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High Commissioner and the Secretary-General**

Joint written statement* submitted by International-Lawyers.Org, Association Ma'onah for Human Rights and Immigration, International Organization for the Elimination of All Forms of Racial Discrimination, Union of Arab Jurists, United Towns Agency for North-South Cooperation, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* Issued as received, in the language(s) of submission only.



The Pandemic and the Rise of Authoritarianism

Focus

This statement focuses on the increasing shift to authoritarianism during the COVID-19 pandemic (the “Pandemic”), and the long-term threat to democratic institutions and human rights. There is a grave risk of leaders using the Pandemic as an excuse to increase domestic power in ways offensive to human rights.

Background

Global leaders have had to take extensive and immediate action to minimize the Pandemic. Shutting down restaurants and limiting crowd sizes are all necessary and proportionate responses to reducing the threat of the coronavirus, and therefore necessary to reducing COVID-related deaths. However, some leaders, acting under the guise of public health, have sought to permanently increase their power and crush voices of dissent. From Oman banning print newspapers¹ because of risks purportedly caused by the coronavirus (they do not), to Hungarian leader Viktor Orbán, who has used the Pandemic as a pretense to create a quasi-dictatorship,² some governments around the world are embracing authoritarianism.

The Global Shift Towards Authoritarianism

Numerous states have weakened democratic institutions and norms since the beginning of the Pandemic. Such action goes well beyond what is necessary to curtail infections, and dismantles fundamental ideals of democracy, such as the free press and governmental accountability. This limited set of examples below is but a fraction of the authoritarian behavior reported throughout the world.

China

China has greatly expanded its surveillance technology, by installing thousands of cameras, some directly outside homes, in order to monitor and control its citizens.³ While currently used to improve contact tracing, such technology has been previously used to identify and detain Muslim communities.⁴ Moreover, in Hong Kong, China has begun to arrest pro-democracy activists and sought to expand its power over Hong Kong.⁵ China, through its Liaison Office, has also increased its criticism of opposition leaders in the Legislative Council by accusing them of paralyzing the body (in reality, opposition leaders simply tried to prevent legislation they disliked).⁶ China has breached Article 22 of the Basic Law, which holds that no central government department can interfere with Hong Kong’s affairs, by stating that Article 22 does not apply to its own Liaison Office.⁷ Recent developments regarding China’s new national security law and its impact of Hong Kong protestors only

¹ Autocrats See *Opportunity in Disaster*, THE ECONOMIST (Apr. 3, 2020), <https://www.economist.com/leaders/2020/04/23/autocrats-see-opportunity-in-disaster>.

² Id.

³ Cate Cadell, *China’s Coronavirus Campaign Offers Glimpse into Surveillance System*, REUTERS (May 25, 2020), <https://www.reuters.com/article/us-health-coronavirus-china-surveillance/chinas-coronavirus-campaign-offers-glimpse-into-surveillance-system-idUSKBN2320LZ>.

⁴ Kenneth Roth, *How Authoritarians Are Exploiting the COVID-19 Crisis to Grab Power*, HUMAN RIGHTS WATCH (Apr. 3, 2020), <https://www.hrw.org/news/2020/04/03/how-authoritarians-are-exploiting-covid-19-crisis-grab-power>.

⁵ *China Moves to Squeeze Hong Kong’s Freedoms*, THE ECONOMIST (Apr. 23, 2020), <https://www.economist.com/china/2020/04/23/china-moves-to-squeeze-hong-kongs-freedoms>.

⁶ Id.

⁷ Id.

highlights the degradation of democratic institutions.⁸ This, coupled with the decision to bar pro-democracy candidates from running and then delay elections by a year, seriously jeopardize Hong Kong's democracy.⁹

Hungary

The Hungarian parliament passed a bill that gave President Viktor Orbán the power to rule by decree, which essentially suspended parliament and elections, with no language reserved for an end date.¹⁰ Furthermore, this legislation allows the state to imprison journalists for up to 5 years for news it deems false.¹¹ Many of the decrees are completely unrelated to the Pandemic, such as stripping opposition-led cities of power and money and banning changes to gender on legal documents.¹² Recently, legislation has been introduced that may curb President Orbán's power by ending the state of emergency, but critics see the move as simply cementing his hold on power, as he can restart a rule by decree "as easily as switching on a lightbulb."¹³

Israel

Israel has expanded the scope of its domestic surveillance technology, by utilizing tracking technologies typically set aside for foreign counter-terrorist operations to track civilian movement.¹⁴ Furthermore, Prime Minister Benjamin Netanyahu has used the Pandemic as an excuse to push off his corruption trial and prevent parliament from sitting.¹⁵

Russian Federation

Russia is increasing its surveillance and facial-recognition technologies.¹⁶ Many worry that this technology will outlast the Pandemic and be used to target dissenters engaged in protest.¹⁷ Russia has used the Pandemic and social distancing to curb single-person protests.¹⁸ Further, using the Pandemic as a pretext, President Vladimir Putin seeks to end term limits because he believes Russia needs stability to fight the virus.¹⁹

⁸ Emily Feng, *5 Takeaways from China's Hong Kong National Security Law*, NPR (July 1, 2020), <https://www.npr.org/2020/07/01/885900989/5-takeaways-from-chinas-hong-kong-national-security-law>.

⁹ Austin Ramzy, *Hong Kong Delays Election, Citing Coronavirus. The Opposition Isn't Buying It*, NEW YORK TIMES (July 31, 2020), <https://www.nytimes.com/2020/07/31/world/asia/hong-kong-election-delayed.html>.

