



Inter-Parliamentary Union  
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# 142nd IPU ASSEMBLY

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Governing Council  
Item 9

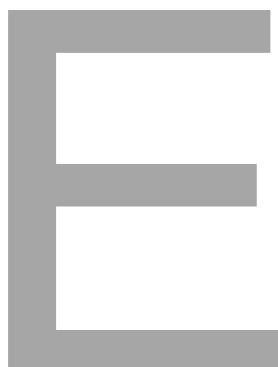
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25 May 2021

## Committee on the Human Rights of Parliamentarians

*Decisions adopted by the IPU Governing Council at its  
207<sup>th</sup> session (Virtual session, 25 May 2021)*

### CONTENTS

	Page
• <b>Egypt:</b> Mr. Mostafa al-Nagar <i>Decision</i> .....	1
• <b>Libya:</b> Ms. Seham Sergiwa <i>Decision</i> .....	4
• <b>Myanmar:</b> 50 parliamentarians <i>Decision</i> .....	7
• <b>Philippines:</b> Ms. Leila de Lima <i>Decision</i> .....	11
• <b>Philippines:</b> Ms. Sarah Jane I. Elago <i>Decision</i> .....	14
• <b>Turkey:</b> Mr. Ömer Faruk Gergerlioğlu <i>Decision</i> .....	16
• <b>Yemen:</b> 96 parliamentarians <i>Decision</i> .....	19
• <b>Zimbabwe:</b> Ms. Joana Mamombe <i>Decision</i> .....	23



#IPU142

# Egypt

*Decision adopted by consensus by the IPU Governing Council at its 207<sup>th</sup> session  
(Virtual session, 25 May 2021) <sup>1</sup>*



Mostafa al-Nagar © Photo courtesy/Belady U.S. An Island for Humanity

## EGY-07 – Mostafa al-Nagar

### Alleged human rights violations

- ✓ Enforced disappearance
- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

### A. Summary of the case

Mr. Mostafa al-Nagar allegedly disappeared in the southern governorate of Aswan on 27 September 2018. His family and lawyers have been unable to contact him or obtain information on his whereabouts. They fear that he might have been arbitrarily arrested and held incommunicado.

The complainants allege that Mr. al-Nagar was a symbol of the 2011 revolution and a vocal critic of the Egyptian Government during his parliamentary term, which lasted from 23 January to 14 July 2012, when the Egyptian Parliament was dissolved. In December 2017, he was fined and sentenced to three years in prison for "insulting the judiciary" in a speech he reportedly delivered during a parliamentary sitting in 2012. In its ruling of 30 December 2017, the Cairo Criminal Court found that Mr. al-Nagar's statements at a parliamentary sitting in 2012 had been intended to defame and harm

### Case EGY-07

**Egypt:** Parliament affiliated to the IPU

**Victim:** male independent member of the House of Representatives

**Qualified complainant(s):** Section I.1(a) and (d) of the Committee Procedure (Annex I)

**Submission of complaint:** February 2020

**Recent IPU decision:** October 2020

**Recent IPU mission(s):** - - -

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication from the authorities: November 2020
- Communication from the complainants: April 2021
- Communication addressed to the authorities: Letter addressed to the Speaker of the House of Representatives (April 2021)
- Communication addressed to the complainants: April 2021

<sup>1</sup>

The delegation of Egypt expressed its reservations regarding the decision.

the judiciary and judges, and disregarded his parliamentary immunity. Mr. al-Nagar has not served his time in prison as he has remained in hiding, although it was clear to his family members where he was. He disappeared a few days before his appeal trial, which took place on 15 October 2018.

The complainants reported that, on 10 October 2018, Mr. al-Nagar's family received an anonymous telephone call informing it that he was in police custody at Aswan's Central Security Forces Al-Shallal camp. Despite Mr. al-Nagar's lawyer's request to the Egyptian authorities for an official response concerning his client's alleged detention in the Al-Shallal camp, no information was provided in this regard. Egypt's State Information Service denied playing a role in Mr. al-Nagar's disappearance and said in an official statement issued on 18 October 2018 that he had wilfully disappeared to avoid serving his prison sentence, accusing him of being a fugitive.

The Egyptian Court of Cassation adopted a decision on 15 October 2018, in which the court allegedly declared Mr. al-Nagar's appeal inadmissible and upheld the sentence against him *in absentia* because he had not been present at the proceedings and had not complied with a 2017 imprisonment order. In its decision, the Court of Cassation also found that it was not competent to examine the appeal, given that the appealed decision was not final as it had not been handed down by a "last degree" court. According to the Court of Cassation, it was still possible to challenge the 2017 decision before the Court of Appeal.

On 29 July 2019, the complainants filed a complaint at the Cairo Court of Administrative Justice against the Egyptian Ministry of the Interior for failing to disclose Mr. al-Nagar's whereabouts and to make serious efforts to locate him. In its decision handed down on 18 January 2020, the Cairo Court of Administrative Justice recalled the State's responsibility and indicated that the State Information Service statement was insufficient. The Court noted that the State had a duty to locate disappeared individuals, especially when a complaint had been filed about their disappearance. The complainants indicated that the Egyptian authorities had not yet responded to the ruling of 18 January 2020. At the same time, the complainant stated that several rumours had surfaced, echoed by local media articles and former acquaintances of Mr. al-Nagar, according to which he had died while allegedly attempting to cross the Egyptian border illegally into Sudan. The complainants stated that they had not received any evidence supporting such rumours.

During its virtual session held in October 2020, the Committee on the Human Rights of Parliamentarians invited the Egyptian authorities to a hearing. The parliamentary authorities had initially accepted the Committee's invitation. However, due to the parliamentary elections, the authorities were unable to meet with the Committee. In a letter dated 2 November 2020, the Egyptian parliamentary authorities stated that work was under way to provide the required information on the case of Mr. al-Nagar. The parliamentary authorities also pointed out that they required sufficient time to gather the documents requested by the Committee, suggesting that the latter had reached its conclusions on the case of Mr. al-Nagar expeditiously.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Deeply regrets* that the Egyptian House of Representatives has repeatedly failed to respond to requests for information on this case and to an invitation to a hearing during the most recent session of the Committee on the Human Rights of Parliamentarians; *recalls* in this regard that the first invitation to a hearing in October 2020 did not materialize as it coincided with elections in Egypt; *underlines* that the Committee's procedure is based on ongoing and constructive dialogue with the authorities, first and foremost parliament;
2. *Further points out* that Mr. al-Nagar did not serve his prison sentence because he was allegedly afraid of what might happen to him while in detention, as he considered his prosecution and conviction in 2017 unfair and in violation of his parliamentary immunity; *stresses once again* that, while the State of Egypt considers Mr. al-Nagar to be a fugitive, it remains duty-bound to do everything possible to find him and that, by not taking any measures to locate him, the authorities are wilfully denying justice to his relatives, who have the legitimate right to know

about his fate, thereby giving weight to the complainants' allegations that the authorities are partly or wholly responsible for his disappearance;

3. *Reiterates its deep concern* about the alleged disappearance of Mr. al-Nagar since 2018 and the absence of any measures taken by the authorities to investigate his disappearance, despite the complainants' repeated requests; *stresses* that the authorities have yet to provide convincing evidence to refute the allegation that Mr. al-Nagar is being held incommunicado or to support claims that he died while attempting to illegally exit Egypt; *questions* why the Egyptian Government is unwilling to open an investigation into Mr. al-Nagar's disappearance despite the order from the Cairo Court of Administrative Justice of January 2020;
4. *Urges once more* the authorities, in particular the Ministry of the Interior, to take Mr. al-Nagar's alleged disappearance seriously, regardless of his conviction and the fact that he did not serve his prison sentence, by opening a genuine and effective investigation into his disappearance and taking appropriate measures to locate him in accordance with the decision of the Administrative Court of Justice; *wishes* to be kept informed as a matter of urgency about steps taken in this regard;
5. *Reiterates its wish* to receive copies of the decisions of the Cairo Criminal Court and the Court of Cassation issued against Mr. al-Nagar in 2017 and 2018 respectively;
6. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants, the Minister of Justice, the Minister of the Interior and any third party likely to be in a position to supply relevant information on the whereabouts of Mr. al-Nagar;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Libya

*Decision adopted unanimously by the IPU Governing Council at its 207<sup>th</sup> session  
(Virtual session, 25 May 2021)*



© Courtesy of the Sergiwa Family

## LBY-01 – Seham Sergiwa

### Alleged human rights violations

- ✓ Abduction
- ✓ Threats, acts of intimidation
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

### A. Summary of the case

Ms. Seham Sergiwa was abducted from her home on 17 July 2019. According to the complainants, more than a dozen masked armed men raided her house, shooting her husband in the legs and wounding his eye and beating up one of her sons as they captured her. The complainants claim that the abductors are members of the 106<sup>th</sup> Brigade of the Libyan National Army led by Mr. Khalifa Haftar, an assertion based on the *modus operandi* of the abductors and the SUV vehicles used. The perpetrators allegedly spray-painted the message “the army is a red line [not to be crossed]” and the name of the Brigade responsible for Ms. Sergiwa’s abduction, “*Awliya al-Dam*” (Avengers of Blood) across her house.

