Inter-Parliamentary Union
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158th session of the Committee on the Human Rights of Parliamentarians

Geneva, 29 January - 8 February 2019

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Mr. Ne Mwanda Nsemi, member of parliament, on 06/01/2015 at the People's Palace in Kinshasa, seat of parliament © Radio Okapi/Ph. John Bompengo

COD87 - Ne Muanda Nsemi

Case COD87

Democratic Republic of the Congo: Parliament affiliated to the IPU

Victim: Opposition member of parliament

Complainant: Section I.1 (d) of the Committee Procedure (Annex 1)

Submission of complaint: March 2017

Recent IPU decision: - - -

IPU mission: - - -

Recent Committee hearings: - - -

Recent follow-up
- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2017);
- Communication from the complainant: February 2018;
- Communication addressed to the authorities: Letter addressed to the Speaker of the National Assembly (November 2018);
- Communication addressed to the complainant: November 2018.

Alleged human rights violations:

- ✓ Arbitrary arrest and detention
- ✓ 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

The complainant alleges that Mr. Ne Muanda Nsemi, member of parliament, who is also the leader of the political party Bundu Dia Mayala (BDM), was arrested arbitrarily and in violation of his parliamentary immunity because of his opposition to the renewal of the Head of State's term of office. He claims that the allegations were fabricated and that the member of parliament is being subjected to political repression, like several opposition members before him. According to the complainant, the member of parliament is being subjected to reprisals for making critical remarks about President Kabila and encouraging the people to call for the latter to stand down from office.

The member of parliament was arrested at his home on 3 March 2017. The arrest appears to have been conducted forcefully after Mr. Nsemi's house had been under siege for several weeks. According to the complainant, the security forces conducted an operation in which hundreds of people were arrested; the security forces also allegedly used their firearms and killed dozens of people. The member of parliament was allegedly tortured during his arrest, according to a letter he sent to the Speaker of the National Assembly. He was subsequently detained in Kinshasa Prison, despite the Supreme Court ordering his house arrest.

The member of parliament escaped on 17 May 2017 during a prison attack that led to mass escapes. The authorities accused the BDM of organizing the escape. A judicial inquiry was reportedly opened. The authorities have not provided updated information on the case and the outcome of the investigation is unknown. Press reports indicate that the authorities have failed to locate the member of parliament since his escape.

Following the escape, the complainant expressed fear for the life of the member of parliament. In the view of the complainant the official version of the escape was not credible and could have been organized by the authorities to silence the member of parliament. The member of parliament's lawyer also denied any involvement of the BDM in the escape, according to his public statements. It is the complainant's opinion that Mr. Ne Muanda Nsemi should be considered as missing. Regarding the member of parliament's communications posted on the Internet after his escape, including a video showing him at liberty, the complainant dismissed them in view of their content—which he believed was improbable—and the prolonged silence of the member of parliament which, according to the complainant, was unusual. In May 2018, the member of parliament's lawyer confirmed to the press that the MP was alive.

B. Decision:

The Committee on the Human Rights of Parliamentarians,

Seized of the case of Mr. Ne Muanda Nsemi, a member of the National Assembly of the Democratic Republic of the Congo,

1. *Notes* that the complaint 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);

2. *Notes* that the complaint concerned an incumbent member of parliament at the time of the alleged facts;

3. *Notes* that the original complaint concerned allegations of arbitrary arrest and detention; lack of due process at the investigation stage; violation of freedom of opinion and expression and failure to respect parliamentary immunity, allegations which fall within the Committee's mandate;

4. *Considers*, however, that following the member of parliament's escape, and in the light of the observations transmitted by the two parties and the information published by the media, the validity of the original allegations has not been established to show that the fundamental rights of the concerned member of parliament have been violated and, consequently, *declares* the case to be inadmissible;

5. *Recalls* that, should the complainant submit updated and strong additional information confirming that the fundamental rights of the concerned member of parliament have been disregarded, the complaint could be re-examined on that basis.

Mauritania

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

Mauritanian politician and advocate for the abolition of slavery Biram Dah Abeid gestures during a press conference in Dakar on September 29, 2016 © SEYLLOU / AFP

MRT03 - Biram Dah Abeid

Case MRT03

Mauritania: Parliament affiliated to the IPU

Victim: Male opposition member of the Senate

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

Submission of complaint: October 2018

Recent IPU decision: - - -

IPU mission: - - -

Recent Committee hearings: - - -

Recent follow-up
- Communication from the complainant: November 2018;
- Communication addressed to the complainant: December 2018;
- Communication addressed to the authorities: Letter to the Speaker of the National Assembly and the Minister of Justice: November and December 2018.

Alleged human rights violations:

- ✓ Arbitrary detention
- ✓ Lack of due process during investigation and trial
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity

A. Summary of the case:

Mr. Biram Dah Abeid, President of the *Initiative de la Résurgence du Mouvement Abolitionniste* (Initiative for the Resurgence of the Abolitionist Movement, IRA) and former candidate in the 2014 presidential elections, was arrested at his home on 7 August 2018. He was charged on 13 August 2018 for "causing harm to others, inciting violence and threatening to use violence", following a complaint filed by a journalist.

According to the complainant, the militant campaigning of Mr. Dah Abeid – and of his party, IRA – to combat slavery in Mauritania is reportedly the root cause of the political and judicial harassment towards him, in an attempt to exclude him from the political scene. The complainant alleges that the charges against Mr. Dah Abeid are not supported by evidence. According to the complainant, it was the victim's political alliance with the ESSAWAB political party that triggered his prosecution, the aim of which was to invalidate Mr. Dah Abeid's candidacy in the September 2018 legislative elections and prevent him from conducting his campaign freely. However, Mr. Dah Abeid's candidacy was validated by the Independent National Electoral Commission (CENI), which also confirmed his election.

The complainant believes that Mr. Dah Abeid's detention was arbitrary as it continued in violation of his parliamentary immunity and without trial. On 5 December 2018, the investigating judge referred the case to the Criminal Court. Mr. Dah Abeid's lawyers appealed that decision on 13 December 2018. On 31 December 2018, the Criminal Count sentenced Mr. Dah Abeid to six months' in prison, two of which to be non-suspended. He was therefore released, since the duration of his pre-trial detention was that of his sentence. Mr. Dah Abeid's lawyers appealed his conviction.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Considers* the complaint concerning Mr. Dah Abeid's situation to be admissible under its Procedure for the Examination and Treatment of Complaints and *declares itself* competent to examine the case with regard to the alleged violations following his election;

2. *Deeply regrets* the lack of response from the Mauritanian authorities; *stresses* that the Committee attaches great importance to dialogue and cooperation with the Mauritanian authorities, particularly with the National Assembly of Mauritania; *recalls* that it is essential for the Committee to receive the official version of the facts from both parties in order to be able to assess the situation in the light of all available information; *points out* that the lack of response from the Mauritanian authorities could give weight to the complainant's allegations that Mr. Dah Abeid's prosecution is motivated by political reasons; *hopes*, therefore, to receive a response from the National Assembly as soon as possible in order to clarify the view of the authorities;

3. *Takes note* of Mr. Dah Abeid's conviction at first instance and of the appeal lodged by his lawyers in December 2018; *invites* the complainant to forward a copy of the reasoned judgment in order to understand the legal reasoning on which the conviction is based; *invites* the Mauritanian authorities to ensure impartiality and due process in the appeal proceedings, in line with the relevant national and international standards; and *wishes* to be kept informed of the dates of the appeal hearings;

4. *Notes with concern* that Mr. Dah Abeid's parliamentary immunity was allegedly violated, since his detention continued after his election as a member of parliament, despite the fact that the National Assembly had not lifted his immunity; *notes* that Mr. Dah Abeid resumed his legislative duties following his release and that he is currently a member of the National Assembly; *hopes* that he will be able to exercise his parliamentary mandate without hindrance;

5. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;

6. *Requests* the Committee to continue examining the case.

Colombia

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

Oscar Arboleda Palacio © Courtesy photo / Mr. Aboleda's family

COL-157 - Oscar Arboleda Palacio

Alleged human rights violations:

- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Right of appeal

Case COL-157

Colombia: Parliament affiliated to the IPU

Victim: A male member of the majority

Complainant: Section I.1(a) of the Committee Procedure (Annex 1)

Submission of complaint: July 2014

Recent IPU decision: October 2014

IPU Mission: Trial observation report (March 2016 – Confidential)

Recent Committee hearing:

Recent follow-up
- Communication from the authorities: - - -
- Communication from the complainant: January 2019
- Communication addressed to the authorities: Letter addressed to the President of the Senate and of the Colombian National Congress (December 2018);
- Communication addressed to the complainant: January 2019.

A. Summary of the case:

Following the opening of an investigation in 2011 by the Supreme Court of Justice, Mr. Oscar Arboleda Palacio was prosecuted, for aggravated criminal conspiracy. In September 2013, the Supreme Court ordered his pretrial detention and in November 2013, the Office of the Attorney-General (*Procuraduría*) sought the closure of the investigation and the dropping of charges. The complainant has always affirmed that there was no convincing evidence against Mr. Arboleda and that significant fair-trial guarantees were not respected. The IPU trial observers, who attended hearings in the case before the Supreme Court in September 2014 and March 2016, confirmed these allegations in their reports and highlighted in particular the absence of concrete proof, the unreliability of the main witness for the Prosecution, the vagueness of the charges, the failure by the judicial authorities to respect legal deadlines and the lack of independence of the Supreme Court, entrusted as it was with the investigation, prosecution and adjudication of the case.

