

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

HUMAN RIGHTS COUNCIL, 2ND SESSION DAILY UPDATE, 4 OCTOBER 2006

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Overview

In its morning session the Human Rights Council (the Council) considered the reports of the following mandate holders:

- the Independent Expert on human rights and international solidarity;
- the joint report on a mission to Lebanon and Israel by the Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Representative of the Secretary-General on human rights of internally displaced persons, and Special Rapporteur on adequate housing as a component of the right to an adequate standard of living;
- the Special Rapporteur on the right to food on his mission to Lebanon.

In the afternoon the Council briefly discussed other issues including initiatives/issues/decisions/resolutions, before breaking for informal consultations. Throughout the day a number of informal consultations were held by various delegates on the texts of draft resolutions, decisions or statements proposed as outcome documents. Further information about these can be found below. Other informal events held during the day included non-governmental organisation (NGO) events on the NGO Committee on the Status of Women; the war on Lebanon; human rights cities and developing a human rights-based societal reality; and Lesbians and bisexual women doubly discriminated – transgender people and human rights.¹

¹ See *Bulletin of Informal Events*, 2 October 2006, available at www.ohchr.org/english/bodies/hrcouncil/2session/bim.htm for additional details. For informal summaries of parallel NGO events, see further the reports published by CONGO, available at <http://www.ngocongo.org/index.php?what=news&id=10320&start=2>.

Independent Expert on International Solidarity

Mr Rudi Muhammad Rizki, the Independent Expert on international solidarity and human rights, presented his report.² Mr Rizki presented³ an overview of his approach to the mandate, preliminary considerations to be addressed in subsequent reports and possible areas of focus. Mr Rizki plans to approach the issue of human rights and international solidarity through a sound theoretical basis and the examination of practical examples. The theoretical basis is necessary due to the lack of in-depth research concerning the relationship between solidarity and human rights. The theoretical basis would rely upon relevant international instruments, academic writings and publications. Mr Rizki will also take into account the outcomes of relevant major international summits and ministerial meeting, as well as contributions from governments, UN agencies, other international organisations, NGOs and civil society. Furthermore, the theoretical basis will be completed by the work relating to the right to development and by human rights-based approaches. Mr Rizki defined international solidarity,⁴ although he explained he intended to use the term ‘global solidarity’ instead, since the term ‘international solidarity’ has acquired a particular connotation in international politics.⁵ Mr Rizki identified three major areas of focus concerning his mandate. These include: international cooperation; global responses to natural disasters, diseases and agricultural pests; and the so-called ‘third generation rights’ which could be seen as rights of solidarity.⁶ Within the issue of international cooperation he mentioned that a possible theme to explore was the implementation of the *Millennium Declaration* and the Millennium Declaration Goals (MDGs).

Interactive Dialogue

Cuba and Ecuador highlighted the need for an international legally binding instrument on this topic. Questions concerning the path through which such a binding instrument could be formulated were put forth by NGOs and States.⁷ Finland⁸ noted that international cooperation is vital in ensuring human rights but that cooperation is not contingent on international assistance. The Finnish delegation reminded the Council of how States need to protect human rights and fulfil their obligations irrespective of international assistance. Ecuador expressed its belief that international cooperation is an obligation and not an option because it is enshrined in the *United Nations Charter*. The International Service for Human Rights (ISHR) drew attention to the way in which international solidarity is the right of the people, not of the State. Argentina was supportive of the Independent Expert’s theoretical approach towards international solidarity and stressed the importance of regional instruments. Indonesia identified the Independent Expert’s focus on the ‘third generation rights’ as a positive aspect of his work and stressed the link between this mandate and the right to development.⁹ Mr Rizki expressed appreciation for all the input by States and NGOs and stated that the areas that were raised will be addressed in the next report. Mr Rizki encouraged the continuation of a transparent dialogue with various stakeholders.

² E/CN.4/2006/96, 1 February 2006. The report is available at www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm.

³ Oral statements made at the Council can be found on the OHCHR extranet (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm.

⁴ Mr Rizki’s definition of international solidarity is: “The union of interests or purposes among countries of the world, and social cohesion between them, based upon the dependence of States and other international actors on each other, in order to preserve the order and very survival of international society, and in order to achieve collective goals, which require international cooperation and joint action.”