Ms. Sergiwa’s abduction was allegedly in response to her political stance against the military operations in Tripoli, as she was taken from her home shortly after she gave an interview criticizing the military offensive and calling for an end to the bloodshed. The complainants believe that Ms. Sergiwa’s abduction was not a random act of violence, given her vocal criticism of Mr. Khalifa Haftar and the circumstances in which the attack took place. They explained that at 2 a.m. Ms. Sergiwa’s house was plunged into darkness, as if electricity had been cut off, and an explosion took place inside the house. The complainants added that several Libyan officials living nearby, including the mayor of Benghazi, could have intervened with their armed guards to prevent or at least thwart the attack, but deliberately refrained from doing so. The complainants also added that the attackers allegedly arrived in cars belonging to Libya’s Criminal Investigation Department of the interim government in eastern Libya. Following the attack, Ms. Sergiwa’s husband and her son were taken to hospital, where they were not permitted to receive

### Case LBY-01

**Libya:** Parliament affiliated to the IPU

**Victim:** female independent member of the House of Representatives

**Qualified complainant(s):** Section I.1(a) of the Committee Procedure (Annex I)

**Submission of complaint:** July 2019

**Recent IPU decision:** February 2021

**Recent IPU mission(s):** - - -

**Recent Committee hearing:** Hearing with the Libyan delegation to the 141<sup>st</sup> IPU Assembly (October 2019)

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the House of Representatives (July 2020)
- Communication from the complainants: January 2021
- Communication addressed to the authorities: Letter addressed to the Speaker of the House of Representatives (April 2021)
- Communication addressed to the complainants: April 2021

any visits. The complainants also alleged that the militia had confiscated the telephones belonging to Ms. Sergiwa's family in order to prevent them from alerting the media about the attack.

On 18 July 2019, the House of Representatives in Tobruk issued a statement strongly condemning Ms. Sergiwa's abduction by unknown individuals, and called on the Ministry of the Interior, as well as all the security forces, to scale up their efforts to find Ms. Sergiwa, ensure her prompt release and hold to account those responsible for her abduction. The First and Second Deputy Speakers of the House of Representatives informed the IPU Committee on the Human Rights of Parliamentarians on 13 October 2019 that the Minister of the Interior of the interim government in eastern Libya had indicated that terrorist groups might be responsible for Ms. Sergiwa's abduction, that the House of Representatives continued to monitor the case, which was still under investigation, and that it could well be that Ms. Sergiwa would turn up alive.

In a statement to the United Nations Security Council on 5 May 2020 regarding the situation in Libya, the Prosecutor of the International Criminal Court, Ms. Fatou Bensouda, indicated that "her office has obtained recent information which may point to those responsible for Ms. Sergiwa's disappearance".

In a letter dated 27 July 2020, the Speaker conveyed the decision adopted by the Committee in the case to the Minister of the Interior of the interim government in eastern Libya. In December 2020, the complainants stated that Ms. Sergiwa's case had been referred to a "specialized prosecution service". This statement was supported by a video statement delivered by the Minister of the Interior, who claimed that Ms. Sergiwa's case had been referred to the competent prosecution service on 20 September 2020. The complainants added that the Libyan authorities did not inform Ms. Sergiwa's family about the conclusion of the investigation, the results obtained or the fact that the case had been referred to a "specialized prosecution service".

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Remains shocked* by the brutal abduction of a member of the House of Representatives in evident reprisal for expressing her political stance against the violence in Libya and in favour of an end to the bloodshed;
2. *Deplores* the lack of cooperation from the Libyan House of Representatives, which has failed to provide detailed information on the status and outcome of the criminal investigation relating to the abduction of one of its members; *reiterates* in this regard that this state of affairs fuels suspicions that the parliamentary authorities are unwilling to help establish the truth about Ms. Sergiwa's fate;
3. *Is deeply alarmed* that, despite many clues hinting to the identity of Ms. Sergiwa's abductors, who, according to the complainants and several international bodies, were members of "Awliya al-Dam", a Brigade allegedly affiliated to the Libyan National Army led by Mr. Khalifa Haftar, the relevant authorities have still not been able to hold those responsible to account or to provide information on her whereabouts; *reiterates* in this regard that the authorities have yet to produce evidence to convincingly refute the claim about the alleged identity of the culprits and to provide concrete information on the steps taken to investigate Ms. Sergiwa's abduction;
4. *Points out* that impunity, by shielding those responsible from judicial action, decisively encourages the perpetration of further human rights violations, and that attacks against the life of members of parliament, when left unpunished, not only violate the fundamental rights of individual parliamentarians and of those who elected them, but also affect the integrity of parliament and its ability to fulfil its role as an institution – even more so when leading figures of parliament are targeted for their political views, as in the present case;
5. *Urges once again* the authorities to provide clarification on the "specialized prosecution service", to disclose and share the findings of the investigation report allegedly produced by the Ministry of the Interior, first of all with Ms. Sergiwa's family; *further urges* the Libyan House of

Representatives to make use of its oversight power to ensure that an effective and thorough investigation has been conducted by the Ministry of the Interior and to request clear answers from the Government on the identity of the perpetrators; and *wishes* to be kept informed in this respect;

6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Ministry of the Interior, the complainants and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Myanmar

*Decision adopted unanimously by the IPU Governing Council at its 207<sup>th</sup> session  
(Virtual session, 25 May 2021)*



Soldiers in front of a guest house where Myanmar members of parliament were residing in Naypyidaw shortly after the military takeover. STR / AFP

MMR-267 - Win Myint  
MMR-268 - Aung San Suu Kyi (Ms.)  
MMR-269 - Henry Van Thio  
MMR-270 - Mann Win Khaing Than  
MMR-271 - T Khun Myat  
MMR-272 - Tun Tun Hein  
MMR-274 - Than Zin Maung  
MMR-275 - Dr. Win Myat Aye  
MMR-276 - Aung Myint  
MMR-277 - Ye Khaung Nyunt  
MMR-278 - Dr. Myo Aung  
MMR-279 - Kyaw Myint  
MMR-280 - Win Mya Mya (Ms.)  
MMR-281 - Kyaw Min Hlaing  
MMR-283 - Okka Min  
MMR-284 - Zarni Min  
MMR-285 - Mya Thein  
MMR-286 - Tint Soe  
MMR-287 - Kyaw Thaung  
MMR-289 - Phyu Phyu Thin (Ms.)\*\*  
MMR-290 - Ye Mon (aka Tin Thit)\*  
MMR-291 - Htun Myint\*  
MMR-292 - Naing Htoo Aung\*  
MMR-293 - Dr. Wai Phyo Aung\*  
MMR-294 - Zin Mar Aung (Ms.)\*

MMR-295 - Lwin Ko Latt\*  
MMR-296 - Okkar Min\*  
MMR-297 - Win Naing\*  
MMR-298 - Nay Myo\*  
MMR-299 - Zaw Min Thein\*  
MMR-300 - Myo Naing\*  
MMR-301 - Zay Latt\*  
MMR-302 - Myat Thida Htun (Ms.)\*  
MMR-303 - Shar Phaung Awar\*  
MMR-304 - Robert Nyal Yal\*  
MMR-305 - Lamin Tun (aka Aphyo)\*  
MMR-306 - Aung Kyi Nyunt\*  
MMR-307 - Lama Naw Aung\*  
MMR-308 - Sithu Maung\*  
MMR-309 - Aung Kyaw Oo  
MMR-310 - Naung Na Jatan  
MMR-311 - Myint Oo  
MMR-312 - Nan Mol Kham (Ms.)  
MMR-313 - Thant Zin Tun  
MMR-314 - Maung Maung Swe  
MMR-315 - Thein Tun  
MMR-316 - Than Htut  
MMR-317 - Aung Aung Oo  
MMR-318 - Ba Myo Thein  
MMR-319 - Soe Win (a) Soe Lay

\* These parliamentarians are also members of the Committee Representing Pyidaungsu Hluttaw (CRPH), a body that was set up by members of parliament-elect on 5 February 2021. As such, only the allegations marked with an \* in the list of allegations concern them.

## Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation\*
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Violation of freedom of opinion and expression\*
- ✓ Violation of freedom of assembly and association\*
- ✓ Failure to respect parliamentary immunity\*
- ✓ Lack of fair trial proceedings\*

### A. Summary of the case

After refusing to recognize the results of the November 2020 parliamentary elections, the military declared a state of emergency that would last for at least a year and proceeded to seize power by force on 1 February 2021, the day that the new parliament was due to take office.

The complainant reports that the Speaker of the Parliament of Myanmar ("Pyidaungsu Hluttaw"), Mr. T. Khun Myat, the State Counsellor, Ms. Aung San Suu Kyi, and five other members of parliament of the majority National League for Democracy party were placed under house arrest by the military. According to the complainant, 20 elected members of parliament were arbitrarily arrested shortly after the coup, including the seven aforementioned senior members of parliament who were placed under house arrest. In the weeks thereafter, 10 additional members of parliament were arrested. To this day, these 30 members of parliament remain in detention or under house arrest. Of those detained, many are reportedly being held incommunicado in overcrowded prisons, where they are facing mistreatment and possibly torture, with limited or no access to medical care or legal counsel, while some are reportedly being tried in secret.

According to the complainant, on 4 February 2021, some 70 elected members of parliament from the National League for Democracy met in the capital Naypyidaw and took an oath of office pledging to abide by the mandate granted to them by the people. On 5 February, 300 members of parliament met online and established the Committee Representing Pyidaungsu Hluttaw (CRPH), led by 20 members of parliament. The CRPH is considered illegal by the military regime, while the CRPH have labelled the military-appointed State Administration Council a terrorist organization and have since appointed a National Unity Government, which they see as the legitimate interim government. According to the complainant, the 20 members of the CRPH have been forced into hiding, fearing reprisals because of their political activities. The former Speaker of the upper house of parliament and Prime Minister of the National Unity Government, Mr. Mann Win Khaing Than, has reportedly been charged with high treason, while several other members of parliament face criminal charges for inciting civil disobedience and other charges carrying heavy penalties.

On 1 February 2021, the IPU issued a statement condemning the coup d'état, which was followed by another statement on 5 February 2021 in which the IPU Committee expressed its concern about the allegations of arbitrary arrests of the Speaker and other members of parliament. On 23 March 2021, the IPU President and the IPU Secretary General met several CRPH members and expressed their solidarity with the elected members of parliament in Myanmar, adding that the IPU stands ready to defend the integrity of the Parliament of Myanmar and the human rights of its duly elected parliamentarians.

Although the military authorities allowed overwhelmingly peaceful protests to take place in the first few weeks, the human rights situation in Myanmar took a devastating turn for the worse in late March, with reports of live automatic ammunition and explosive weapons used against civilians. According to reports by the United Nations Special Rapporteur on the human rights situation in Myanmar and human rights organizations, more than 700 people have been killed since the beginning of the coup

### Case MMR-COLL-03

**Myanmar:** Parliament affiliated to the IPU

**Victims:** 50 parliamentarians (44 male and 6 female)

**Qualified complainant(s):** Section I.1(a) of the Committee Procedure (Annex I)

**Submission of complaint:** March 2021

**Recent IPU decision:** March 2021

**Recent IPU Mission(s):** - - -

**Recent Committee hearing:** Hearing with a member of the Committee Representing Pyidaungsu Hluttaw (CRPH) (March 2021)

#### Recent follow-up:

- Letter from the Permanent Mission of Myanmar to the United Nations Office at Geneva: April 2021
- Communication from the complainant: May 2021
- *Note verbale* to the Permanent Mission of Myanmar: March 2021
- Communication addressed to the complainant: April 2021

(as of mid-April 2021). According to credible reports provided by the Assistance Association for Political Prisoners in Myanmar, there have been over 4,890 arbitrary arrests and 780 extrajudicial killings since the coup began, while 3,826 people remain in detention as of 9 May 2021. In addition, some experts have voiced their concern in the United Nations Security Council and other international fora, declaring that Myanmar was on the brink of state failure and pointing out that the actions of the military were making the country ungovernable.

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint was declared admissible by the Committee on the Human Rights of Parliamentarians under its procedure during its 164<sup>th</sup> session (March 2020); *also notes* that the new complaint concerning 14 additional members of parliament is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under section I.1.(b) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns incumbent members of parliament at the time of the initial allegations; and (iii) concerns allegations of torture, ill-treatment and other acts of violence, threats and acts of intimidation, arbitrary arrest and detention, inhumane conditions of detention, violation of freedom of opinion and expression, violation of freedom of assembly and association, failure to respect parliamentary immunity and lack of fair trial proceedings, allegations that fall under the Committee's mandate;
2. *Regrets* that the military authorities in Myanmar have not replied to the requests for information addressed to them; *calls on* the military authorities to provide detailed information on the situation in which the elected parliamentarians find themselves;
3. *Denounces* the use of force to prevent the Parliament of Myanmar from convening on and after 1 February 2021 and the persecution of those wishing to exercise their parliamentary mandate as entrusted to them by the people of Myanmar; *strongly condemns* the continuing deliberate policy of the military authorities to disregard the outcome of the 2020 elections and their unwillingness to hand over power to those democratically elected; *reaffirms* that electoral disputes should be settled through existing legal channels, never by force, and that available reports on the elections held in November 2020 underscore that they were free and fair; *considers* in this regard that the mass protests that have taken place since 1 February 2021 are further signs of the public's faith in the outcome of the electoral process and its unwavering resolve to protect the democratic gains made in recent years;
4. *Declares* that by using force to prevent the parliament elected in 2020 from convening, the military authorities have violated the principle established in article 21 of the Universal Declaration of Human Rights that "*the will of the people shall be the basis of the authority of government*"; *reaffirms* that, in demanding that parliament be convened and in setting up the "Committee Representing the Pyidaungsu Hluttaw" (CRPH), the members of parliament-elect are merely defending the right of their constituents to take part in the conduct of public affairs through representatives of their choice, as guaranteed by article 21 of the Universal Declaration of Human Rights, and exercising their right to discharge the mandate entrusted to them in 2020;
5. *Is deeply concerned* that at least 50 members of the Parliament of Myanmar, including its presiding officers, have reportedly been subject to direct reprisals for carrying out their political work; *is appalled* by allegations that numerous elected members of parliament are being detained incommunicado, that many of them are detained in prisons where they face mistreatment and possibly torture, as well as inhumane detention conditions with limited or no access to medical care or legal counsel, and that some have reportedly been tried in secret; *is deeply concerned* by allegations that some members of parliament have been charged with high treason and various other charges carrying heavy penalties for exercising their rights; *is dismayed* by credible reports that over 780 people have lost their lives in extrajudicial killings and 4,890 people have been arbitrarily arrested or detained since February 2021;

6. *Strongly urges* the military authorities to release immediately and unconditionally all members of parliament-elect held in detention or under house arrest and to put an immediate end to all practices aimed at preventing the members of parliament-elect from exercising their political activity, including by putting an end to the use of secret trials in prison; *calls on* the military authorities to respect the human rights of all members of parliament elected in November 2020 and hence to allow them to associate, assemble, express their views, receive and impart information and move about without fear of reprisals; *urges* the military authorities to refrain from taking physical or legal action against the 20 members of the CRPH, and any other person elected in November 2020, in connection with their parliamentary activities; *calls on* the military authorities to immediately cease using lethal force against those exercising their human rights and to abide by international principles of human rights and the rule of law; *wishes* to receive as a matter of urgency specific information on these points from the military authorities;
7. *Calls on* its member parliaments, IPU permanent observers and parliamentary assemblies to press for respect for human rights and democratic principles in Myanmar to show solidarity with the members of parliament who were elected in 2020, including by supporting the “Committee Representing the Pyidaungsu Hluttaw”; *urges* its member parliaments and the IPU Secretariat to seek to build a network of members of parliament to take concrete actions in support of this endeavour in partnership with human rights organizations active in the region; *invites* member parliaments to inform it of any steps they may take to that end;
8. *Requests* the Secretary General to convey this decision to the military authorities, the complainant and any third party likely to be in a position to supply relevant information; *also requests* the Secretary General to explore all other possibilities for the concerns and requests for information raised in this decision to be effectively addressed, including the usefulness of a visit by a Committee delegation to Myanmar;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Philippines