The trial proceedings were completed end March 2016. In December 2016, the Supreme Court lifted Mr. Arboleda's preventive detention in light of his precarious health due to illness and as there was no longer any convincing justification to continue his detention. Mr. Arboleda died on 21 August 2017 while awaiting a final ruling by the Supreme Court.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Believes* that Mr. Arboleda was subjected to criminal proceedings that were clearly unfounded and that disregarded basic fair trial guarantees; *regrets deeply* that, in addition to this state of affairs, the excessive length of the criminal proceedings and Mr. Arboleda's premature death did not allow for his name to be cleared in time;

2. *Considers* that any further action in this case is moot; and therefore *decides* to close it in accordance with Article 25 (a) of Annex I of its Procedure for the Examination and Treatment of Complaints;

3. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Venezuela

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

Venezuela's National Assembly President Juan Guaidó speaks before a crowd of opposition supporters during an open meeting in Caraballeda, Venezuela, on 13 January 2019 © Yuri CORTEZ / AFP

VEN-10 - Biagio Pilieri
VEN-11 - José Sánchez Montiel
VEN-12 - Hernán Claret Alemán
VEN-13 - Richard Blanco
VEN-16 - Julio Borges
VEN-19 - Nora Bracho (Ms.)
VEN-20 - Ismael Garcia
VEN-22 - William Dávila
VEN-24 - Nirma Guarulla (Ms.)
VEN-25 - Julio Ygarza
VEN-26 - Romel Guzamana
VEN-27 - Rosmit Mantilla
VEN-28 - Enzo Prieto
VEN-29 - Gilberto Sojo
VEN-30 - Gilber Caro
VEN-31 - Luis Florido
VEN-32 - Eudoro González
VEN-33 - Jorge Millán
VEN-34 - Armando Armas
VEN-35 - Américo De Grazia
VEN-36 - Luis Padilla
VEN-37 - José Regnault
VEN-38 - Dennis Fernández (Ms.)
VEN-39 - Olivia Lozano (Ms.)
VEN-40 - Delsa Solórzano (Ms.)
VEN-41 - Robert Alcalá
VEN-42 - Gaby Arellano (Ms.)
VEN-43 - Carlos Bastardo
VEN-44 - Marialbert Barrios (Ms.)
VEN-45 - Amelia Belisario (Ms.)
VEN-46 - Marco Bozo
VEN-47 - José Brito
VEN-48 - Yanet Fermin (Ms.)
VEN-49 - Dinorah Figuera (Ms.)
VEN-50 - Winston Flores
VEN-51 - Omar González
VEN-52 - Stalin González
VEN-53 - Juan Guaidó
VEN-54 - Tomás Guanipa
VEN-55 - José Guerra
VEN-56 - Freddy Guevara
VEN-57 - Rafael Guzmán
VEN-58 - María G. Hernández (Ms.)
VEN-59 - Piero Maroun
VEN-60 - Juan A. Mejía
VEN-61 - Julio Montoya
VEN-62 - José M. Olivares
VEN-63 - Carlos Paparoni
VEN-64 - Miguel Pizarro
VEN-65 - Henry Ramos Allup
VEN-66 - Juan Requesens
VEN-67 - Luis E. Rondón
VEN-68 - Bolivia Suárez (Ms.)
VEN-69 - Carlos Valero
VEN-70 - Milagro Valero (Ms.)
VEN-71 - German Ferrer
VEN-72 - Adriana d'Elia (Ms.)
VEN-73 - Luis Lippa
VEN-74 - Carlos Berrizbeitia
VEN-75 - Manuela Bolivar (Ms.)

Alleged human rights violations:

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate

Case VEN-COLL-06

Venezuela: Parliament affiliated to the IPU

Victims: 60 opposition members of parliament (45 men and 15 women)

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

Submission of complaint: March 2017

Recent IPU decision: October 2018

IPU mission: - - -

Recent Committee hearings: Hearing with the delegation of Venezuela at the 139th IPU Assembly (October 2018)

Recent follow-up:
- Communication from the authorities: Meeting between the IPU Secretary General and the Permanent Representative of Venezuela to the United Nations and other International Organizations in Geneva (June 2017);
- Communication from the complainant: December 2018;
- Communication addressed to the authorities: Letters to the Minister of Foreign Affairs and the Speaker of the National Assembly (December 2018);
- Communication addressed to the complainant: December 2018;

A. Summary of the case

The case concerns credible and serious allegations of human rights violations affecting 60 parliamentarians from the coalition of the Democratic Unity Roundtable (MUD), against the backdrop of continuous efforts by Venezuela's executive and judicial authorities to undermine the functioning of the National Assembly and to usurp its powers. The MUD opposes President Maduro's Government and obtained a majority of seats in the National Assembly following the parliamentary elections of 6 December 2015.

Soon after the elections, on 30 December 2015, the Electoral Chamber of the Supreme Court ordered the suspension of four members of parliament, three of them from the MUD, following allegations of fraud. The National Assembly first decided to disregard the ruling, considering the allegations to be baseless, which led the Supreme Court to declare all of the Assembly's decisions null and void. Failing any effort to examine the alleged fraud, the members of parliament were finally sworn in at the National Assembly on 16 July 2018.

Since March 2017, close to 40 parliamentarians have been attacked with impunity by law enforcement officers and pro-government supporters during demonstrations. These protests intensified after President Maduro announced the convening of a Constituent Assembly—which was subsequently elected on 30 July 2017—to rewrite the Constitution.

Invoking *flagrante delicto*, Mr. Juan Requesens was arrested and detained on 7 August 2018 on accusations of involvement in the alleged assassination attempt on President Maduro three days earlier. There are serious concerns about his treatment in detention and respect for due process following the immediate lifting of his parliamentary immunity, not by the National but the Constituent Assembly. Nine other members of the National Assembly spent up to four years in detention in recent years, without respect for their parliamentary immunity and continue to be subject to reportedly politically motivated legal proceedings.

In 2017, six members of parliament had their passports confiscated arbitrarily in connection with their international parliamentary work. Two other members of parliament were disbarred from holding public office, allegedly in the absence of any legal basis. Six members of parliament, including former Speaker Borges, left Venezuela and obtained asylum abroad in the face of continued harassment and intimidation, whereas the then Deputy Speaker, Mr. Freddy Guevara, sought protection at the Chilean Embassy in Caracas, where he has been since November 2017. Today, many parliamentarians continue to face regular harassment, such as in the case of Mr. Tomás Guanipa, who has faced physical attacks, baseless accusations, a plan to have him assassinated and house searches. A June 2018 UN human rights report documented extensively the attacks against political opponents, social activists and human rights defenders.

The Government has not provided any funding to the National Assembly since August 2016. In its decision of 18 August 2017, the Constituent Assembly invested itself with legislative powers. The Constituent Assembly has taken over many of the premises of the National Assembly. Even the limited space used by the National Assembly has been invaded and occupied, with several members of parliament taken hostage and beaten up with impunity by government supporters , most notably on 27 June and 5 July 2017.

Long-standing efforts since 2013 to send a delegation of the Committee on the Human Rights of Parliamentarians (CHRP) to Venezuela have failed in the absence of cooperation from the Government to welcome and work with the delegation. In October 2018, the IPU Governing Bodies decided that the mission would be of an integrated nature, comprising members of the IPU Executive Committee and the CHRP and focusing on both the larger political matters at stake in the Venezuelan crisis and the specific concerns expressed by the CHRP.

Presidential elections took place on 20 May 2018. The MUD announced in February 2018 that it would boycott the elections, considering the electoral system to be rigged in favour of President Maduro, who obtained the most votes in elections that were widely criticized for failing to be free and fair. President Maduro was sworn in on 10 January 2019 for a second term. On 4 January 2019, the Lima Group, comprising Latin American countries and Canada, said it would not recognize his Government. Likewise, on 10 January 2019, the Permanent Council of the Organization of American States agreed not to recognize the legitimacy of President Maduro's new term.

On 13 January 2019, Mr. Juan Guaidó, the new Speaker of the National Assembly, was briefly detained by members of the National Bolivarian Intelligence Service (SEBIN) who reportedly caused injury to his wrists during the arrest. The Government reportedly said that the detention was carried out unilaterally by individual SEBIN officers, who have reportedly since been charged with illegitimate detention and abuse of functions.

On 15 January 2019, the National Assembly invoked the country's constitution to declare the illegitimacy of President Maduro, and declared the presidency to be vacant. On 21 January 2019, the Supreme Court declared the Bureau of the National Assembly to be illegitimate and reaffirmed its position that all decisions by the National Assembly were null and void. On 23 January 2019, Mr. Guaidó publicly stated that, in conformity with the Constitution, he was ready to assume the interim presidency of Venezuela until free and fair elections were held, which decision was immediately endorsed by the National Assembly. Many countries in the Americas, including the United States and several members of the European Union, have since recognized Mr. Guaidó as President of Venezuela, which recognition is strongly opposed by several other countries from and outside the region including, China, Cuba, Iran (Islamic Republic of), the Russian Federation, and Turkey.