⁵ The term global solidarity more appropriately includes the relationship of solidarity between states and other actors, such as international organizations, and civil society.

⁶ The Commission on Human Rights, *Resolution E/CN.4/2006/96*, recognized that third-generation rights are closely associated with the fundamental value of solidarity and need further development within the United Nations to respond to the increasing challenges of international cooperation in this field.

⁷ Question posed by the International Service for Human Rights and Ecuador.

⁸ On behalf of the European Union (EU).

⁹ This link was also mentioned by Pax Romana.

Reports of Special Rapporteurs on Missions to Lebanon and Israel

Mr Philip Alston, the Special Rapporteur on extrajudicial, summary or arbitrary executions presented a joint report¹⁰ on the result of the missions to Lebanon and Israel by four special procedures mandate holders. The joint report was prepared by Mr Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr Paul Hunt, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr Walter Kälin, Representative of the Secretary-General on the human rights of internally displaced persons, and Mr Miloon Kothari, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. Mr Jean Ziegler, Special Rapporteur on the right to food, also presented a report on his mission to Lebanon.

The **joint report**, as presented by Mr Alston, concluded that serious violations of human rights and humanitarian law had been committed both by Israel and Hezbollah during the recent conflict. Mr Alston explained that the approach of the report was very legal and focused on human rights and international humanitarian norms, with an emphasis on the protection of the civilian population. The main issues concerned economic, social, and cultural rights and the problems of internally displaced persons (IDPs), housing and health. Although the report addressed the obligations of Hezbollah as a non-State actor, Mr Alston emphasised that this was not meant to imply equivalence between the two parties. In his presentation, Mr Alston explained that the report highlighted the kidnapping of Israeli soldiers as the event that had started the recent conflict. The report included a significant description of the violations committed in both countries. In Lebanon, the concern was primarily linked to the right to life, the right to housing, and the right to health. It stated that over 1,000 people were killed and several thousand were wounded. Out of these, over one third were children. Secondly, the report deplored the destruction of civilian infrastructure causing the displacement of millions of people. Finally, the report mentioned the fact that the situation today is still difficult because of unremoved rubble and unexploded ordinances (UXOs). These were of primary concern as Israel has refused to give information on the use of cluster bombs, which could help the de-mining process. In Israel, the report deplored the damage inflicted on 12,000 buildings, and criticised the Israeli authorities for not providing the same compensation to non-Jewish Israelis. There was particular emphasis on the situation in the south of the country, where the report stated that civilians were cut off from basic services. In its conclusions, the report established that serious violations of human rights and humanitarian law were committed by Israel, that Israel had failed to distinguish between civilian and military targets and had acted disproportionately. The report also concluded that Hezbollah had violated humanitarian law and targeted civilian populations. This report contained recommendations for the concerned governments, as well as for the Council, and the Commission of Inquiry established as a result of the Council's *Resolution S-2/1*. It called on Israel to provide full information on its use of cluster bombs and to address its policies on military targeting of civilian infrastructure and compensation for Israeli victims of war. It also called on Israel to develop its own commission of inquiry into the violation of human rights laws. The report recommended that Lebanon establish a ministry of housing, improve its health care system, and address the striking inequalities in the reconstruction and rehabilitation effort. It recommended a comprehensive strategy to assist IDPs and refugees in line with the *Guiding Principles on Internally Displaced Persons*. Regarding Hezbollah, the report recommended that Hezbollah train its fighters in humanitarian law. Finally, the report called on the Council to ensure a fair and balanced analysis of both sides, recommended addressing the issue of whether the use of cluster bombs in civilian areas constitutes a war crime, and proposed a ban on their use. The Special Rapporteurs recommended that the International Commission of Inquiry look into several aspects of the Israeli attacks including their proportionality and targeting of civilians.

¹⁰ A/HRC/2/7, 2 October 2006. The report is available at www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm.