*Decision adopted unanimously by the IPU Governing Council at its 207<sup>th</sup> session  
(Virtual session, 25 May 2021)*



Philippine Senator Leila de Lima is escorted by police after her arrest at the Senate in Manila on 24 February 2017 © Ted Aljibe/AFP

## PHL-08 – Leila de Lima

### Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression

### A. Summary of the case

Ms. Leila de Lima served as Chairperson of the Philippines Commission on Human Rights from May 2008 to June 2010. In that capacity, she led a series of investigations into alleged extrajudicial killings linked to the so-called Davao Death Squad in Davao City, where Mr. Duterte had been long-time mayor, and concluded that Mr. Duterte, now President of the Philippines, had been behind the Davao Death Squad.

In 2010, Ms. de Lima was appointed Secretary of Justice. She resigned from this position in October 2015 to focus on her campaign for a senate seat in the May 2016 elections, a bid that was successful. In August 2016, as Chair of the Senate Committee on Justice and Human Rights, she launched an inquiry into the killings of thousands of alleged drug users and drug dealers, which are alleged to have taken place since President Duterte took office in June 2016. Since becoming senator, she has been the target of acts of intimidation and denigration, including by President Duterte himself.

Senator de Lima was arrested and detained on 24 February 2017 over accusations of receiving drug money to finance her senatorial campaign for a senate seat. The charges, in three different cases, were

### Case PHL-08

**Philippines:** Parliament affiliated to the IPU

**Victim:** Female opposition member of parliament

**Qualified complainant(s):** Section I.(1)(d) of the Committee Procedure (Annex I)

**Submission of complaint:** September 2016

**Recent IPU decision:** November 2020

**Recent IPU mission:** May 2017

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communications from the authorities: Letters from the Director General of the Office of International Relations and Protocol of the Senate and the Secretary of the IPU Group of the Philippines (May and April 2021)
- Communication from the complainant: November 2020
- Communication addressed to the authorities: Letter addressed to the President of the Senate (January 2021)
- Communication addressed to the complainant: February 2021

brought in the wake of an inquiry by the House of Representatives into drug trading in New Bilibid Prison, and Senator de Lima's responsibility for such while she was Secretary of Justice. The House-led inquiry was launched one week after she initiated her inquiry in the Senate into the extrajudicial killings.

On 27 July and 10 August 2018, Senator de Lima was indicted in two of the three cases before Branches 205 and 256 of the Regional Trial Court (RTC) – Muntinlupa City. While the third case has gone on intermittently due to vacancies in court, with the trial having resumed only on 9 October 2020 and a motion for bail pending resolution, hearings to present prosecution witnesses in the two other cases before RTC Branch 205, mostly involving convicted drug traffickers, were scheduled well into 2020, with twice-monthly hearings scheduled in each case on average. It was later discovered that the convicted drug traffickers received special treatment in prison and were coerced into testifying against Senator de Lima after being viciously stabbed in prison in 2016. On 17 February 2021, RTC Branch 205 granted Senator de Lima's demurrer to evidence in case No. 17-166, technically acquitting her, in the absence of sufficient evidence, but denied the same plea in the second case. Senator de Lima's defence counsel has appealed against the denial.

On 30 November 2018, the United Nations Working Group on Arbitrary Detention concluded, echoing the conclusions of an earlier IPU mission to the Philippines, that Senator de Lima's detention was arbitrary and that her immediate release was in order.

Although Senator de Lima has remained very politically active over the years while in detention and receives newspapers, journals and books, she has no access to the Internet, a computer, TV, radio, or to an air-conditioning unit, despite a doctor's recommendation. Senator de Lima was allegedly kept in incommunicado detention from 25 April to 10 June 2020, purportedly for the purposes of stopping the spread of COVID-19. Although the situation regarding Senator de Lima's visiting rights has since improved, a number of restrictions thereto remain in place.

On 27 April 2020, the Senate adopted a motion to allow teleconferencing in plenary and committee hearings. That same day, the Senate President, however, reportedly publicly stated that Senator de Lima would not be allowed to take part in such virtual proceedings given that the Senate has no jurisdiction over her. According to the complainant, this is a further attempt to prevent her from fully performing her role as a senator, despite the clear Supreme Court jurisprudence on this point. On 7 November 2016, Senator de Lima had filed a petition for writ of *habeas data* against President Duterte before the Supreme Court, requesting that the Court, *inter alia*, order President Duterte and any of his representatives to cease: seeking details about her private life outside the realm of legitimate public concern or making statements maligning her as a woman and injuring her dignity as a human being; discriminating against her on the basis of gender; describing or publicizing her alleged sexual conduct; engaging in psychological violence against her; and otherwise violating her rights or engaging in acts that are contrary to law, good morals, good customs, public policy and/or public interest. On 18 October 2019, the Supreme Court dismissed the petition for writ of *habeas data* on the grounds that the President is immune from suit during his incumbency and tenure.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the parliamentary authorities for their recent communications and for the information provided therein;
2. *Is deeply concerned* that its appeals for Senator de Lima's immediate release and for charges to be dropped have gone unheeded and that she continues to be detained, more than four years after her arrest, in the absence of any serious evidence; *considers* that her continued detention and prosecution not only run counter to her basic human rights, but should also be seen as reprisals for her political activities and positions;
3. *Recalls* in this regard that there are multiple, strong signs that the steps taken against Senator de Lima came in response to her vocal opposition to the way in which President Duterte was waging a war on drugs, including her denunciation of his alleged responsibility for extrajudicial

killings; *points out* in this regard the repeated violation of the principle of the presumption of innocence, the dubious choice of jurisdiction to present the accusations against her, the timing of the criminal proceedings, the amendment of the charges and the reliance on testimonies of convicted drug traffickers, who were either promised favourable treatment in return, subjected to physical intimidation in prison, or had an axe to grind against Senator de Lima as a result of her efforts to dismantle their drug trafficking operations when she was Secretary of Justice, as well as the use of testimonies of criminal law enforcement officers who had been involved in the alleged criminal events that underpinned the charges against Senator de Lima and had clear motives to resent her, and who had been kept in their official positions without facing disciplinary sanctions, let alone charges;

4. *Calls on* the authorities, once more, to release Senator de Lima and to drop the legal proceedings against her immediately;
5. *Reaffirms* the need, should charges not be dropped, for an IPU trial observer to continue to monitor and report on respect for fair-trial standards in the cases before Branches 205 and 256 of the Regional Trial Court in Muntinlupa City, including in order to assess if and how existing concerns about the legality and fairness of the proceedings are properly reviewed;
6. *Remains concerned* that Senator de Lima has still not been able to benefit from the Senate's move towards teleconferencing, well over a year after COVID-19 led the Senate to allow for proceedings to take place virtually; *considers* that the parliamentary authorities can do much more to help ensure that she can fully participate in the work of the Senate and effectively represent the interests of the 14 million Filipinos who elected her, also bearing in mind past initiatives by the Senate in other similar cases, well before teleconferencing was allowed; *wishes* to know exactly why no further action is being taken to enable Senator de Lima to fully participate in Senate proceedings;
7. *Remains concerned* about limitations imposed on Senator de Lima's visiting rights and continued lack of access to the Internet, TV, radio, tablet or laptop; *regrets furthermore* that the authorities have also yet to provide her with an air-conditioning unit, as ordered by her doctor; *sincerely hopes* that the relevant authorities will finally take the necessary steps to address these matters for as long as she remains in detention; and *wishes* to be kept informed in this regard;
8. *Requests* the Secretary General to convey this decision to the relevant authorities, including the Secretary of Justice, the Prosecutor's Office and the relevant courts, the complainant and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Philippines

*Decision adopted unanimously by the IPU Governing Council at its 207<sup>th</sup> session  
(Virtual session, 25 May 2021)*



Ms Elago's official portrait during the 18<sup>th</sup> Congress @ Wikipedia

## PHL-13 – Sarah Jane I. Elago

### Alleged human rights violations

- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity

### A. Summary of the case

Ms. Sarah Jane I. Elago is a member of the Philippine House of Representatives. The complainants state that Ms. Elago has faced continuous harassment due to her opposition to President Duterte's policies.