On 23 January 2019, in a ruling by the Supreme Court, the Public Prosecutor's Office was asked to examine whether, in light of the National Assembly's actions, the conduct of members of the National Assembly amounted to criminal behaviour. Soon after this ruling, Ms. Delsa Solorzano was accused by public officials to be responsible for inciting violence through a WhatsApp exchange, which was allegedly doctored to implicate her. Thus far, no charges have been brought against her. On 29 January 2019, the Supreme Court launched an investigation into Mr. Guaidó, accusing him of being responsible for the commission of crimes that go against the constitutional order. The Supreme Court froze his assets and prohibited him from disposing of movable and immovable property and from leaving the country for the duration of the investigation.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Is deeply concerned* about the arbitrary arrest of Mr. Guaidó and the recent restrictions placed on him; *wishes* to receive official confirmation of the steps taken to hold those who carried out the arrest to account, as well as clarification of the facts and legal grounds used to justify the restrictions;

2. *Also expresses concern* about the sweeping decision by the Supreme Court to call for an investigation into possible criminal conduct of members of the National Assembly, which ruling is bound to heighten the sense of insecurity and intimidation already faced by its members, as the latest reported developments regarding Ms. Solorzano bear out;

3. *Urges* the authorities to put an immediate stop to the harassment of members of the National Assembly and ensure that all relevant state authorities respect the human rights and parliamentary immunity of members of the National Assembly; *urges once more* the relevant authorities to ensure that the National Assembly and its members can fully carry out their work by respecting the Assembly's powers and allocating the necessary funding for its proper functioning; *requests* the relevant authorities to provide information urgently on steps taken to this end;

4. *Is deeply concerned* that none of the reports of physical attacks, arbitrary arrests and detention, politically motivated proceedings, lack of respect for parliamentary immunity, arbitrary revocation and suspension of parliamentary mandates and the arbitrary confiscation of passports affecting members of the National Assembly in 2017 and 2018 have led the authorities to investigate these incidents and establish accountability; *urges* the relevant authorities once more to take the necessary action, as is their obligation, to shed light on and identify and punish those responsible for any such abuses and to prevent new ones from occurring;

5. *Remains deeply concerned* about Mr. Juan Requesens' continued detention, all the more so in light of the total disregard for his parliamentary immunity, the very serious indications that he may have been drugged to testify against himself, the fact that he is kept at the headquarters of the National Bolivarian Intelligence Service and the poor conditions in which he is allegedly being held, with very limited, if any, contact with his family; *remains troubled* that the authorities appeared to have publicly released videos showing Mr. Requesens in an undignified and dishevelled state, apparently confessing to his criminal responsibility in order to show his guilt, hence also flouting his presumption of innocence; *urges* the authorities once more to investigate these matters without delay and to ensure that Mr. Requesens is kept in dignified conditions; *requests* the relevant authorities to provide official information on these points and on the facts underpinning the very serious charges brought against him;

6. *Deeply regrets* that the IPU mission to Venezuela has still not taken place; *remains convinced* that such a mission could help address the concerns at hand; *requests once again*, therefore, the Secretary General to work with the parliamentary and executive authorities of Venezuela with a view to the mission taking place as soon as possible;

7. *Reaffirms* in this regard its view that the issues in the cases at hand are part of the larger political crisis in Venezuela, which can only be solved through political dialogue; *calls once again on* all sides to act in good faith and to commit fully to political dialogue with the assistance of external mediation; *reaffirms* the IPU's readiness to assist with these efforts; and *requests* the relevant authorities to provide further official information on how this assistance can best be provided;

8. *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;

9. *Decides* to continue examining this case.

Bangladesh

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

Leader of the Awami League, Sheikh Hasina Wajed (L) talks with reporters standing at the door of her house in Dhaka, 23 August 2004. FARJANA K. GODHULY / AFP

BGD-15 - Sheikh Hasina (Ms.)

Case BGD-15

Bangladesh: Parliament affiliated to the IPU

Victim: Female parliamentarian, leader of the opposition at the time of the attack (currently the Prime Minister of Bangladesh)

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

Submission of complaint: October 2005 and July 2007

Recent IPU decision: April 2017

IPU Mission: - - -

Recent Committee hearing: Hearing with Bangladeshi delegation to the 136th Assembly (Dhaka, April 2017)

Recent follow-up

- Communication from the authorities: Reports providing updates about the case conveyed by the Deputy Secretary of the Bangladeshi Parliament Secretariat (October 2018);
- Communication from the complainant: (October 2018);
- Communication addressed to the authorities: Letter addressed to the Speaker of Parliament (December 2018);
- Communication addressed to the complainant: October 2018.

Alleged human rights violations:

✓ Torture ill-treatment and other acts of violence

A. Summary of the case

Sheikh Hasina, leader of the then opposition Awami League, was the target of an attack on 21 August 2004 when grenades were thrown at her as she concluded a speech at a party rally in the centre of Dhaka. Sheikh Hasina narrowly escaped and was left with a permanent hearing disability. The attack occurred in broad daylight in the presence of at least 380 policemen and scores of government intelligence and surveillance agents. Several people were killed and wounded. It was not the first attack on Sheikh Hasina. However, none of the previous 18 attacks had been properly investigated by the government of the then ruling Bangladesh Nationalist Party (BNP), according to the complainants.

Within 48 hours of the assassination attempt the student wing of the BNP made statements accusing Sheikh Hasina and her party of having organized the attack. As alleged by the complainants, their statements were quickly followed by public statements from ministers who declared that the opposition party had organized the attack to push the country towards anarchy.

An investigation was opened right away but it later proved to be the result of an effort to pervert the course of justice. The caretaker Government of October 2006 to December 2008 decided to give the case priority. Renewed investigations led to a charge sheet being drawn up against members of an Islamist militant group (Horkat-ul-Jihad-i-Islami

[Huji] movement), including its leader, Mufti Abdul Hannan, who was executed on 12 April 2017 in relation to a different case. Concerns related to testimonies extracted by torture and the politicization of the judicial proceedings were reported throughout the trial.

On 2 July 2011, a supplementary charge sheet was filed against 30 persons, who, in addition to the original suspects, included a number of BNP officials, including the former Prime Minister's Political Secretary, Mr. Harris Chowdhury, and the former Prime Minister's son, BNP senior Vice-Chairman Tarique Rahman, both of whom are said to have gone abroad. The 2011 charge sheet considered that the members of the then ruling party accused in the previous charge sheet had acted at the behest of high-ranking party officials, in complicity with the authorities in charge of law and order in Bangladesh, and had relied on members of the Huji movement to carry out the attack.

On 10 October 2018, the Speedy Trial Court delivered its verdict in the case. Among the 48 accused, 19 people including two former ministers were sentenced to death; 17 accused were sentenced to life imprisonment while the remaining 12 accused were sentenced to prison sentences, ranging from four to five years. Nineteen of the 48 accused, including Mr. Tarique Rahman and Mr. Harris Chowdhury, have remained fugitive from justice.

B Decision

The Committee on the Human Rights of Parliamentarians

1. *Takes note* that in October 2018, more than 14 years after the attack against Sheikh Hasina, a verdict was finally delivered whereby the perpetrators and instigators were held accountable;

2. *Deeply regrets* the excessive delays that characterized the investigative and judicial proceedings and the fact that many of the accused were convicted in absentia; *recalls* its long-standing concerns about persistent allegations of political interference by both parties and suspicions of the politicization of the judicial process, as well as its preoccupations about the respect for due process and international fair trial guarantees, particularly in relation to testimonies allegedly extracted under torture, and the death penalty;

3. *Decides to close* the case pursuant to article 25(b) of its Procedure for the Examination and Treatment of Complaints, in the absence of any updated information provided by the complainant and in light of the conclusion of the judicial proceedings;

4. *Requests* the Secretary General to convey the decision to the relevant parliamentary authorities and to the complainant.

Maldives

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

Former president of the Maldives Mohamed Nasheed (C) is embraced by Jumhoory Party leader Qasim Ibrahim (L) as president-elect Ibrahim Mohamed Solih (R) looks on after Nasheed returned from exile to the Maldives, in Male on November 1, 2018 © Ahmed SHURAU /AFP

MDV16 - Mariya Didi (Ms.)*[1]
MDV28 - Ahmed Easa
MDV29 - Eva Abdulla (Ms.)*
MDV30 - Moosa Manik*
MDV31 - Ibrahim Rasheed
MDV32 - Mohamed Shifaz
MDV33 - Imthiyaz Fahmy*
MDV34 - Mohamed Gasam
MDV35 - Ahmed Rasheed
MDV36 - Mohamed Rasheed
MDV37 - Ali Riza
MDV39 - Ilyas Labeeb
MDV40 - Rugiyya Mohamed (Ms.)
MDV41 - Mohamed Thoriq
MDV42 - Mohamed Aslam*
MDV43 - Mohammed Rasheed*
MDV44 - Ali Waheed
MDV45 - Ahmed Sameer
MDV46 - Afrasheem Ali
MDV48 - Ali Azim*
MDV49 - Alhan Fahmy
MDV50 - Abdulla Shahid*
MDV51 - Rozeyna Adam (Ms.)*
MDV52 - Ibrahim Mohamed Solih
MDV53 - Mohamed Nashiz
MDV54 - Ibrahim Shareef*
MDV55 - Ahmed Mahloof*
MDV56 - Fayyaz Ismail*
MDV57 - Mohamed Rasheed Hussain*
MDV58 - Ali Nizar*
MDV59 - Mohamed Falah*
MDV60 - Abdulla Riyaz*
MDV61 - Ali Hussain*
MDV62 - Faris Maumoon*
MDV63 - Ibrahim Didi*
MDV64 - Qasim Ibrahim*
MDV65 - Mohamed Waheed Ibrahim*
MDV66 - Saud Hussain *
MDV67 - Mohamed Ameeth*
MDV68 - Abdul Latheef Mohamed*
MDV69 - Ahmed Abdul Kareem*
MDV70 - Hussein Areef*
MDV71 - Mohamed Abdulla*
MDV72 - Abdulla Ahmed*
MDV73 - Mohamed Musthafa*
MDV74 - Ali Shah*
MDV75 - Saudhulla Hilmy*
MDV76 - Hussain Shahudhee*
MDV77 - Abdullah Sinan*
MDV78 - Ilham Ahmed*

* (Re-)elected to Parliament in the elections of March 2014.

