)
- How to promote LGBT rights in Senegal (LSDH)

Friday 24 May 2013

Friday 24 May 2013

### Afternoon (14:00-18:30)

ICEC (Lütfi Kırdar International Convention & Exhibition Centre)

14:00-15:30

#### Panel 2. The role of civil society: legal framework, partnerships for action

Interpretation: *Arabic, English, French, Russian, Spanish, Turkish*

Marmara Room

Moderator: Karim Lahidji, *FIDH Vice President (Iran)*

#### Introductory addresses

- What legitimacy for limits to freedom of expression in a democratic society?, Vincent Berger, Former juriconsult with the European Court of Human Rights (France)
- The experience of trade unions on alliances and partnerships, Alison Tate, Director for External Relations, International Trade Union Confederation - ITUC (Australia)
- Exposing gongos or (un)civil society, Adilur Rahman Khan, Secretary of Odhikar (Bangladesh)

#### Debate, with presentations from the floor

- Freedom of expression in the US (CCR)
- The experience of alliances concerning Uzbekistan (Fiery Hearts Club)

15:30-15:45 / Coffee Break

15:45-17:15 / Participants split into two workshops to exchange about concrete experiences on building democracy

#### FUNCTIONAL WORKSHOP 1

##### Ensuring respect of freedom of expression

Interpretation: *English, French, Russian, Spanish, Turkish*

Marmara Room

Moderator: Sheila Nabachwa Muwanga, *FHRI (Uganda)*

#### Presentations:

- When IT companies serve censorship: Nokia in Iran (DHRC)
- The experience of GNI/Google in China (HRIC)
- Freedom of expression and film broadcasting (Human Rights Movement Bir Duino-Kyrgyzstan)
- The fight against terrorism and freedom of expression in Turkey, Fikret İlkiz, *Bianet Legal Advisor (Turkey)*

#### FUNCTIONAL WORKSHOP 2

##### New tools, new partnerships and the promotion of convergences for universal rights

Interpretation: *Arabic, English, French, Spanish, Turkish*

Dolmabahçe B Room

Moderator: Ezzedin El Asbahi, *HRITC, (Yemen)*

#### Experiences presented notably by:

- Alliances with social movements (Justiça Global, Brazil)
- Using social networks to document human rights violations (Syrian Center for Media and Freedom of Expression, SCM)
- Using social networks for alerts and advocacy in Bahrain (BCHR)
- ~~The role and responsibility of the media during transition, Nadire Mater, Chair of Bianet (Turkey)~~

17:15-17:30 / Break

17:30-18:30

#### Forum closing session highlighting the main lessons learned from the Forum

Interpretation: *Arabic, English, French, Russian, Spanish, Turkish*

Marmara Room

- H.E Abdullah Gül, President of the Republic of Turkey
- Driss El Yazami, President of the National Human Rights Council (Morocco)
- Nazan Üstündağ, Associate Professor of Boğaziçi University
- Souhayr Belhassen, FIDH President
- Şebnem Korur Fincancı, Chair of the Human Rights Foundation of Turkey (HRFT)

The program is available at



## **RESOLUTION ON POLITICAL TRANSITIONS AND HUMAN RIGHTS**

### **Adopted by the FIDH 38th Congress, Istanbul, may 2013**

The 164 FIDH member organisations attending the FIDH world congress are pleased and honoured to be holding this event in Turkey, a country which, over the last few years, has embarked on a transition to democracy. Turkey is emblematic of the problems that now affect countries in transition, be they in the Arab world or in other regions of the world. Numerous challenges must still be faced, especially involving freedom of speech, the situation of human rights defenders and conflict in the East of the country.

Transitions are marked by institutional change, in particular through constitutional reforms . These reforms must provide an opportunity to unequivocally reassert fundamental principles including the universality of human rights, ; the separation of powers and the independence of the judiciary; t; protection of fundamental rights and adequate sanction in case of violation; the establishment of effective mechanisms to fight corruption, and the predominance of international human rights law over domestic legislation and international trade and investment agreements.

The call for dignity and social justice – connected to economic and social rights – is often the trigger for transitions and revolutions. FIDH urges the States to guarantee these rights effectively by embedding them in the constitution and the law, by devoting maximum available resources to their realisation, by establishing effective recourse mechanisms for victims of violations and by ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights which enables the individuals to file claims before the United Nations in the event of violations of their economic and social rights.

It is essential to establish the truth about human rights violations in all situations of political transition. Bringing the main perpetrators of the most serious crimes to justice is a right, and the realisation of this right should be associated with the right to a fair trial. Transitional justice processes, led in partnership with civil society and all concerned stakeholders, should provide for the right to reparation of the victims and their families and guarantee that such crimes shall not be repeated. To establish the truth is important in order to build up the future. T. The whole society should learn from lessons of the past. For this to happen, we must continue to establish the facts, ensure the preservation of archives, create places of remembrance, and provide the appropriate education for the next generation to understand the past.