A **separate report** was presented by Mr Jean Ziegler, the Special Rapporteur on the right to food.¹¹ At the time of writing of the report, the Rapporteur had not received authorisation from Israel to visit the country. Accordingly, the report focused on Lebanon. The report condemns Israel, and the war in general, for severe violations in the field of human rights. Mr Ziegler condemned Israel for preventing any vehicles from travelling south of the Litani river, which meant that any humanitarian assistance was prevented. He stated that there were a number of deliberate massacres that could not be described as collateral damage. He mentioned that oil spills along the coast was preventing fishing from taking place. The greatest area of concern however was the presence of cluster bombs all over Southern Lebanon. According to the report, this would prevent harvest in 2006 and 2007 as farmers could not access these fields. He severely criticised the Israeli Government for refusing to give the information required to make it possible to de-mine the fields, canals, mountains and hills. In his recommendations, Mr Ziegler urged Israel to disclose this information regarding the location of mines, and proposed that Lebanon place a moratorium on the debt of peasant farmers, as it would take them a while to recover.

Interactive Dialogue

Israel responded by stating that the report was missing a description of the thousands of missiles sent by Hezbollah onto civilian centres in Israel. The Israeli Ambassador stated that Hezbollah's intention was to target innocent civilians. Indeed, he found it troubling that the report did not mention Lebanon's acts of hostility. He criticised the Council and the UN in general for turning a blind eye to the Lebanon's failure to disarm Hezbollah. Finally, he reiterated Hezbollah's vicious opposition to Israel, and the threat that Hezbollah presented. Israel stated that they completely disregarded Mr Ziegler's report and referred to him as a supporter of terrorist actions.

Lebanon also expressed its opposition to the joint report and rejected it. Lebanon explained that in its view the report was incomplete, as it was missing several violations committed by Israel, notably the full extent of attacks on civilian infrastructure. Secondly, it found the report biased, and criticised it for placing too much blame on Hezbollah. Finally, it found that the report contained wrong statements and facts. In this respect, Lebanon stated that Hezbollah was not the first to carry out an unprovoked attack, and gave numerous examples of Israeli attacks from 2001 to 2006. It also requested that the Council not to pre-empt the report of the Commission of Inquiry, established by Council *Resolution S-2/1*. On Mr Ziegler's report, the Lebanese delegation stated that it did not divulge anything new, but praised Mr Ziegler for his courage in presenting the issue.

The joint report of the four Special Rapporteurs was received with much criticism. Nearly all States participating in the debate disagreed with the findings and recommendations set out in the joint report, stating that the report was not objective and that it attempted to rationalise Israeli actions.¹² Algeria described the report as very specific when describing Hezbollah violations, but very general when describing Israeli violations. The report was also described as politicised and lacking objectivity and impartiality. Bangladesh stated that the Rapporteurs had gone beyond their mandate by passing judgement on the politics of the conflict, and had left too many passages open for interpretation. One of the key areas of concern for most delegates was an apparent attempt in the joint report to place Hezbollah and Israel on the same level, something which most delegations though inappropriate given the disparity in size and military capacities of the warring parties. Malaysia emphasised the disparity of violations committed and stated that one could not approach both parties in the same manner. Cuba, while commending the work of the Special Rapporteurs, stated that the report did not meet its expectations. Several delegations stated that this report did not focus exclusively on human rights. Many delegations criticised the recommendations as biased and displaying double standards. The Sudan explained that such a mild criticism of Israel increased the impunity of those

¹¹ A/HRC/2/8, 29 September 2006. The report is available at www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm.

¹² Pakistan, on behalf of the Organization of Islamic Conference, Bahrain, on behalf of the Arab Group, Egypt, Iran, Saudi Arabia, Malaysia, Syria, Morocco, Kuwait, Indonesia, Algeria, Azerbaijan, Libya, Palestine, Tunisia, Sudan and the Russian Federation.

responsible, and re-emphasised the need for the Council to be strong. Tunisia saw this as a good example of why the Council needs to establish clear working methods for Special Rapporteurs.