Alleged human rights violations:

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Violation of freedom of opinion and expression
- ✓ Threats, acts of intimidation
- ✓ Murder
- ✓ Other acts obstructing the exercise of the parliamentary mandate
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Violation of freedom of movement

Case MDV-COLL-01

Maldives: Parliament affiliated to the IPU

Victims: 50 former opposition members of parliament, except Mr. Afrasheem Ali, a member of the majority (46 men and 4 women)

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

Submission of complaint: February 2012

Recent IPU decision: March 2018

IPU missions: March 2018, October 2016, November 2013, November 2012

Recent Committee hearing: Hearing with the Maldives delegation at the 137th IPU Assembly (October 2017)

Recent follow-up:
- Communication from the authorities: Letter from the Deputy Secretary General of the People's Majlis (March 2018);
- Communication from the complainant: October 2018;
- Communication addressed to the authorities: Letter addressed to the President-Elect and Speaker of the People's Majlis (November 2018);
- Communication addressed to the complainant: January 2019.

A. Summary of the case

In the aftermath of the controversial resignation in February 2012 of President Mohamed Nasheed (Maldivian Democratic Party—MDP), which he claimed was forced upon him, there were serious and credible reports and allegations of arbitrary arrests, ill-treatment, attacks and death threats against several opposition members of the People's Majlis, the majority of them belonging to the MDP.

Following the 2014 parliamentary elections, the opposition repeatedly claimed that the then ruling Progressive Party of Maldives (PPM), with the support of the Speaker of the People's Majlis, systematically limited the opportunities for the opposition to contribute meaningfully to the work of parliament, and that the latter had adopted laws that seriously reduced human rights. The parliamentary authorities denied these allegations.

Tension and violence erupted once again after an opposition alliance and defections from the PPM galvanized the opposition to move a first no-confidence motion against the Speaker in March 2017. This attempt was followed in the same month by a sudden ruling by the Supreme Court revoking the parliamentary mandates of 12 members of parliament for defecting from the PPM, hence changing the balance of power in parliament back in favour of the ruling party. There followed the physical removal of opposition members of parliament shortly before the vote, a lockdown of parliament, and the arrests and detention of two prominent opposition parliamentarians in July and August 2017.

The political crisis in the Maldives took a further turn for the worse in the aftermath of the ruling by the Supreme Court on 1 February 2018 to release nine high-profile politicians and to reinstate the 12 members of parliament. President Yameen refused to implement the ruling, claiming it unlawful, and declared a state of emergency, which expired on 22 March 2018.

A delegation of the IPU Committee on the Human Rights of Parliamentarians travelled to the Maldives in March 2018, when the state of emergency was in full force, and concluded that the decision to revoke the 12 parliamentary mandates and the charges against the members of parliament who were forcibly removed from the People's Majlis in July 2017 were arbitrary. The delegation expressed deep concern about the wave of arrests launched against members of parliament under the state of emergency, the charges of terrorism brought against six members and the detention of five for the duration of their trials. The delegation called on the authorities to fully ensure their right to a fair trial and suggested that the IPU send a trial observer.

Presidential elections in the Maldives took place on 23 September 2018 and were won by Mr. Ibrahim Mohamed Solih, the joint candidate of four opposition parties. Following his election, all members of parliament in detention were released. Mr. Qasim Ibrahim, who had been in Germany since being convicted of vote buying in 2017, was released on bail and, after returning to the Maldives, became the new Speaker. On 15 October 2018, the Prosecutor General's Office withdrew charges against the

12 opposition lawmakers who had been forcibly removed from the People's Majlis in July 2017. By the end of October 2018, the Supreme Court had reinstated all 12 members of parliament.

The IPU Secretary General was invited to and attended the swearing in of President Solih on 17 November 2018 and was able to ascertain some of the above facts. He also reported that some of the MPs concerned had been appointed to the Cabinet.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Is pleased* that, as recommended in the mission report, the 12 parliamentarians were allowed to take up their seats again and charges against the parliamentarians for attempting to gain access to the People's Majlis in July 2017 were dropped; *decides* therefore to close their case pursuant to article 25 of its Procedure for the Examination and Treatment of Complaints, in light of the satisfactory resolution of their situations;

2. *Notes* that, with regard to the issues that gave rise to the original complaint in 2012, no further incidents of harassment against current and former parliamentarians have been reported in recent times; *decides* therefore to close any further examination of their situations pursuant to article 25 (b) and (c) of the aforesaid Procedure, while expressing confidence that the current authorities will do everything possible to safeguard at all times the physical integrity of all members of parliament;

3. *Remains* eager to know if Mr. Qasim Ibrahim, Mr. Faris Maumoon, Mr. Ahmed Mahloof, Mr. Abdulla Riyaz , Mr. Abdulla Sinan, Mr. Ilham Ahmed and Mr. Ibrahim Didi are still subject to legal proceedings and, if so, *wishes* to have information on the precise charges and facts to support them;

4. *Reiterates the hope*, in light of previous concerns, that the ruling parties and the opposition will make genuine use of Parliament as the platform to discuss their differences and find common solutions; *trusts* that relations between the executive, Parliament and judiciary will improve with the respect to their respective prerogatives and that the Maldivian authorities will together tackle the underlying factors of continued political instability in the Maldives, which the mission report identified as a "winner-takes-all" political mentality, lack of a culture of political dialogue, reports of widespread corruption, systematic floor crossing in Parliament and the absence of a fully independent judiciary and independent oversight institutions; *reaffirms* that the IPU stands ready to lend its expertise to facilitate constructive dialogue in Parliament and between Parliament and the other state branches, as well as expertise to help address the aforesaid underlying challenges, in particular as the parliamentary elections in March 2019 are fast approaching;

5. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;

6. *Decides* to continue its examination of the cases at hand.

Belarus

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

Victor Gonchar © Courtesy photo / Mr. Gonchar's family

BLS/05 - Victor Gonchar

Case BLS/05

Belarus: Parliament affiliated to the IPU

Victims: One male opposition member of parliament

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

Submission of complaint: August 1998

Recent IPU decision: April 2015

IPU mission: November 1999

Recent Committee hearings: - - -

Recent follow-up
- Communication from the authorities: Letters from the Chairman of the Committee on National Security of the House of Representatives (July 2012 and January 2013);
- Communication from the complainant: January 2019;
- Communication addressed to the authorities: Letter addressed to the Chairman of the House of Representatives (December 2018);
- Communication addressed to the complainant: January 2019.

Alleged human rights violations:

✓ Enforced disappearance
✓ Impunity

A. Summary of the case

Mr. Victor Gonchar disappeared in September 1999, together with his companion, Mr. Anatoly Krasovsky. Mr. Gonchar was the Deputy Speaker of the 13th Supreme Soviet and a major political opponent of the President of Belarus, Aleksandr Lukashenko. He was the third prominent opposition figure in Belarus to have "disappeared" since April 1999. Mr. Gonchar was expected to play a leading role in the talks organized by the Organization for Security and Co-operation in Europe (OSCE) between the opposition and President Lukashenko. At the time of his disappearance, he was due to chair an extended parliamentary session which could have set in motion the process to impeach the President.

Allegations have been made attributing his "disappearance" to State-run death squads known as SOBR (special police unit) on the personal order of the former Minister of the Interior and of the Secretary General of the Belarusian Security Council. Official investigations have remained unavailing. Key officials suspected of involvement were never questioned and were subsequently promoted.

A report on disappearances in Belarus issued in February 2004 by the Parliamentary Assembly of the Council of Europe (PACE) concluded that no proper investigation had been conducted, and that senior

State officials may be implicated in the disappearances of several opposition figures, including Mr. Gonchar. The authorities objected to the report's conclusions.

In March 2012, the United Nations Human Rights Committee also concluded, in the case of the enforced disappearance of Mr. Anatoly Krasovsky, that Belarus had violated its obligations to investigate properly and take appropriate remedial action. It requested Belarus to provide the victims with an effective remedy, including a thorough and diligent investigation of the disappearance and prosecution and punishment of the perpetrators. No implementation measures have been taken by the authorities.

No information from the Parliament of Belarus or from the judicial authorities has been forthcoming since January 2012. Meetings with the leader of the Belarus delegation to the 132nd IPU Assembly (Hanoi, March-April 2015) and between the IPU President and the Speaker of the House of Representatives (September 2015) have been inconclusive, as the authorities have continued to affirm that the investigation was ongoing and confidential and that they did not need assistance. They have failed to provide any other information or to respond to the Committee's request of March 2013 to conduct a visit to Belarus.