The international community has a key role to play in this area via the United Nations and regional organisations. Human rights and justice must be at the heart of debate on conflict resolution at the United Nations Security Council and within the political arenas of regional bodies. FIDH recommends the adoption of a reform agenda for regional bodies to enable them to politically support successful transitional processes.

Justice is essential to peace, and the national judiciary in countries where crimes are perpetrated has the main responsibility for achieving justice. In complementarity or in case of impossibility at the domestic level, mechanisms based on universal jurisdiction should be reinforced. In addition, international tribunals and in particular the International Criminal Court should be more broadly supported and funded, enabling them to expand their remit of investigations, sanctions, reparations and prevention alongside national justice systems.

In situations of transition, societies emerging from dictatorship are all confronted with the problem of identity and need to strive to become pluralistic and respect individual rights, in all their diversity. However racism, xenophobia, homophobia and incitement to hatred related to philosophical or religious allegiances still persist and are exploited by political actors. Ethnic and religious minorities are subjected to hate speech, violence and discrimination, sometimes systematic. Membership of the human race cannot be reduced to a question of origin, nationality, opinion, convictions, religion, gender or sexual orientation.

FIDH urges the States to strive to promote pluralism, respect for diversity, and open-mindedness, which are pillars of democracy. Anti-discrimination laws are needed to support the implementation of all human rights.

FIDH recalls international law guarantees the right of everyone to freedom of thought, conscience and religion. This right shall include freedom to have or not have a religion or any type of belief. Restrictions to the freedom to manifest one's religion or belief are permitted only if limitations are prescribed by law, necessary to protect public safety, order, health or moral or the fundamental rights of others. Thus, freedom of religion ceases where the rights of others begin.

At a time when the rights of women are being threatened by regression in many countries, FIDH recalls the universality and indivisibility of human rights. Women have equal rights in all domains, including the right to participate in the social, cultural, economic and political life of their country, as well as in peace and reconciliation processes. FIDH calls on States to take all necessary institutional, political and cultural reforms and measures to promote equal participation of women in public life and to abolish restrictive family law. FIDH recalls women have the right to access to all services and means enabling to control their own fertility.

Freedom of expression is a fundamental right guaranteed by all the international and regional instruments on the protection of human rights. It can only be restricted by law, under explicitly stipulated conditions, and interpreted in a controlled manner. In this vein, FIDH notes that inciting hatred, in certain circumstances, may constitute an international crime, as set out in the Statute of the International Criminal Court (ICC). New Information and Communication technologies are important means that should be protected from abusive restrictions.

FIDH urges States in transition to regulate the activities of business entities, including their activities in third countries, in particular by imposing an obligation to carry out human rights due diligence and to disclose information on the impact of their activities on the environment and on human rights. Such requirements should be matched with sanctions. FIDH also encourages a reversal of the burden of proof when the issue entails the cause-and-effect link between damages incurred and the activities of an enterprise, in the event of legal proceedings instituted by the victims. Furthermore, parent companies, as a matter of principle, should be held responsible for the harmful conduct of their subsidiaries.

International investments and trade, which are supposed to stimulate development in favour of all countries in transition have often contributed to building up the wealth of multinational companies run by a small oligarchy at the expense of the economic and social rights of the majority. They have made the countries' economies more fragile and sometimes marginalised large segments of the population, weakening the right to food, healthcare, education and the whole range of social rights. FIDH believes that it is essential for the States and the

international financial and trade institutions in which they participate to recognise the primacy of human rights in their development, investment and trade policies. These policies should be supported by impact indicators on human rights and their human rights impact should be measured by independent bodies kept informed by the civil society of the countries and regions concerned.

Independent civil societies play a fundamental role as a counter-force, regardless of the regime in power. In order to effectively influence the debates and the elaboration of democratic projects in a complex and multipolar world, FIDH calls on States to guarantee freedom of association, opinion, expression, peaceful assembly and the right to use public media. Alliances being decisive FIDH intends to continue its policy of far-reaching and reinvigorated, temporary or long-term, alliances with any- and everyone who adheres to the universal principles of human rights.

This report was produced with the support of:



The content of the publication is the sole responsibility of FIDH.

### **Establishing the facts**

#### **investigative and trial observation missions**

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### **Supporting civil society**

#### **training and exchange**

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level

### **Mobilising the international community**

#### **permanent lobbying before intergovernmental bodies**

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

### **Informing and reporting**

#### **mobilising public opinion**

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

**FIDH  
represents 178  
human rights organisations  
on 5 continents**

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#### **FIDH - International Federation for Human Rights**

17, passage de la Main-d'Or - 75011 Paris - France  
CCP Paris: 76 76 Z  
Tel: (33-1) 43 55 25 18 / Fax: (33-1) 43 55 18 80  
[www.fidh.org](http://www.fidh.org)

Director of the publication: Karim Lahidji  
Editor: Antoine Bernard  
Coordination: Isabelle Brachet  
Pictures: FIDH  
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inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

## ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

### **A broad mandate**

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

### **A universal movement**

FIDH was established in 1922, and today unites 178 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

### **An independent organisation**

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

# fidh

Find information concerning FIDH's 178 member organisations on [www.fidh.org](http://www.fidh.org)