There were concerns that the joint report might prejudice the outcome of the Commission of Inquiry sent to Lebanon as a result of *Resolution S-2/1*.¹³ Mr Alston refuted these claims stating that the Rapporteurs had been particularly careful not to dwell too much on issues that would be covered by the Commission of Inquiry. Cuba pointed to Hezbollah's status as a resistance movement aimed at ending an occupation, and that it must be perceived as such. Canada and Switzerland adopted a more neutral approach to the joint report, re-emphasising the important role of the Special Rapporteurs, and Finland, on behalf of the European Union (EU), welcomed the report and the cooperation of the two Governments with the Special Rapporteurs. The United States of America (the USA) reiterated its support for special procedures, but explained it found it counterproductive that the Rapporteurs took it upon themselves to address an issue which was being dealt with by the Security Council. Many States elaborated on the human rights violations that had taken place, in particular the use of cluster bombs. Bahrain stated that most of these had been dropped in the last 72 hours of the war and that this showed Israel's non-compliance with UN resolutions. Palestine and Syria stated that the primary problem was occupation, and that this should be fought against. There was also general concern about the high number of IDPs in Lebanon.¹⁴ Mr Alston and Mr Hunt, the Special Rapporteur on the right to health, refuted claims that the report did not address certain violations, referring to several sections that critics of the report had not raised.

In contrast to the reactions to the joint report, many delegations expressed support for the report of the Special Rapporteur on the right to food.¹⁵ Many of these delegations expressed appreciation for Mr Ziegler's recommendations, particularly the request for Israel to provide maps regarding the use of cluster bombs and to provide compensation for Lebanese victims of the war. Many delegations found these reflected a practical approach to repairing the violations of rights that had taken place. There were many condemnations of Israel's refusal to allow the Special Rapporteur on food to visit Israel. Several delegations emphasised the need to continue to support the Lebanese people in their recovery.¹⁶ Finally, many delegates emphasised the futility of war in resolving a crisis.¹⁷ Finland, on behalf of the EU, asked what could be done to address the need for food in Lebanon. Mr Ziegler responded by urging the international community to ask specialised institutions and NGOs not to leave Lebanon.

Later in the afternoon the floor was given to NGOs to comment on these reports. There were mixed views amongst NGOs concerning the reports, with concerns about balance and fairness being raised by UN Watch. Human Rights Watch supported the objective joint report and expressed their concern regarding the approach taken by many delegates towards the reports of the Special Rapporteurs. They called for a comprehensive independent commission of inquiry to investigate the situation thoroughly.

Plenary Discussion of Other Issues

In the afternoon session, the President of the Council, Ambassador de Alba, opened the floor to delegates wishing to speak about other matters not covered by other issues on the agenda. No members or observer States wished to take the floor. A number of NGOs were then given the floor to bring 'other issues' to the Council's attention. The People's Movement for Human Rights Education applauded the enhanced

¹³ Indonesia.

¹⁴ Finland, on behalf of the EU.

¹⁵ Pakistan, on behalf of the OIC, Bahrain, on behalf of the Arab Group, Egypt, Iran, Saudi Arabia, Morocco, Kuwait, Indonesia, Algeria, Azerbaijan, Libya, Tunisia, Sudan, The Russian Federation.

¹⁶ Canada and the USA.

¹⁷ China.

institutional recognition of human rights through the creation of the Council, but underlined that **human rights education** had to be further operationalised, given its importance to security, peace and development.¹⁸ The Coalition of Activist Lesbians Australia (COAL) and the Canadian HIV/AIDS Legal Network in a joint statement commented on the fact that several special procedures had collected evidence of **discrimination based on sexual orientation and gender identity**. They welcomed the statement made by the EU and other States at yesterday's session which put 'non-discrimination, including on the grounds of sexual orientation, [...] at the core of [its] policy'. They also urged the Council to discuss the issue substantially at another session. Another issue raised by NGOs included the **right to water**, which was discussed in a joint statement by a number of NGOs who thanked the Governments of Germany and Spain for their initiative in this regard.¹⁹ The theme of defamation of **religion and religious intolerance** was also addressed by a number of NGOs.²⁰ It was noted that a resolution on defamation of religion cannot be explored without looking into related concerns about freedom of expression. A number of NGOs also addressed specific **country situations**. Interfaith International addressed the situation of the **Balochi people in Pakistan** and the various violations of their human rights, explaining that this issue was an important one for the Council to address. The International Association of Democratic Lawyers raised the killing of 'Action contre la Faim' workers in **Sri Lanka** and called on the Council to adopt a resolution on Sri Lanka addressing this problem. Sri Lanka, exercising its right of reply, said that the case had been addressed by the Government, and that new information on this issue was posted on the mission's website.