The families and their counsels have never been granted access to the investigation files despite numerous petitions. Their requests—and those of the opposition United Civil Party—for the investigation of State officials and of other leaders have remained unanswered. They had, among others, asked for the Prosecutor General to take into account, and investigate, documentaries and video testimonies aired on TV pointing to the involvement of the same top officials, in particular in the documentary "Krestny Batka" (The Nation's Godfather) aired by the Russian channel NTV in the summer of 2010 and the important video testimony (allegedly dating from 2003 and aired in September 2018) of Mr. Viktor Zabolotsky, a Belarusian citizen who claimed to have been near the crime scene at the time of Mr. Gonchar's disappearance. The complainant indicated that the families had been informed on 6 December 2018 by the investigative authorities that the investigation had been suspended as they had failed to identify the perpetrator, but that they would reopen it, should they identify a suspect.

The United Nations Human Rights Council has repeatedly expressed deep concern at the continuing violations of human rights in Belarus, which it found were of a systemic and systematic nature, as well as at the use of torture and ill-treatment in custody, the lack of response by the Government of Belarus to cases of enforced disappearances of political opponents and the lack of participation of opposition political parties in Parliament.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Deplores* the complete and persistent impunity that prevails in the case, almost 20 years after the disappearance of Mr. Gonchar and Mr. Krasovsky;

2. *Regrets deeply* the lack of cooperation from the Belarusian authorities and their failure to accept a visit of the Committee to Belarus;

3. *Points out* that the authorities have put forward no information to sustain their assertion that a genuine investigation into the disappearance was conducted over the past 20 years; *considers* that this gives serious weight to the allegations related to the complicity of high level state officials in the disappearance of Mr. Gonchar and Mr. Krasovsky and to the direct responsibility of the Belarusian authorities for their disappearance in reprisal for their political stance;

4. *Recalls* that impunity, by shielding those responsible from judicial action and accountability, decisively encourages the perpetration of further serious 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 the Parliament and the opposition are targeted in the context of a broader

pattern of repression, as in the present case; *points out* that the widespread or systematic practice of enforced disappearance constitutes a crime against humanity; *stresses* the legitimate right of the relatives of the victims to know about the fate of the “disappeared” persons and the circumstances of the enforced disappearance;

5. *Reaffirms its view* that the Parliament of Belarus continues to have a direct responsibility to ensure that every effort is made by all relevant authorities to investigate thoroughly and diligently the many leads and concerns that have emerged and to identify and punish those responsible for the enforced disappearance of one of its members;

6. *Urges* the Parliament of Belarus to urgently renew dialogue with the IPU in relation to the present case; *reiterates its wish* to conduct a visit to Belarus to obtain first-hand information on the investigation and any prospects for progress in the case; and *wishes* to receive information on the present status of the case following the suspension of the investigation in December 2018;

7. *Calls* on all IPU Member Parliaments to take concrete actions in support of the urgent resolution of this case in a manner consistent with democratic and human rights values; and *hopes* to be able to rely on the assistance of all relevant regional and international organizations to this effect;

8. *Requests* the Secretary General to convey this decision to the relevant authorities and to any third party likely to be in a position to supply relevant information, as well as to continue seeking the authorities’ agreement for a visit;

9. *Decides* to continue examining the case.

Russian Federation

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

Galina Starovoitova © Courtesy photo / Ms. Starovoitova's family

RUS01 - Galina Starovoitova

Alleged human rights violations:

- ✓ Murder
- ✓ Impunity

A. Summary of the case

Ms. Galina Starovoitova, a member of the State Duma and co-Chair of the Democratic Russia Party, was assassinated in November 1998. Ms. Starovoitova was "one of the brightest politicians of the new Russia", who "is remembered as a prominent lawyer, a human rights activist and a public figure who did much to shape modern Russian society" as stated in a joint letter of the Chairpersons of the State Duma and of the Council of the Federation dated 3 October 2017.

Following investigations and trial proceedings, Russian courts concluded that Ms. Starovoitova's murder was a contract killing aimed at halting her political activities. Many of the individuals linked to the assassination as the assailants or direct perpetrators of the crime were sentenced to prison terms of varying length. Some of them were convicted in absentia and have remained at large.

Until recently none of the organizers or instigators of the murder had been held accountable. According to one of the complainants, following the suspension and reopening

Case: RUS01

Russian Federation: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

Complainant: Section I.1(a) and (d) of the Committee Procedure (Annex 1)

Submission of complaint: March 1999

Recent IPU decision: October 2017

Recent IPU Mission: - - -

Recent Committee hearings: Hearing with representatives of the State Duma, of the Prosecutor General's Office of St. Petersburg and with Ms. Olga Starovoitova, Ms. Galina Starovoitova's sister, and her lawyer, at the 137th IPU Assembly (October 2017)

Recent follow up

- Communication from the authorities: Letter from the Chairperson of the State Duma and the Chairperson of the Council of the Federation (October 2017);
- Communication from the complainant: (November 2018);
- Communication addressed to the authorities: Letter addressed to Chairman of the State Duma (December 2018);
- Communication addressed to the complainant: November 2018;

of the investigation into the crime, a former member of parliament, Mr. Glushchenko, was investigated and subsequently convicted to 17 years in prison on 27 August 2015, as one of the accomplices/ organizers of the assassination. Mr. Glushchenko appealed the sentence, which was upheld on appeal on 17 November 2015. Mr. Glushchenko pleaded guilty and designated Mr. Vladimir Barsukov (aka Kumarin) as the mastermind of the assassination. According to the complainant, the investigation has since been examining Mr. Barsukov's role in the assassination but no progress appeared to have been achieved since then and no charges have been brought against Mr. Barsukov.

At the hearing held during the 137th IPU Assembly (St. Petersburg, October 2017) with representatives of the State Duma, and the Prosecutor's Office, the latter stated that Ms. Starovoitova's murder investigation was still ongoing and that it would remain open until all culprits had been held accountable. They stressed the complexity and sensitivity of contract killings, which were hard to investigate as they were based on secret arrangements making it difficult to unearth material evidence. Meanwhile, the representative of the State Duma did not confirm that the State Duma was still monitoring the case and recommended that the case be closed on the grounds that it was unlikely, in his opinion, that other suspects would be identified even if the investigation continued.

In November 2018, the complainant indicated that there had been no progress to report and expressed renewed concern that the authorities may decide to close the investigation soon.

B Decision

The Committee on the Human Rights of Parliamentarians

1. *Expresses concern* about the apparent lack of progress in the investigation and *sincerely hopes* that the Prosecutor's Office will give renewed priority and sufficient investigative means to help achieve a breakthrough in this long-standing case that would finally shed light on the identity of the mastermind(s) of the assassination;

2. *Deeply regrets* that no information has been forthcoming from the Russian authorities since the 137th IPU Assembly (October 2017, St. Petersburg) and *urges* the State Duma and the Office of the Prosecutor General to uphold the commitment made in October 2017 to cooperate and pursue a dialogue with the IPU about the outstanding investigation to identify and hold accountable all the organizers and masterminds of the assassination of Ms. Galina Starovoitova;

3. *Reaffirms* its conviction that the State Duma's continued interest in the case—within the boundaries of the separation of powers—is critical to helping ensure that justice is done and to sending a strong signal that the assassination of a parliamentarian for having exercised her right to freedom of speech will not be left unpunished; *wishes* to know if the anti-corruption and security committee of the State Duma, or any other Standing Committee, continues to monitor the case with a view to its resolution;

4. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Prosecutor General's Office, the complainant and any third party likely to be in a position to supply relevant information;

5. *Decides* to continue examining the case.

Bahrain

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

Matar Ebrahim Matar © Courtesy photo | Mr. Matar's family

BHR03 - Matar Ebrahim Matar
BHR04 - Jawad Fairooz Ghuloom

Case BHR-COLL-01

Bahrain: Parliament affiliated to the IPU

Victims: Two male opposition members of parliament

Complainant: Section I.1(a), (b), and (d) of the Committee Procedure (Annex 1)

Submission of complaint: May 2011

Recent IPU decision: February 2017

IPU Mission: - - -

Recent Committee hearing: Hearing of the Bahraini parliamentary delegation, led by the First Deputy Speaker of the Shura Council, Mr. Jamal Fakhro, during the 131st IPU Assembly (October 2014)

Recent follow-up
- Communication from the authorities: Letters from the Speaker of the Council of Representatives dated (December 2018);
- Communication from the complainant: Meeting with the complainant at the IPU Secretariat (June 2018);
- Communication addressed to the authorities: Letter addressed to the Speaker of the Council of Representatives (December 2019);
- Communication addressed to the complainant: January 2019.

Alleged human rights violations:

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Lack of fair-trial proceedings
- ✓ Other violations: unlawful revocation of citizenship

A. Summary of the case

Both individuals were members of the currently dissolved opposition Al-Wefaq party and of the Council of Representatives until their resignation—in protest of the government crackdown on demonstrations in February 2011—became effective at the end of March that year. They were arbitrarily arrested in May 2011, held incommunicado, allegedly ill-treated and prosecuted in connection with their participation in the demonstrations. Mr. Matar and Mr. Fairooz were released in August 2011. Mr. Matar was acquitted in February 2012.

On 6 November 2011, Mr. Fairooz found out, while on a visit to the United Kingdom, that, along with 30 others, he had had his citizenship revoked that same day for posing a security threat to Bahrain; the complainant considers that decision to be unlawful. Mr. Fairooz has since been granted asylum in the United Kingdom.