Ms. Elago has been directly and indirectly labelled in social media posts by the police and army as a terrorist. She currently has a complaint filed against six senior officials who have allegedly "red-tagged" her on a number of occasions, something which, according to the complainants, has put her life at serious risk. Red-tagging in the Philippines is understood to refer to the malicious blacklisting of individuals or organizations critical or not fully supportive of the actions of a sitting government in the country. These individuals and organizations are "tagged" as either communist or terrorist, or both, regardless of their actual political beliefs or affiliations.

### Case PHL-13

**Philippines:** Parliament affiliated to the IPU

**Victim:** Female opposition member of parliament

**Qualified complainant(s):** Section I.(1)(a) of the Committee Procedure (Annex I)

**Submission of complaint:** December 2019

**Recent IPU decision:** January 2020

**Recent IPU mission(s):** - - -

**Recent Committee hearings(s):** - - -

### Recent follow-up:

- Communications from the authorities: Letters from the Director General of the Office of International Relations and Protocol and the Secretary of the IPU Group of the Philippines (May and April 2021)
- Communication from the complainants: March 2021
- Communication addressed to the authorities: Letter addressed to the President of the Senate (January 2021)
- Communication addressed to the complainants: March 2021

As part of the alleged harassment, Ms. Elago was also targeted by an amended complaint, originally submitted on 24 July 2019, to which her name was added as a respondent. It concerns a complaint from a mother against the youth group “the Kabataan Party List” in which she accused the latter of kidnapping and abusing her daughter. On 10 November 2020, the Supreme Court upheld its earlier decision to dismiss the petition submitted by the daughter’s parents. In so doing, the Supreme Court concluded that the daughter was reportedly of legal age and that she had denied having been subjected to coercion and had voluntarily chosen to join the youth group. Shortly before, on 15 October 2020, prosecutors at the Department of Justice dismissed two of the five charges in connection with this situation against Ms. Elago for lack of probable cause, while a determination of the three other charges was pending with the Department of Justice.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning Ms. Sarah Jane I. Elago, a member of the Philippine House of Representatives, was declared admissible by the Committee on the Human Rights of Parliamentarians under its procedure at its 161<sup>st</sup> session (January 2020);
2. *Thanks* the parliamentary authorities for the latest information provided and for their spirit of cooperation;
3. *Is deeply concerned* that official communications are published online that contain baseless accusations against Ms. Elago, which not only discredit her but also put her physical integrity at risk; *calls on* the Filipino authorities to prevent such claims from being made and to hold those responsible to account; *wishes* to know what steps are being taken for this purpose, including any progress made with regard to the complaint that Ms. Elago brought against six senior officials;
4. *Strongly believes* that it is in the interests of the Congress of the Philippines to ensure that its members can exercise their parliamentary mandates without fear of reprisal; *calls on* Congress, therefore, to carry out its oversight function so as to ensure that Ms. Elago is not hindered by state entities and officials in fulfilling her parliamentary duties; *wishes* to know what steps, if any, Congress is taking in this regard;
5. *Trusts* that the determination of the pending charges against Ms. Elago will soon be concluded and that such determination will take full account of the conclusions reached by the Supreme Court on the petition pertaining to the same facts; *wishes* to be kept informed in this regard;
6. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Turkey

*Decision adopted by consensus by the IPU Governing Council at its 207<sup>th</sup> session  
(Virtual session, 25 May 2021) <sup>2</sup>*



Mr. Gergerlioğlu (centre) reacts as he is surrounded by fellow members of parliament applauding and brandishing placards after he was dismissed following a vote at the Turkish Parliament on 17 March 2021 | Adem ALTAN/AFP

## TUR-139 - Ömer Faruk Gergerlioğlu

### Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Lack of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Arbitrary arrest and detention
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity

### A. Summary of the case

According to the complainant, Mr. Ömer Faruk Gergerlioğlu, a member of the Turkish Parliament belonging to the Peoples' Democratic Party (HDP), has been a staunch critic of the Turkish Government and its policies and has faced reprisals due to his criticism.

Mr. Gergerlioğlu was subjected to a criminal investigation based on his Facebook and Twitter posts in 2016. One of his social media posts was reportedly regarded as terrorist propaganda. It related to a news report from a national media organization containing a statement by the Kurdistan Workers' Party (PKK), declared by the Turkish Government and others as a terrorist organization, indicating that if the Government was in favour of taking steps, a resolution to the conflict could be found within a month. Mr. Gergerlioğlu shared the news report with a message stating that, "this call should be evaluated properly, there is no end to this!"

### Case TUR-139

**Turkey:** Parliament affiliated to the IPU

**Victim:** Male opposition member of parliament

**Qualified complainant(s):** Section I.(1)(d) of the Committee Procedure (Annex I)

**Submission of complaint:** March 2021

**Recent IPU decision(s):** - - -

**Recent IPU mission(s):** - - -

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication from the authorities: Letter from the President of the Turkish IPU Group (May 2021)
- Communication from the complainant: April 2021
- Communication addressed to the authorities: Letter to the Speaker of the Turkish Parliament (April 2021)
- Communication addressed to the complainant: April 2021

On 21 February 2018, the Kocaeli 2nd Assizes Court, acting as the court of first instance, sentenced Mr. Gergerlioğlu to two years and six months' imprisonment on the grounds of spreading PKK/KCK terrorist organization propaganda by including photographs of armed members of the terrorist organization in a way that praises and encourages methods involving violence and force, and thus committing the crime of spreading propaganda about the illegal, armed PKK terrorist organization.

The complainant claims that the appeal proceedings against Mr. Gergerlioğlu, who was elected a member of parliament in June 2018, continued despite him having parliamentary immunity. On 7 December 2018, Mr. Gergerlioğlu's conviction and sentence were confirmed on appeal by the 3rd Criminal Chamber of the Istanbul Regional Court of Justice. On 28 January 2021, the 16th Criminal Chamber of the Court of Cassation rejected Mr. Gergerlioğlu's final appeal for the conviction to be set aside. According to the complainant, Mr. Gergerlioğlu's prosecution and conviction were politically motivated and violated his right to freedom of expression.

The parliamentary authorities have emphasized that, on 7 December 2018, the court of appeal ruled decisively on the issue of parliamentary immunity, concluding that Mr. Gergerlioğlu did not enjoy parliamentary immunity under Article 83(2) of the Constitution. This article excludes immunity in situations where parliamentarians are prosecuted for offences that are covered by Article 14 of the Constitution, which stipulates that, "none of the rights and freedoms embodied in the Constitution shall be exercised in the form of activities aiming to violate the indivisible integrity of the State with its territory and nation, and to endanger the existence of the democratic and secular order of the Republic based on human rights". The parliamentary authorities also state that the same court also notified the Speaker of Parliament that implementation of the sentence against Mr. Gergerlioğlu had been suspended until he ceased to be a parliamentarian. The parliamentary authorities stated furthermore that Turkish law is clear, as confirmed by the Constitutional Court, that the loss of parliamentary membership due to a final judicial sentence is automatic upon the final court decision being notified to the plenary of the Turkish Parliament, which occurred on 17 March 2021.

According to the complainant, on 2 April 2021 the police raided the home of Mr. Gergerlioğlu, during which he was physically assaulted and, as a result, he had to be briefly hospitalized. He is currently serving his prison sentence at Ankara's Sincan Prison.