Proposals for Outcomes or Actions

Throughout the day the following informal consultations on draft texts²¹ were convened by:

- Mexico on the conclusion of the draft International Convention on the Rights of Persons with Disabilities and its Optional Protocol;
- France on its draft decision on human rights and extreme poverty;
- Canada on its draft texts on impunity, human rights and mass exodus, effective implementation of international instruments on human rights, violence against women and freedom of opinion and expression;
- South Africa on the rectification of the status of the Committee on Economic, Social and Cultural Rights (CESCR);
- Costa Rica on its draft decision on the World Programme for Human Rights Education;
- Brazil on the right to health, access to medication, and incompatibility of racism and democracy;
- Uruguay on the rights of the child;
- Cuba on the composition of the OHCHR, the use of mercenaries, and the effects of economic reform policies.

Copies of all submitted texts can be found on the OHCHR extranet.²²

Mexico convened an informal consultation on its draft text for a President's statement welcoming the conclusion of the drafting of the **International Convention on the Rights of Persons with Disabilities** and its Optional Protocol and their adoption by the Ad Hoc Committee in New York. There was no objection to

¹⁸ Oral statements made at the Council can be found on the OHCHR extranet (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm.

¹⁹ In a joint statement by the Centre on Housing Rights and Evictions, the International Commission of Jurists, Franciscans International, FoodFirst Information and Action Network (FIAN) and Human Rights Advocates.

²⁰ International Humanist and Ethical Union; Becket Fund for Religious Liberty and a Joint Statement by the Association for World Education

²¹ The draft texts can be found on the OHCHR extranet under 'Draft resolutions, decisions & President's statements' available at www.ohchr.org/english/bodies/hrcouncil/form.htm.

²² The extranet is available at <http://info.ohchr.org>. To access the extranet fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive the user name and password.

this initiative by the States present at the consultation, and several States expressed their support and their desire to co-sponsor this text.

In another consultation, the delegate of France presented the draft resolution on **human rights and extreme poverty** on behalf of the co-sponsors, and welcomed comments on their proposals. Delegates pointed out the importance of consultation with Mr Sengupta, the Independent Expert on human rights and extreme poverty and provided suggestions for amending the text to make it more explicit. The delegate from France invited all delegations to co-sponsor the resolution.

Canada presented five draft texts on **impunity, human rights and mass exodus, effective implementation of international instruments on human rights, violence against women and freedom of opinion and expression**. Many States expressed concern regarding a number of the draft texts and the lack of consensus on their precise content. On the text on freedom of opinion and expression, concern was raised regarding the need for caution in the wording of this text and the previous discussions on incitement to racial and religious hatred and the promotion of tolerance, freedom of religion, religious defamation and religious intolerance (21 September, 8th meeting). Regarding the draft resolution on impunity, concerns were expressed at the way in which it appeared to prioritise civil and political rights and not focus as much on economic, social and cultural rights. The Canadian delegation explained that the resolution relates to international crimes, and that impunity in this context refers to violations of any rights. Concerns were also raised about the relevance of the text on mass exodus, and delegates voiced concerns that this was more a humanitarian issue than a human rights issue.

South Africa convened a second round of consultations on the **rectification of the status of the Committee on Economic, Social and Cultural Rights (CESCR)** at which it presented a much amended and shortened text. Delegations continued to express support for the intention behind the text while raising concerns about the need for more thorough legal advice on this issue. Concerns were voiced about what process the South African delegation envisaged when it proposed that the Council initiate at its third session a process providing a legal framework. The delegation confirmed that a working group was one option for implementing this, and assured delegates that it would be conducting consultations with interested parties in the lead-up to the Council and would come to the next session (27 November – 8 December 2006) with a clear proposal for changes to the legal framework.

The delegate of the permanent mission of Costa Rica presented the draft on the **World Programme for Human Rights Education**. He explained that due to the transitional phase of the Council they had decided to present a general, short and operative resolution. However he hoped that during the next year they would be able to propose a more substantial draft. He explained the text was composed of two sections. The first section encourages States to implement the Plan of Action of the World Programme and the second requests the High Commissioner for Human Rights and the United Nations Educational, Scientific and Cultural Organization (UNESCO) to technically assist with national implementation. All the delegations present welcomed the resolution and an appreciative comment was made regarding the inclusion of the request for technical assistance to help States implement the Plan of Action.