On 7 November 2011, Mr. Fairooz was acquitted of charges of spreading lies and promoting hatred, but found guilty of having taken part in a gathering aimed at disrupting public security and of having called for and organized marches without properly notifying the authorities. He was sentenced on those charges to 15 months in prison or, alternatively, the payment of a fine of 300 Bahraini dinars to forestall execution of the prison sentence. Mr. Fairooz appealed the verdict. On

15 January 2013, the High Court upheld the sentence. The United Nations Special Rapporteur on the rights to freedom of assembly and of association singled out the situation of Bahrain in his report of 24 April 2013 (A/HRC/23/39), where he stated that: “Peaceful assemblies have been prohibited or repressed because the messages conveyed do not please the authorities” (para. 61). The report also stated that the Special Rapporteur “is particularly troubled by the imposition of blanket bans in many States” (para. 63), citing Bahrain along with another country, “typically in the interests of national security, public safety or public order. He firmly believes that such blanket bans, are intrinsically disproportionate and discriminatory measures as they impact on all citizens willing to exercise their right to freedom of peaceful assembly” (para. 63).

In June 2011, the King of Bahrain set up the Independent Commission of Inquiry. Its report severely criticized the authorities’ handling of the protests and recommended that they take a wide-ranging series of steps to address the concerns which had arisen. The parliamentary authorities claim that these steps have since been implemented—which is strongly contested by the complainant—and have repeatedly objected to the Committee’s jurisdiction over the cases at hand.

In July 2018, the UN Human Rights Committee reviewed Bahrain’s compliance with the International Covenant on Civil and Political Rights (CCPR/C/BHR/CO/1), to which Bahrain is a party. In its concluding observations, the Committee is concerned “about reports that acts of torture and ill-treatment are often committed by law enforcement officials” (para. 37) and “about arbitrary and extrajudicial arrest and detention by security forces, including incommunicado detention, with no access to a lawyer or contact with family members” (para. 39). The Committee “is concerned that the right to freedom of assembly is severely limited and notes that public gatherings and marches are severely restricted by a 1973 decree on public gatherings and Decree No. 32/2006” (para. 55). The Committee is also “concerned about reports that the State party regularly avails itself of legal provisions making assemblies illegal to disperse protests violently and arrest activists, human rights defenders and members of the opposition” (para. 55). The Committee is “concerned about a number of persons who have had their citizenship revoked” (para. 61). In a similar vein, the Committee “notes with great concern the number and breadth of the circumstances in which domestic legislation allows for revocation of citizenship, including for any individual who ‘aids or is involved in the services of a hostile State’ or ‘causes harm to the interests of the Kingdom or acts in a way that contravenes his duty of loyalty to it’” (para. 61). The Committee “is concerned that the opposition parties Al-Wefaq and Wa’ad have recently been dissolved and that their leaders and members have been prosecuted” (para. 63). It should be noted that with regard to each of the aforesaid concerns that the Committee formulated clear recommendations for action to the Bahraini authorities.

General elections were held in Bahrain on 24 November 2018, with a second round taking place in some constituencies on 1 December 2018. The main opposition was banned from running after their political parties had been dissolved earlier and after legislation had been amended to broaden the scope for invoking security grounds as a reason for exclusion from the elections.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the then Speaker of the Council of Representatives for his letter of 20 December 2018;

2. *Regrets nevertheless* that the information provided therein still does not answer its long-standing question about evidence of an effective official investigation into the detailed allegations of ill-treatment of Mr. Fairooz and Mr. Matar, particularly in light of the equivocal conclusions reached by the Bahraini Independent Commission of Inquiry regarding the use of torture and other forms of physical and psychological abuse of detainees during and after the protests and the lack of accountability of law enforcement officials; *considers* that the 2018 concluding observations and recommendations of the UN Human Rights Committee bear out that the underlying concern with regard to the alleged torture remain relevant today and therefore have to be taken extremely seriously;

3. *Reiterates its wish* to receive a copy of the decision to close the investigation into their alleged ill-treatment, the investigation report detailing the concrete steps that the authorities took to shed light on the allegations and a copy of the record of the detainees' visitors, particularly for the first month of the detention;

4. *Reaffirms its view* that, in light of its examination of the translated texts of the first-instance and appeal judgment against Mr. Fairooz, the relevant international human rights norms and the observations made by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, there was no legal justification to depict Mr. Fairooz's actions as criminal; *remains eager*, therefore, to receive the clarifications that the authorities undertook to provide on this point, all the more so as the UN Human Rights Committee's conclusions clearly underscore the challenges that continue to exist to the exercise of the right to freedom of peaceful assembly;

5. *Remains deeply concerned* about the manner in which Mr. Fairooz's nationality was revoked, which is part of a practice in Bahrain that has been widely criticized; *emphasizes* that, under international law, the revocation of nationality is an extremely serious measure, all the more so if it leads to statelessness, and should only be taken with full respect for due process, which should include hearing the individual concerned; *acknowledges* that Mr. Fairooz has not challenged the revocation in court, but that the only person of the group of 31 who did was told that the factual basis for the revocation could not be divulged; *considers* therefore that any attempt by Mr. Fairooz to challenge the revocation would likewise have been devoid of any practical meaning;

6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainants and any third party likely to be in a position to provide relevant information;

7. *Decides* to continue examining the case.

Israel

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

Arab member of Israel's Knesset Haneen Zoaby (C) and Jamal Zahalka (R) speaking to the press on February 14, 2015 © Fazlioglu / Anadolu Agency

ISR06 - Jamal Zahalka
ISR07 - Haneen Zoabi (Ms.)
ISR08 - Basel Ghattas

Case ISR COLL-01

Israel: Parliament affiliated to the IPU

Victim: Three opposition members of parliament (two male, one female)

Complainant(s): Section I.1(c) of the Committee Procedure (Annex 1)

Submission of complaint: March 2016

Recent IPU decision: - - -

IPU Mission: - - -

Recent Committee hearings: Hearing with the delegation of the Knesset at the 134th IPU Assembly (March 2016)

Recent follow up:
- Communication from the authorities: Letter from the Head of the Knesset Delegation to the IPU (January 2018);
- Communication from the complainant: January 2017;
- Communication addressed to the authorities: Letter to the Speaker of the Knesset (November 2018);
- Communication addressed to the complainant: January 2017.

Alleged human rights violations:

- ✓ Violation of freedom of opinion and expression
- ✓ Abusive application of parliamentary sanctions

A. Summary of the case

On 8 February 2016, the Knesset Ethics Committee suspended Knesset members Mr. Jamal Zahalka, for three months, and Ms. Haneen Zoabi and Mr. Basel Ghattas, for four months, preventing them from attending parliamentary meetings and committee hearings (while retaining their right to vote) for standing up during a moment of silence at a meeting they had with Palestinian families whose sons had been killed by Israeli security forces after allegedly attacking Israelis. That meeting was brought about at the request of the families to help expedite the return of the bodies of the deceased to their families for burial, which the Israeli authorities had until then reportedly refused.

The complainants consider that the three members of the Knesset took part in the meeting in the exercise of their legitimate duties as parliamentarians, and that the moment of silence is a customary practice performed out of respect for the deceased, regardless of the circumstances. The Speaker of the Knesset explained, however, that the Ethics Committee had found that the members had made improper use of the freedoms granted to them. In standing for a moment of silence, the Committee found, they had crossed the line between protected speech and expressing blatant solidarity with terrorists in a way that supported the mechanisms of incitement.

The complainants stress that members of the Balad party, to which the three Knesset members belong, have been subject to similar disciplinary actions and that this latest suspension of Balad members of the Knesset has to be seen as part of a wider campaign against the civil and political rights of Palestinian Arab citizens of Israel and the promotion of the exclusively Jewish character of Israel.

In 2017, Mr. Zahalka, Ms. Zoabi and Mr. Ghattas had their parliamentary privileges fully restored upon expiration of their suspension. According to the Speaker of the Knesset, Mr. Ghattas was caught on video in December 2016 at Ketziot Prison smuggling documents and cellular phone equipment to prisoners serving terrorism-related sentences. Mr. Ghattas was found guilty of moral turpitude and fined. He reportedly resigned from his Knesset seat as part of a plea deal, thus avoiding impeachment.

On 26 December 2018, the Knesset was dissolved in view of new elections scheduled for 9 April 2019.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint concerning the case of Ms. Haneen Zoabi, Mr. Jamal Zahalka and Mr. Basel Ghattas, members of the Israeli Knesset at the time of the alleged violations, is admissible under Section I.1(a) of the its Procedure for the Examination and Treatment of Complaints and declares itself competent to examine the case (Annex 1 of the revised rules and practices of the Committee on the Human Rights of Parliamentarians);

2. *Thanks* the parliamentary authorities for the information they have provided in this case;

3. *Affirms* its long-held view that freedom of expression is essential to members of parliament and protects not only information or ideas that are favourably received but also those which offend, shock or disturb the State or any other sector of the population; *recalls* that, under international law, any valid restriction to freedom of expression needs to comply with a three-part test according to which such a restriction needs to be provided for by law, may only be imposed on the grounds set out in Article 19 of the International Covenant on Civil and Political Rights, and must conform to the strict tests of necessity and proportionality;

4. *Emphasizes* that the three members of the Knesset met with the Palestinian families as part of the legitimate exercise of their parliamentary functions, in order to assist them in reclaiming the bodies of their deceased sons; *notes* that the three parliamentarians observed a minute of silence in accordance with their cultural and religious heritage as a customary practice performed out of respect for the deceased in general, regardless of the circumstances of their death, and that this can in no way be construed as expressing support for the actions of the deceased, let alone as direct incitement to violence;

5. *Concludes* therefore that the suspension of Ms. Zoabi, Mr. Zahalka and Mr. Ghattas was unjustified in light of the alleged facts;

6. *Considers* that any further action in the case is moot as the suspension of the three members has expired; *therefore decides* to close the case in accordance with Article 25 (a) of Annex I of its Procedure for the Examination and Treatment of Complaints;

7. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Kuwait

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

Kuwaiti MP Safaa Al-Hashem waves as she attends the opening session of the new parliament in Kuwait City, on December 11, 2016 © Yasser Al-Zayyat / AFP

KWT-08 - Safa Al-Hashem

Case KWT-08

Kuwait: Parliament affiliated to the IPU

Victims: Independent female member of parliament

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

Submission of complaint: January 2019

Recent IPU decision: - - -

IPU mission: - - -

Recent Committee hearings: - - -

Recent follow up:
- Communication from the authorities: - -
- Communication from the complainant: January 2019
- Communication addressed to the authorities: - - -
- Communication addressed to the complainant: January 2019.