Two separate individual applications filed to the Constitutional Court by Mr. Gergerlioğlu are still pending.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the parliamentary authorities for the information they have provided and for their spirit of cooperation;
2. *Notes* that the complaint concerning the case of Mr. Ömer Faruk Gergerlioğlu is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under section I.1 (d) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns an incumbent member of parliament at the time of the initial allegations; and (iii) concerns allegations of torture, ill-treatment and other acts of violence, lack of fair trial proceedings, violation of freedom of opinion and expression, arbitrary arrest and detention, abusive revocation or suspension of the parliamentary mandate and failure to respect parliamentary immunity, allegations that fall under the Committee's mandate;
3. *Is profoundly concerned* that Mr. Gergerlioğlu was deprived of his parliamentary mandate and is serving a harsh prison term as a result of the legitimate use of his right to freedom of expression; *notes* that he simply sent a tweet in which he forwarded an existing news report and included an implicit call for peace negotiations to take place; *considers* that, in light of the information on file, Mr. Gergerlioğlu's continued detention is arbitrary and should be immediately ended; *sincerely hopes* that available legal avenues can still bring this about; and *is eager*,

therefore, to learn what progress is being made in the consideration of the applications that are pending before the Constitutional Court;

4. *Considers* that this case constitutes further proof that the Turkish authorities have not been striking the right balance between their legitimate fight against terrorism and respect for the human rights of opposition members of parliament, in particular their freedom of expression; *reaffirms its view* in this regard that the information it has thus far been able to obtain over the years – particularly several court decisions and their analysis – confirms that HDP parliamentarians have been charged and convicted primarily for making critical public statements, issuing tweets, participating in organizing or calling for rallies and protests, and conducting political activities in furtherance of their parliamentary duties and political party programme, such as mediating between the PKK and the Turkish Government as part of the peace process between 2013 and 2015, publicly advocating political autonomy, and criticizing the policies of President Erdoğan relating to the current conflict in south-eastern Turkey; *remains convinced* that this situation is largely the result – as spelled out in the report of the IPU mission to Turkey in June 2019 – of the systematic and sweeping affirmation by the Turkish authorities that the HDP, a legally authorized political party in Turkey, and the PKK are one and the same, or at least working closely together;
5. *Calls on* the Turkish authorities once more, in line with the recommendations made in the 2019 IPU mission report, to take more decisive action to ensure that current national legislation and its application are in line with international and regional standards on freedom of opinion and expression, assembly and association, and on the independence of the judiciary; *looks forward*, therefore, to hearing about concrete steps taken to this end, including through the implementation of the recently adopted Human Rights Action Plan by the Turkish authorities;
6. *Requests* the Secretary General to convey this decision to the relevant authorities, including the Constitutional Court, the complainants and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Yemen

*Decision adopted unanimously by the IPU Governing Council at its 207<sup>th</sup> session  
(Virtual session, 25 May 2021)*



Yemeni members of parliament vote in Sana'a on 24 June 2000 to approve the 12 June border agreement signed with Saudi Arabia © Khaled Fazaa/AFP

- |   |   |
|---|---|
| YEM09 - Abd al-Hameed Saif al-Batra'                | YEM-57 - Mansour Ali Yahya Maflah al-Hanq         |
| YEM-10 - Insaf Ali Mohamed Mayou                    | YEM-58 - Nasr Zayd Mahi al-Din                    |
| YEM-11 - Ja'abal Mohamed Salem Mohsin Ta'iman       | YEM-59 - Hiba Allah Ali Saghir Sharim             |
| YEM-12 - Abd al-Rahman Ibrahim Abdah Nashtan        | YEM-60 - Abd Allah Saad Sharaf Abas al-Namani     |
| YEM-13 - Abd al-Khalek Abd al-Hafed Ben Shihoun     | YEM-61 - Abd al-Razaq Maslah al-Hijri             |
| YEM-14 - Abd al-Khalek Abdah Ahmad al-Barkani       | YEM-62 - Abd al-Karim Ahmad Yahya al-Sinissi      |
| YEM-15 - Mohamed Qasem Mohamed al-Naqib             | YEM-63 - Abd al-Karim Mohamed Mach'ouf al-Aslami  |
| YEM-16 - Mohamed Maqbal Ali Hasan al-Hamiri         | YEM-64 - Abd al-Aziz Abd al-Jabar Ghaleb Dabwan   |
| YEM-17 - Mafdal Ismail al-Abara                     | YEM-65 - Othman Hasin Fayed Majli                 |
| YEM-18 - Haza' Saad Mathar Yahya al-Masouri         | YEM-66 - Fathi Tawfiq Abd al-Rahim Mathar         |
| YEM-19 - Amine Mohamed al-Saloui                    | YEM-67 - Mohsin Ali Omar Baserah                  |
| YEM-20 - Abd al-Rahman Hasin Ali al-A'shbi          | YEM-68 - Isaac al'Qa'hm                           |
| YEM-21 - Abd al-Aziz Ahmad Ali Mohamed Ja'bari      | YEM-69 - Ali Hassan Ahmad Jilan                   |
| YEM-22 - Abd al-Wahab Mahmoud Ali Ma'wadah          | YEM-70 - Ibrahim Chouaib Mohamed al-Facheq        |
| YEM-23 - Ali Hasin Naser Ahmad al-A'nsi             | YEM-71 - Amine Ali Mohamed al-Akimi               |
| YEM-24 - Ali Mohamed Ahmad al-Ma'mari               | YEM-72 - Hamid Abd-Allah Saghir Ahmad al-Jabarati |
| YEM-25 - Ali Masaad al-Lahbi                        | YEM-73 - Zakaria Said Mohamed al-Zekri            |
| YEM-26 - Mohamed Rashad Mohamed Ali al-Alimi        | YEM-74 - Chawqi al-Raqib Chaman al-Qadi           |
| YEM-27 - Mohamed Saif Abd al-Latif Hosam al-Shamiri | YEM-75 - Saghir Hamoud Aziz al-Sifani             |
| YEM-28 - Mohamed Ali Salem al-Shadadi               | YEM-76 - Mohamed Naji Abd al-Aziz al-Shayef       |
| YEM-29 - Sakhr Ahmad Abas Ahmad al-Wajih            | YEM-77 - Hashem Abd Allah Hasin al-Ahmar          |
| YEM-30 - Mohamed Naser Malhi al-Hazami al-Idrissi   | YEM-78 - Hussein al-Sawadi                        |
| YEM-31 - Najib Said Ghanem Saleh al-Dab'i           | YEM-79 - Yasser Ahmed Salem al-Awadhi             |
| YEM-32 - Ibrahim Ahmad al-Mazlam                    | YEM-80 - Yahya Ali al-Raee                        |
| YEM-33 - Ahmad Yahya Mohamed Ali al-Haj             | YEM-81 - Saleh Ismail Abu Adel                    |
| YEM-34 - Bakil Naji Abd Allah al-Soufi              | YEM-82 - Abd Al-Aziz al-Janid                     |
| YEM-35 - Rabish Ali Wahban Ahsan al-Ali             | YEM-83 - Amine Ahmed Makharesh                    |
| YEM-36 - Zayd Ali al-Shami                          | YEM-84 - Faysal al-Shawafi                        |
| YEM-37 - Sultan Hazam al-Atwani                     | YEM-85 - Muhsin al-Ansi                           |
| YEM-38 - Sultan Said Abd Allah Yahya al-Barkani     | YEM-86 - Qasem Hussein al-Hadha'a                 |
| YEM-39 - Samir Khayri Mohamed Ali Reda              | YEM-87 - Ahmad al-Aqaari                          |
| YEM-40 - Sadeq Qasem Mohamad Qaed al-Ba'dani        | YEM-88 - Ali Abd Allah Abu Haliqa                 |
| YEM-41 - Saleh Abd Allah Ali Qasem al-Sanbani       | YEM-89 - Mohamed Yahya al-Hawri                   |
| YEM-42 - Saleh Ali Farid al-Barhami                 | YEM-90 - Mansour ali Wasef                        |
| YEM-43 - Saleh Farid Mohsin al-Awlaqi               | YEM-91 - Ahmad Mohammad al-Dhubaibi               |
| YEM-44 - Aref Ahmad al-Sabri                        | YEM-92 - Abdo Mohammad Beshr                      |
| YEM-45 - Abd Allah Mohsin Ahmad Abd Allah al-Ajr    | YEM-93 - Khaled Mawjoud al-Saadi                  |
| YEM-46 - Abd al-Karim Sharaf Mohsin Shibani         | YEM-94 - Khaled Mohammad Qasim al-Ansi            |
| YEM-47 - Abd Allah Ali al-Khalaki                   | YEM-95 - Saleh Qaid al-Sharji                     |