¹⁰ Daniel B. Baer, *The Shocking 'Coronavirus Coup' in Hungary Was a Wake-Up Call*, FOREIGN POLICY (Mar. 23, 2020), <https://foreignpolicy.com/2020/03/31/viktor-orban-hungary-coronavirus-coup/>.

¹¹ Roth, *supra* note 5.

¹² *Hungarian Government to End Orbán's Rule-by-Decree Legislation*, THE GUARDIAN (May 26, 2020), <https://www.theguardian.com/world/2020/may/26/hungarian-government-to-end-orbans-rule-by-decree-legislation-emergency-coronavirus>.

¹³ Orsolya Lehotai, *Hungary's Democracy Is Still Under Threat*, FOREIGN POLICY (July 17, 2020), <https://foreignpolicy.com/2020/07/17/hungary-democracy-still-under-threat-orban-state-public-health-emergency-decree/>.

¹⁴ David M. Halbfinger et al., *To Track Coronavirus, Israel Moves to Tap Secret Trove of Cellphone Data*, NEW YORK TIMES (Mar. 16, 2020), <https://www.nytimes.com/2020/03/16/world/middleeast/israel-coronavirus-cellphone-tracking.html>.

¹⁵ *Id.*

¹⁶ Jeffrey Smith & Nic Cheeseman, *Authoritarians Are Exploiting the Coronavirus. Democracies Must Not Follow Suit*, FOREIGN POLICY (Apr. 28, 2020), <https://foreignpolicy.com/2020/04/28/authoritarians-exploiting-coronavirus-undermine-civil-liberties-democracies/>.

¹⁷ *Id.*

¹⁸ Roth, *supra* note 5.

¹⁹ See *id.*

Turkey

Turkey has used the Pandemic to crack down on dissenters, journalists, activists, and even healthcare providers who critique President Recep Erdogan's Pandemic policies.²⁰ People who question the government are arrested for misleading the public.²¹ President Erdogan, in an attempt to reduce transmissions in prison, released convicts with regular convictions.²² However, he refused to release political opponents or critics, basing this decision on terrorism grounds.²³

United States of America

President Donald Trump has used this moment to undermine important democratic institutions in the United States. President Trump is using the Pandemic to decrease the ability of journalists and activists to hold him accountable and create transparency in governance.²⁴ His administration has discouraged Freedom of Information Act requests by switching to mail-in applications only, even though electronic communications are faster and safer.²⁵ He has also threatened to withhold funding from states that expand vote-by-mail programs, which may be a necessary alternative to in-person voting.²⁶ This will have chill turnout in an election where he sits at the top of the ballot.

Human Rights Violations

The biggest threat to democracy stemming from the Pandemic is the attack on freedom of expression. Many countries have taken this opportunity to ban criticism and dissent. Such conduct is in direct violation of Article 19 of the Universal Declaration of Human Rights ("UDHR") and Article 19 of the International Covenant on Civil and Political Rights ("ICCPR").

Some countries, such as Turkey and China, have gone further, and have jailed opposition leaders and activists. Not only does this violate freedom of expression, it also violates the right to be free from arbitrary detention, a right that is protected by both Article 9 of the UDHR and Article 9 of the ICCPR. Further, because of the high risk of transmissions in prison, and the lack of access to adequate healthcare, jailing opponents during this time could constitute a violation of the right to be free from cruel and inhumane treatment, which violates Article 5 of the UDHR and Article 7 of the ICCPR. Increasing surveillance, while important for tracking the coronavirus, has been expanded further than necessary and leaves already vulnerable populations vulnerable to attack. Invasive surveillance, seen from China and Russia, violate one's right to privacy, which is protected by both Article 12 of the UDHR and Article 17 of the ICCPR.

Along those very same lines, limiting crowds, and therefore the right to assembly, may be necessary to reduce the risk of the coronavirus. Yet banning even smaller protests, such as Russia banning single-person protests, goes too far. This is simply a tool to curtail dissent, and directly violates Article 20 of the UDHR and Article 21 of the ICCPR's freedom of peaceful assembly.

Any action that prevents, or undermines the integrity of, elections violates Article 21 of the UDHR and Article 25 of the ICCPR's right to take part in the government and partake in

²⁰ *Id.*

²¹ Isaac Chotiner, *The Coronavirus Meets Authoritarianism in Turkey*, New Yorker (Apr. 3, 2020), <https://www.newyorker.com/news/q-and-a/the-coronavirus-meets-authoritarianism-in-turkey>.

²² *Id.*

²³ *Id.*

²⁴ Roth, *supra* note 5.

²⁵ *Id.*

²⁶ Jonathan Chait, *Trump is Failing at Governing but Winning at Authoritarianism*, New York (May 20, 2020), <https://nymag.com/intelligencer/2020/05/trump-authoritarian-democracy-barr-justice.html>.

genuine elections. The USA (through dismantling election technology) and China (through preventing candidates from running and delaying elections) are violating this right.

Recommendations

- Leaders from across the world have used the Pandemic as a pretext to expand their power. The United Nations must act decisively to condemn power grabs that are unrelated to the health crisis at hand.
- The Human Rights Council should appoint a Special Rapporteur to monitor and investigate the abuse of governmental emergency powers, and to prohibit such conduct from becoming permanent once the coronavirus has been contained in the country.

Geneva International Centre for Justice (GICJ), Just Atonement Inc., The Arab Lawyers Association- UK Human Rights Defenders (HRD), The Brussels Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), NGO(s) without consultative status, also share the views expressed in this statement.