Alleged human rights violations:

✓ Other violations (attack on honour and reputation)

A. Summary of the case

On 13 November 2018, Mr. Mortada Mansour, a member of the House of Representatives of the Arab Republic of Egypt, published on social media a video recording directed at Ms. Al-Hashem and her family. The complainant alleged that the comments made by Mr. Mansour in his video were immoral, degraded Ms. Al- Hashem as a woman and humiliated her family.

According to the complainant, Mr. Mansour's comments came in response to Ms. Al-Hashem's criticism of the conduct of Egyptian expatriates in Kuwait, which in turn was a reaction to a statement made by an Egyptian Minister regarding the reported ill-treatment of an Egyptian expatriate in Kuwait by Kuwaiti citizens.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the communication regarding the situation of Ms. Safa Al-Hashem, a member of the National Assembly of Kuwait, was submitted in due form by complainants qualified under Section I.1(a) of the Procedure for the Examination and Treatment of Complaints (Annex 1 of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);

2 *Notes* that the communication concerns an incumbent member of Kuwait's National Assembly;

3. *Notes* that the communication concerns allegations of unlawful attacks on her honour and reputation, made by an Egyptian member of parliament;

4. *Considers* that, on the basis of the foregoing, and while acknowledging that all human beings are entitled to have their honour and reputation respected, the issue at hand appears to be a personal dispute between two members of parliament from different countries, which does not amount to a human rights matter falling within the Committee's mandate;

5. *Considers*, therefore, that the communication is not admissible and decides not to examine the case;

6. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Yemen

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

© Abd Al-Hameed Saif Al-Batra'

YEM09 – Abd Al-Hameed Saif Al-Batra'

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
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

Case YEM09

Yemen: Parliament affiliated to the IPU

Victim: Independent male member of parliament

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

Submission of complaint: March 2018

IPU mission: - - -

Recent Committee hearings: - - -

Recent follow-up:
- Communication from the authorities: - - -;
- Communication from the complainant: November 2018;
- Communication addressed to the authorities: Letter to the Speaker and Deputy Speaker of the House of Representatives (July 2018);
- Communication addressed to the complainant: November 2018

A. Summary of the case

On 25 November 2015, Mr. Abd Al-Hameed Saif Al-Batra', member of the House of Representatives, and his son, Mr. Marwan Al-Batra' were abducted by armed individuals from their home in the city of Taiz. According to the complainant, the armed individuals were part of the Houthi militia. It seems that Mr. Al-Batra' was targeted because he was opposed to the recruitment and enlistment of youth by the Houthi militia and because he was providing humanitarian support to his electorate in the city of Taiz. On 26 February 2016, Mr. Al-Batra' and his son were released in exchange for bribes paid by their relatives, on condition that they both leave Yemen along with their close relatives. Mr. Al-Batra' and his family subsequently left Yemen.

According to the complainant, Mr. Al-Batra' and his son were held with other detainees in the city of Saleh in a small room without basic commodities, proper food and clean water. Together with other detainees, they were routinely exposed to violence/torture during their detention. Mr. Al-Batra's physical and psychological health was affected by his conditions of detention.

The case of Mr. Al-Batra' is to be seen in the context of the ongoing major security, humanitarian and political crisis in Yemen, which impedes the proper functioning of the country, including that of the parliamentary institution.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint concerning the case of Mr. Al-Batra' is admissible under Section I.1(a) of the its Procedure for the Examination and Treatment of Complaints; and declares itself competent to examine the alleged violations (Annex 1 of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);

2. *Is deeply concerned* by the alleged abduction, torture and ill-treatment of Mr. Al-Batra', which seem to have come in response to the legitimate exercise of his parliamentary mandate in the city of Taiz; *also notes with concern* that Mr. Al-Batra's release was conditional upon his forced departure from Yemen along with his family;

3. *Firmly believes* that impunity poses a serious threat not only to parliamentarians but also to the people they represent; *considers* that the formidable challenges that the Yemini authorities face to re-establish law and order do not exempt them from their obligation to do everything possible in this case to conduct diligent and thorough investigations to identify and hold the culprits to account and prevent the recurrence of similar human rights abuses; *calls on* the Yemeni authorities to take the necessary steps to this end;

4. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;

5. *Decides* to continue examining this case.

Fiji

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

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FJI/01 - Ratu Naiqama Lalabalavu

Case FJI01

Fiji: Parliament affiliated to the IPU

Victim: Male opposition member of parliament

Complainant: Section I.1(a) of the Committee Procedure (Annex 1)

Submission of complaint: August 2015

Recent IPU decision: March 2016

IPU Mission: - - -

Recent Committee hearings: Hearing with the Fijian delegation to the 135th IPU Assembly (October 2016)

Recent follow-up:
- Communication from the authorities: letter from the parliamentary authorities: March 2016;
- Communication from the complainant: January 2017;
- Communication addressed to the authorities: Letter to the Speaker of Parliament (November 2017);
- Communication addressed to the complainant: Letter to the complainant: January 2018.

Alleged human rights violations:

Abusive revocation or suspension of the parliamentary mandate
✓ Violation of freedom of opinion and expression

A. Summary of the case

On 14 May 2015, the Social Democratic Liberal Party (SODELPA) held a public constituency meeting in Makoi. At the meeting, the member of parliament Mr. Lalabalavu allegedly made scurrilous and derogatory remarks in the iTaukei language about the then Speaker of Parliament. Communications Fiji Limited, a news media organization, first covered the story and made audio recordings of the alleged incident.

Following the constituency meeting, a matter of privilege was raised with the Speaker pursuant to Standing Order 134(1) on 18 May 2015. At the relevant time specified in the standing orders, the Attorney General and the Minister for Finance, Public Enterprises, Public Service and Communications moved a motion on the matter. The Speaker put the question to Parliament for a vote. The motion was resolved in the affirmative and the matter was subsequently referred to the Privileges Committee, which was given three days to report back on the matter to parliament. The Committee's proceedings, unlike those of the standing committees, were reportedly subsequently held in camera.

On 19 May 2015, the Privileges Committee met briefly and called three of the 10 witnesses that were on the list. On 20 May 2015, the Committee met to consider: (i) whether there was any breach and, if

so, its severity; (ii) the available sanctions, and the appropriate sanction or penalty that should be recommended to Parliament. The Committee, after deliberating at length, was not able to reach a consensus and resolved unanimously to make written submissions, which would be consolidated as the findings of the Committee. Opposition members reiterated that they had participated in the proceedings under protest, since the Hon. Attorney General was part of the Committee—notwithstanding the Speaker's ruling on the matter—and because the Speaker's Ruling on Privilege adopted on the morning of 20 May 2015 stated that all matters of privilege were confined to the parliamentary precinct and did not include members' constituency visits.

On 21 May 2015, the Committee finalized and endorsed its report, in which the majority of its members held, inter alia, that it was a well-established parliamentary principle that remarks about the Speaker inside or outside Parliament were, inter alia, regarded as contempt of parliament. The Committee referred in its report to section 20(h) of the Parliamentary Powers and Privileges Act (Chapter 5), according to which "any person who utters or publishes any false or scandalous slander or libel on parliament or upon any member in his or her capacity as such commits an offence and such an offence warrants, inter alia, imprisonment for a maximum of two years". The Privileges Committee concluded that Mr. Lalabalavu's remarks made a mockery of the institution of parliament and recommended that he be suspended from Parliament for at least two years. Later that day, the plenary of parliament decided to follow the Privileges Committee's conclusions and recommendations and to suspend Mr. Lalabalavu for two years.