YEM-48 - Abd Allah Mohamed Saleh Mohamed al-Maqtari  
YEM-49 - Abd al-Malak Abd Allah Hasan Saleh al-Qosous  
YEM-50 - Abdah Mohamed Hasin al-Hudhaifi al-Jaradi  
YEM-51 - Ali Ahmad Mohamed Saleh al-Amrani  
YEM-52 - Ali Qaed Sultan al-Wafi  
YEM-53 - Awad Mohamad Abd Allah al-Awlaqi  
YEM-54 - Fouad Abid Said Waked  
YEM-55 - Mohamad Thabet Mohamad Ali al-Asli  
YEM-56 - Mohamad Mohamed Ahmad Mansour

YEM-96 - Ahmed Mohsen al-Nuwaira  
YEM-97 - Mohammad ali Siwar  
YEM-98 - Abd al-Wali al-Jabri  
YEM-99 - Said Moubarak Douman  
YEM-100 - Ali Hussein Aishal  
YEM-101 - Ghaleb Abdul Kafi Al-Qurashi  
YEM-102 - Abbas Ahmed Al-Nahari  
YEM-103 - Hamid Abdallah Al Ahmar  
YEM-104 - Abdul Rahman Saleh Musleh Moezb

### Alleged human rights violations

- ✓ Abduction
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

#### A. Summary of the case

This case concerns 96 members of the Yemeni Parliament, all elected during the 2003 parliamentary elections for a six-year term and who remain members of parliament in accordance with the Yemeni Constitution. Since 2014, they have allegedly been subjected to various human rights violations, including attempted murder, abduction, arbitrary detention and destruction of property.

Since the beginning of the political crisis in 2011 and the outbreak of the war in Yemen in 2015, two different factions claim to embody the Yemeni Parliament: a Sana'a-based faction under the control of the Houthi militia and a faction based in Seiyun and comprising parliamentarians who fled Sana'a. This faction is aligned with the internationally recognized government of President Abdrabbuh Mansur Hadi. The present case concerns 77 members of parliament who fled Sana'a and neighbouring governorates that are allegedly under the control of the Houthi militia, and 19 members who remained in Sana'a and allegedly suffered attacks carried out by the coalition forces led by Saudi Arabia and the United Arab Emirates.

The complainants in the case regarding the 77 members of parliament allege that the violations were committed by the Houthi militia, and took place in different governorates in Yemen, including Sana'a and other parts of Yemen under the control of the internationally recognized government. These complainants state that, due to the violations and security situation, the majority of members are now in exile.

On 2 March 2020, the Houthi militia arbitrarily sentenced to death 35 members of parliament for "having taken actions threatening the stability of the Republic of Yemen, its unity, and security of its territory". The aforesaid complainants also stated that, on 9 February 2021, the Houthi militia sentenced to death 11 additional members of parliament. The parliamentarians were allegedly sentenced *in absentia* following the conclusion of trials marred with irregularities and which failed to comply with international norms and standards, as reported by the United Nations and other international organizations. The complainants added that, following the issuance of the death

#### Case YEM-COLL-02

**Yemen:** Parliament affiliated to the IPU

**Victims:** 96 male members of parliament (79 opposition members)

**Qualified complainants(s):**  
Section I.(1)(a) and (b) of the Committee Procedure (Annex I)

**Submission of complaints:** May 2019, October 2019

**Recent IPU decision:** October 2020

**Recent IPU mission(s):** - - -

**Recent Committee hearings:** Hearing with the delegation of Yemen at the 141<sup>st</sup> IPU Assembly (October 2019); hearing with Mr. Sultan Albarkani, Speaker of the Seiyun-based parliament during the 165<sup>th</sup> session of the Committee (May 2021)

#### Recent follow-up:

- Communications from Yemen: February and March 2021
- Communication from the complainants: February 2021
- Communication addressed to Yemen: April 2021
- Communication addressed to the complainants: April 2021

sentences against the lawmakers, the Houthi militia confiscated their property and financial assets, ransacked their homes and ordered their families to leave their houses.

The Houthi militia allegedly increased their harassment of Yemeni pro-government lawmakers following the latter's participation in a parliamentary meeting held in Seiyun in April 2019, which was called by the internationally recognized President Abdrabbuh Mansur Hadi. Additionally, the complainants stated that, on 3 April 2021, the Houthi militia unlawfully approved the stripping of the membership of 44 members of the House of Representatives, therefore rendering their constituencies vacant with the aim of electing new members in violation of the Yemeni Constitution.

The complainants in the case of the 19 members of parliament <sup>3</sup> who remained in Sana'a allege that the violations were committed by the coalition forces as part of their support to the Government of Yemen in regaining power in Sana'a and northern parts of Yemen.

In 2019 and 2020, the parliamentary faction controlled by the Houthis in Sana'a provided substantial information on alleged violations committed by the coalition forces against the 19 members of parliament who reportedly continued to exercise their mandate in Sana'a, while failing to convey information on the cases of the 77 parliamentarians and the human rights violations they have allegedly suffered since 2014, or the steps taken to help identify and hold to account those responsible.

According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the conflict in Yemen has so far claimed the lives of 233,000 people.

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the collective complaint concerning the situation of Mr. Said Moubarak Douman, Mr. Ali Hussein Aishal, Mr. Ghaleb Abdul Kafi Al-Qurashi, Mr. Abbas Ahmed Al-Nahari, Mr. Abdul Rahman Saleh Musleh Moezb and Mr. Hamid Abdallah Al Ahmar, all members of the House of Representatives in Yemen, is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under section I.1(b) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns incumbent members of parliament at the time of the initial allegations; and (iii) concerns allegations of threats and acts of intimidation, lack of due process in proceedings against parliamentarians and failure to respect parliamentary immunity, allegations that fall under the Committee's mandate; and *notes* that these cases have been merged with the present case, which brings the total number of parliamentarians in this complaint to 96;
2. *Is deeply alarmed* that 46 members of parliament have been arbitrarily sentenced to death by the Houthi-controlled self-styled court in Sana'a in what appears to be a "*fatwa*", hence a call for their explicit killing by anyone, including members of the public, who are in a position to do so;
3. *Underlines* that these arbitrary measures constitute a direct and imminent danger to the lives of the parliamentarians subject to them; and *urges* those responsible to refrain from jeopardizing the physical integrity of the members of parliament and from using collective punitive measures against members of their families who remained in Sana'a, including the arbitrary eviction of women and children from their homes;
4. *Is aware* of the exceptional situation in which Yemen finds itself and the formidable challenges that exist to law and order; *emphasizes*, nevertheless, that the human rights of members of the Yemeni House of Representatives and those of the people of Yemen should be upheld at all costs; *calls on* all parties to the conflict to ensure accountability for violations and abuses suffered by all parliamentarians and protect their fundamental human rights;

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<sup>3</sup> The Committee ruled on the admissibility of the cases concerning these parliamentarians in October 2020.

5. *Requests* the Secretary General to follow up the situation with the complainants and any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Zimbabwe

*Decision adopted by consensus by the IPU Governing Council at its 207<sup>th</sup> session  
(Virtual session, 25 May 2021) <sup>4</sup>*



Joana Mamombe © Women's Academy for Leadership and Political Excellence (WALPE)

## ZWE-45 – Joana Mamombe

### Alleged human rights violations

- ✓ Abduction
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Other acts obstructing the exercise of the parliamentary mandate
- ✓ Impunity
- ✓ Other violations: Discrimination

### A. Summary of the case

Ms. Joana Mamombe is the youngest member of the Parliament of Zimbabwe and belongs to the opposition Movement for Democratic Change (MDC Alliance) party.

According to the complainants, at around 2 p.m. on Wednesday, 13 May 2020, Ms. Mamombe and two other young women leaders, namely Ms. Cecilia Chimiri and Ms. Netsai Marova, were abducted, tortured and sexually abused by suspected state security agents.