In the afternoon Brazil held further consultations on its draft texts on the **right to health, access to medication, and incompatibility of racism and democracy**. The Brazilian delegate described the amendments on the texts that were distributed amongst those present. There were no objections to the revised text for the racism resolution. On the health resolution there was discussion on particular wording, for example the addition of a reference to “the level of development of the countries”. On the resolution on access to medication, States expressed concerns over the relevance of this issue within the human rights framework. The Brazilian representative responded that they viewed access to medication as an important human rights issue. Some delegates suggested that the private sector should be included in the list of those identified for consultations in the final paragraph of the proposed text. There was much debate about the demands on the special rapporteurs within the resolutions on health and medication. Particularly in the

resolution on access to medication, there was concern over the workload for the Special Rapporteur on the right to health and as a result it was conceived that the Secretary-General should be asked to produce an assessment report on the impacts of intellectual property rights on the access to medication.

Uruguay held consultations on the **rights of the child** where the changes that had been incorporated into the proposed text were explained.

Cuba held another round of consultations on the texts it proposes to bring in its own name (i.e. as opposed to those it has proposed bringing on behalf of the Non-Aligned Movement). These include texts on the composition of the OHCHR, the **use of mercenaries**, and **the effects of economic reform policies**. The delegate from Cuba stated that the latter two drafts were considered by the President of the Council to be incompatible with the generic text he is proposing. He announced consultations to be held at 4pm to decide whether these two drafts will be withdrawn. Cuba's position is that if other States decide to withdraw their draft decisions concerning substantive matters, it will follow suit and not obstruct the process. Some States present at the consultation explained that their opposition to the texts on mercenaries and economic reform had not changed. A State questioned how the recommendations in the two substantive draft decisions would be implemented. Cuba admitted that it did not know what the Secretariat's interpretation of this matter would be, or whether it would take any substantive action to alter mandates during this period of review.

Other Practical and Procedural Issues

Concerns regarding the way in which NGOs raise country-specific issues in their statements were again discussed during NGO statements under the 'other issues' agenda item. A statement by Interfaith International on the human rights situation of the Balochi people in Pakistan was interrupted by a point of order by Pakistan. Pakistan demanded clarification as to why the President was allowing country-specific comments, which they considered to be contrary to earlier rulings on this matter.²³ The President pointed out that his previous remarks did not constitute a ruling, but were intended as an appeal to NGO representatives to keep their comments for the appropriate time. He clarified that as the current agenda item under consideration today ('other issues') did not relate to any specific reports and was very general in nature there were no limitations upon NGO statements in this regard. He explained that while the agenda item 'other issues' was very broad, it was not intended to be the place where national human rights situations were to be addressed in detail and thus called on NGOs to keep their statements general and related to the issues under consideration by this session of the Council.

At the conclusion of the session the President announced that a revised version of his generic text is now available and although it was not his intention to open consultations on that proposal today there would be a co-sponsors meeting to discuss it. The President encouraged delegations that have submitted proposals that are still the subject of bilateral negotiations to transmit any amendments or final texts to the Secretariat as quickly as possible to facilitate translation and editing. He reminded delegates that tomorrow the decision-making process will begin as the draft texts are considered by the plenary.

²³ For further information on previous debates on this issue, see the ISHR *Council Monitor Daily Update 28 September 2006*, available at http://www.ishr.ch/hrm/council/updates/28_September_06.pdf.

COUNCIL MONITOR STAFF

Meghna Abraham, Program Manager, Information Program

Claire Mahon, Human Rights Officer, Information Program

Eléonore Dziurzynski, Communications Officer, Information Program

Contributors

Jay Bahadur, Intern

Maxence Delchambre, Intern

Valeria Fruzzetti, Intern

Jessica Griffiths, Intern

Michael Ineichen, Intern

Gergey Pasztor, Intern

Chris Sidoti, Director

Katrine Thomasen, Human Rights Officer, Liaison, Coordination and Advocacy Program

Brennan Webert, Intern

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