Mr. Lalabalavu returned to parliament after the expiration of his suspension. He was re-elected in November 2018.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Reaffirms unequivocally* that gender slander is unacceptable; and *recognizes* that Mr. Lalabalavu may have used words that were offensive and degrading and therefore totally reprehensible;

2. *Remains convinced* nevertheless that the decision by the Fijian Parliament to suspend him for two years for remarks made outside of parliament at a local party meeting is both inappropriate, bearing in mind the lack of a clear legal basis for the two-year suspension, and wholly disproportionate; *considers* also in this regard that alternative, regular legal avenues could have been pursued instead to obtain redress for the slander or libel in the case at hand;

3. *Deplores* therefore that Mr. Lalabalavu was unduly prevented from exercising his parliamentary mandate and that his electorate was deprived of representation in parliament for a period covering half the term of parliament;

4 *Trusts* that the Parliament of Fiji will do everything possible to avoid a repeat of the concerns that have arisen in this case by carefully reviewing its disciplinary powers and procedures, as well as their application, so as to ensure compliance with international human rights standards, in particular the right to freedom of expression, the right to take part in the conduct of public affairs and respect for due process; *reaffirms* the IPU's readiness to assist Parliament, if it so wishes, to review its rules and practices for this purpose, including by enlisting the support of other Commonwealth parliaments;

5. *Considers* that any further action in this case is moot; and *therefore decides* to close it in accordance with Article 25 (a) of Annex I of its Procedure for the Examination and Treatment of Complaints;

6. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Fiji

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

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FJI02 - Tupou Draunidalo

Alleged human rights violations:

- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Violation of freedom of opinion and expression

Case FJI02

Fiji: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

Complainant: Section I.1(b) of the Committee Procedure (Annex 1)

Submission of complaint: July 2016

Recent IPU decision: October 2016

IPU Mission: - - -

Recent Committee hearings: Hearing with the Fijian delegation to the 135th IPU Assembly (October 2016)

Recent follow-up:

- Communication from the authorities: Letter from the Secretary General of the Parliament of Fiji: October 2016;
- Communication from the complainant: January 2017;
- Communication from the IPU: Letter to the Speaker of Parliament (November 2017);
- Communication from the IPU: Email to the complainant: January 2018.

A. Summary of the case

In a plenary debate on 1 June 2016, Ms. Draunidalo called the Minister of Education a "fool" in response to remarks that she considered to be degrading to her and others. During the discussion, the Attorney General took issue with her remark, after which she responded that the Minister had said worse in his speech, calling her and others "dumb natives".

On 2 June 2016, a matter of privilege was raised by the Attorney General with the Speaker pursuant to Standing Order No. 134(1). In response, the Speaker ruled that, in her opinion, there had been a prima facie breach of privilege. She therefore referred the matter to the Privileges Committee and ordered a report to be tabled in parliament no later than the following day.

The Attorney General presented his views to the Committee on the evidence submitted by other witnesses. He tendered as evidence a copy of the audio recording of the exchange in parliament, previous cases from the High Court of the Republic of Fiji and social media postings. Ms. Draunidalo was invited to present her

views on the matter. She asked to be excused because she had chosen to exercise her right to silence, believing that she would not receive a fair hearing.

The Secretariat provided collated precedents from Fiji and other relevant jurisdictions to enable the Committee to consider the available sanctions, ranging from the mild to the most severe. The research team were asked to find similar offences in other jurisdictions, for which they were given one hour to carry out research. After reconvening, the Committee was informed that there was very little that could be gathered specific to the members' request.

The Committee, after deliberating, was able to reach a consensus and resolved unanimously to endorse the following findings and recommendations: "What you say in parliament is subject to the standing orders. The dignity and respect of this House must at all times be upheld: In this regard, Standing Order No. 62(4) states: It is out of order for a member, when speaking, to use: (a) offensive words against parliament or another member; ...(d) words that are likely to promote or provoke feelings of ill-will or hostility between communities or ethnic groups within Fiji."

The Committee unanimously found that Ms. Draunidalo had contravened Standing Orders Nos. 62(4)(a) and (d) in circumstances that constituted not only a grave and serious breach of privilege but contempt of parliament. It strongly recommended that Ms. Draunidalo should formally apologize in parliament, while under formal censure and before leaving the parliament precincts, and that she be suspended for the remainder of the term of parliament, with immediate effect from 3 June 2016, following her apology and the imposition of the censure by parliament.

When the findings and recommendations of the Privileges Committee were presented to parliament on 3 June 2016, Ms. Draunidalo and other opposition members made several objections. Ms. Draunidalo apologized in parliament, saying, "If anyone in this House or outside, or anyone else in Fiji, takes offence for what they think they have heard or manufactured to have heard, I unreservedly apologize." Following the debate, the plenary of parliament adopted the conclusions and recommendations of the Privileges Committee.

Parliamentary elections took place in November 2018. Ms. Draunidalo is no longer a member of parliament.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Reaffirms its view* that Ms. Draunidalo's suspension for the remainder of her term was wholly disproportionate and that the invoked legal provisions, or any other Fijian provisions for that matter, do not provide sufficient legal certainty and clarity as a basis for such a suspension;

2. *Reaffirms* that freedom of expression is absolutely essential to the parliamentary mandate and that the exercise of this right includes not only statements that are favourably received or regarded as inoffensive, but also those that may offend, shock or disturb others;

3. *Considers* once more in this regard that, although Ms. Draunidalo could have responded differently to the situation at hand, her words fall squarely within her right to freedom of expression; *considers also* that any concern about her words would have been best settled directly and immediately in the plenary of parliament;

4. *Regrets* therefore that Ms. Draunidalo was unduly prevented from exercising her parliamentary mandate and that her electorate was deprived of representation in parliament for a period covering half the parliamentary term;

5. *Trusts* that the Parliament of Fiji will do everything possible to avoid a repeat of the concerns that have arisen in this case by carefully reviewing its disciplinary powers and procedures, as well as their application, so as to ensure compliance with international human rights standards, in particular the right to freedom of expression, the right to take part in the conduct of public

affairs and respect for due process; *reaffirms* the IPU's readiness to assist Parliament, if it so wishes, to review its rules and practices for this purpose, including by enlisting the support of other Commonwealth parliaments;

6. *Considers* that any further action in this case is moot; and *therefore decides* to close it in accordance with Article 25 (a) of Annex I of its Procedure for the Examination and Treatment of Complaints;

7. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Fiji

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session (Geneva, 8 February 2019)

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FJI03 - Ratu Isoa Tikoca

Alleged human rights violations:

- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Violation of freedom of opinion and expression

Case FJI03

Fiji: Parliament affiliated to the IPU

Victim: Male opposition member of parliament

Complainant: Section I.1(b) of the Committee Procedure (Annex 1)

Submission of complaint: September 2016

Recent IPU decision: October 2016

IPU Mission: - - -

Recent Committee hearings: Hearing with the Fijian delegation to the 135th IPU Assembly (October 2016)

Recent follow-up:
- Communication from the authorities: Letter from the Secretary General of the Parliament of Fiji: October 2016;
- Communication from the complainant: November 2016;
- Communication from the IPU: Letter to the Speaker of Parliament (November 2017);
- Communication from the IPU: Email to the complainant: January 2018.

A. Summary of the case

The origins of Mr. Tikoca's suspension for the remainder of his parliamentary term lie in the speech he made in parliament on 5 July 2016, in which he denounced the "rampant cronyism of the economy" on the part of an elite group enjoying great economic power, and named several individuals belonging to this group, all from the same religious background. Following his remarks, a point of order was raised. The Deputy Speaker, who was presiding at the time, made the ruling that Mr. Tikoca should continue, with a warning that he should consider his words carefully so as to "confine the debate to the budget and not make implications against any other member of parliament". On 9 August 2016 the Speaker reportedly confirmed the Deputy Speaker's ruling; such rulings are apparently not subject to appeal except by motion of parliament.

Much later, however, the Prime Minister submitted an official complaint to the Speaker, asking that she refer the matter to the Privileges Committee, which she did in a letter of 27 September 2016. The Privileges Committee met the following day and concluded that Mr. Tikoco had violated Standing Order No. 62(4)(a) and (d), which stipulates that it is out of order for a member, when speaking, to use offensive words against parliament or another member, or words that are likely to promote or provoke feelings of ill-will or hostility between communities or ethnic groups within Fiji. The Committee recommended that Mr. Tikoca be suspended for the rest of the term of parliament. According to the complainant, Mr. Tikoca was not given the opportunity to defend himself before the Privileges Committee.

On 29 September 2016, the findings and recommendations of the Privileges Committee were put to parliament. A proposed amendment to reduce the penalty to a 30-day suspension was defeated by 30 to 12 votes. Parliament then voted, with 30 votes in favour and 12 against, to suspend Mr. Tikoca for the remainder of his term.

Parliamentary elections took place in November 2018. Mr. Tikoca is no longer a member of parliament.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Reaffirms its view* that Mr. Tikoca's suspension for the remainder of his term was wholly disproportionate and that the invoked legal provisions, or any other Fijian provisions for that matter, do not provide sufficient legal certainty and clarity as a basis for such a suspension;

2. *Reaffirms* that freedom of expression is absolutely essential to the parliamentary mandate and that the exercise of this right includes not only statements that are favourably received or regarded as inoffensive, but also those that may offend, shock or disturb others;

3. *Considers* in this regard that Mr. Tikoca's words, although touching on sensitive societal matters, fall within his right to freedom of expression; *considers* also that any concern about his words would have been best settled directly and immediately in the plenary of parliament, as seemed to have happened at first;

4. *Regrets* therefore that Mr. Tikoca was unduly prevented from exercising his parliamentary mandate and that his electorate was deprived of representation in parliament for a period covering half the parliamentary term;

5. *Trusts* that the Parliament of Fiji will do everything possible to avoid a repeat of the concerns that have arisen in this case by carefully reviewing its disciplinary powers and procedures, as well as their application, so as to ensure compliance with international human rights standards, in particular the right to freedom of expression, the right to take part in the conduct of public affairs and respect for due process; *reaffirms* the IPU's readiness to assist Parliament, if it so wishes, to review its rules and practices for this purpose, including by enlisting the support of other Commonwealth parliaments;

6. *Considers* that any further action in this case is moot; and *therefore decides* to close it in accordance with Article 25 (a) of Annex I of its Procedure for the Examination and Treatment of Complaints;

7. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

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