### Case ZWE-45

**Zimbabwe:** Parliament affiliated to the IPU

**Victim:** Female opposition member of parliament

**Qualified complainants:** Section I.1(d) of the Committee Procedure (Annex I)

**Submission of complaints:** May 2020 and April 2021

**Recent IPU decision:** November 2020

**Recent IPU Mission(s):** - - -

**Recent Committee hearing:** Hearing with a complainant at the 165<sup>th</sup> session of the Committee (May 2021)

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (February 2021)
- Communication from the complainants: May 2021
- Communications addressed to the authorities: Letters to the Speaker of the National Assembly (April 2021), and the Minister of Justice, the Prosecutor General, the Gender Commission and the Human Rights Commission, and the Police General Commissioner (April 2021)
- Communication addressed to the complainants: May 2021

The complainants report that the three women were intercepted at a police roadblock manned by members of the Zimbabwe Republic Police and the Zimbabwe National Army in Harare. They were allegedly informed that they had been arrested for violating the COVID-19 regulations adopted by the Ministry of Health by taking part in a peaceful flash protest in Warren Park in Harare on 13 May 2020. On that day, Ms. Mamombe had led a flash protest with other young leaders over a lack of social safety nets for the poor in Zimbabwe in light of the pandemic.

According to the complainants, after being intercepted at the roadblock by the police, Ms. Mamombe and the two other young women leaders were taken to Harare Central Police Station. Then, instead of being fined for breaching COVID-19 regulations, or formally charged, they were allegedly forced into a minibus and taken to an undisclosed destination, where they were subjected to torture, sexual abuse and degrading treatment by a paramilitary group known as “the Ferrets”. The complainants report that, upon discovering that they were being abducted, the three women reached out to their family members and colleagues by phone and repeatedly texted them to share their location. After family members and colleagues raised the alarm about their whereabouts, the three women were reportedly dumped near Bindura at around 9 p.m. on Thursday, 14 May 2020. They were finally found and taken to safety at around 2 a.m. on Friday, 15 May 2020, by a team of family members and lawyers. The complainants further report that the three were then taken to hospital for treatment, and stressed that medical and psychological reports were made on the spot that proved that the three women had been subjected to torture and abuse during their disappearance.

According to the complainants, petitions regarding these abuses have been submitted to Zimbabwe’s Gender Commission, Human Rights Commission and the National Peace and Reconciliation Commission. The complainants affirm that these petitions have been copied to the Ministry of Justice, Ministry of Home Affairs, Ministry of Women’s Affairs and the Parliament of Zimbabwe. Yet, one year since the events of May 2020, these complaints have still not yielded any result. Moreover, the complainants declare that, instead of carrying out an independent investigation into the allegations, the State actually arrested Ms. Mamombe and her two colleagues on 10 June 2020 on the basis of their statements about the treatment they had suffered and charged them with making false statements prejudicial to the State. The women were later freed on bail after a widespread international campaign had pressured the authorities for their release. However, the complainants contend that Ms. Mamombe and her two colleagues’ rights were severely restricted as part of the conditions of bail, which compromise their freedom of movement and freedom of expression.

Ms. Mamombe has reportedly been arrested four times since then, most recently on 5 March 2021, when she was charged with allegedly breaching COVID-19 regulations after attending a press conference calling on the authorities to respect the right to a fair trial of a fellow opposition member. Since her last arrest, Ms. Mamombe has been held on remand in Chukuribi prison, together with convicted criminals, where she allegedly faced inhumane detention conditions and was at great risk of contracting COVID-19. She was briefly taken from remand to hospital and was finally released on bail on 5 May 2021.

The complainants report that Ms. Mamombe is one of the most prominent young women leaders in Zimbabwe. Over the past two years she has been very vocal and outspoken over deteriorating economic conditions in Zimbabwe and their effect on women and girls. According to the complainants, her situation should also be seen in the context of the rising number of cases of human rights abuses against human rights defenders and activists, the shrinking of civic space and widespread harassment of opposition members in recent years in Zimbabwe.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Speaker of the Parliament of Zimbabwe for the information provided in his letter of 25 February 2021; *takes note* that the Speaker granted an indefinite leave of absence to Ms. Mamombe until such time as the trials against her are concluded; *regrets*, however, that none of the authorities that were contacted by the IPU have provided any response that might

facilitate the resolution of this case; *considers* that the absence of a reply from the executive and judicial authorities gives further weight to the serious allegations made by the complainants;

2. *Reiterates its deep concern* about the allegations that Ms. Mamombe and two of her young female colleagues were arbitrarily detained and subjected to torture and sexual abuse on 13 May 2020; *considers* that such allegations have to be taken extremely seriously given numerous reports of the use of abductions, torture and sexual abuse to silence opposition members and their supporters in Zimbabwe, the prevalence of gender-based violence in the country and the gravity of the allegations in this case;
3. *Is deeply concerned* by allegations that Ms. Mamombe is facing judicial harassment as a result of her work as a young opposition parliamentarian; *is perplexed* by reports that she was arrested and detained together with another colleague for addressing a press conference and charged with violating the Public Health Order adopted by the Minister of Health and Child Care to fight the COVID-19 pandemic, whereas other attendees were not arrested; *is concerned* by allegations that the Public Health Order, which Ms. Mamombe is accused of violating, is being applied in a discriminatory manner, as ordinary citizens are facing at worst a pecuniary fine while opposition members are facing imprisonment; *fails to understand* why Ms. Mamombe has been detained for two months and treated as a criminal offender on the basis of an executive order that was reportedly not validated by parliament; *is dismayed* by allegations that Ms. Mamombe has been stigmatized by members of the ruling party as a “mental patient”, whereas the independent psychiatric reports that were produced in court clearly establish that Ms. Mamombe is suffering from anxiety, rather than mental illness; *wishes* to receive detailed information on each of the points above as well as on whether the Public Health Order has since been reviewed by parliament, including regarding compliance with national legislation and international human rights standards;
4. *Is appalled* to learn that Ms. Mamombe has allegedly been arbitrarily arrested four times since then in spite of previous decisions adopted by the IPU; *is deeply concerned* by reports from Ms. Mamombe’s lawyers that she has been repeatedly denied bail since her latest arrest on 5 March 2021, which apparently contradicts Chapter 50 of the Constitution of Zimbabwe and relevant statutory laws, that she faced inhumane conditions while in detention in Chukurubi prison and that her health situation seriously worsened during detention, requiring her hospitalization before finally being released on bail; *fails to understand* why she was kept in detention together with convicted criminals even though she has never been found guilty of having committed a crime; *is troubled* by reports that the prosecution repeatedly insisted that she should be denied bail as she is likely to commit more offences, in spite of her right to be considered innocent until proven guilty; *wishes* to receive detailed observations from the authorities on each of these points;
5. *Is particularly concerned* that the complaints to the relevant authorities have allegedly not set in motion investigations to identify the culprits of Ms. Mamombe’s abduction and torture; *fails to understand* why, a full year after these complaints were sent to the relevant institutions and copied to the Ministry of Justice and the Parliament of Zimbabwe, they have still not yielded any results; *is dismayed to learn* that, instead of carrying out an independent investigation into the allegations, the authorities proceeded to arrest Ms. Mamombe on 10 June 2020 on the basis of her statement of complaint and charged her with fabricating her abduction and making false statements prejudicial to the State; *recalls* in this regard that the Republic of Zimbabwe is bound by the provisions of the International Covenant on Civil and Political Rights, to which it is a party, article 2(3) of which enshrines the duty of the State to ensure that any person whose rights are violated should have an effective remedy determined by competent authorities;
6. *Calls on* the Zimbabwean authorities to do everything possible to ensure that Ms. Mamombe’s rights are fully protected; and *hopes* that they will do their utmost to ensure that Ms. Mamombe will no longer be submitted to undue arrests and incarceration; *urges* all relevant authorities to ensure that a full, independent and effective investigation is carried out into the extremely serious allegations referred to in this case without delay; *calls on* the relevant authorities and independent institutions to make the outcome of their investigation public; *wishes* to be kept informed as a matter of urgency of progress made in the investigations;

7. *Believes* that a fact-finding mission from the Committee on the Human Rights of Parliamentarians to Zimbabwe, during which it would meet with all relevant parties, would enable it to gain a comprehensive understanding of the situation faced by Ms. Mamombe; and *expresses the firm hope* that parliament and other relevant authorities will respond favourably to this request so that a Committee delegation can travel to Zimbabwe as soon as the health situation allow it;
8. *Requests* the Secretary General to convey this decision to the parliamentary authorities, other relevant national authorities and independent institutions, the complainants and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.

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