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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Human Rights Advocates, Inc., a non-governmental organization 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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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Political participation: A fundamental right in need of protection

Introduction

1. Human Rights Advocates ("HRA") urges the Council to better enforce the right to political participation, as mandated by international law. The right to participate in one's political system is fundamental. Participation not only gives citizens a voice in their government, but also often protects human rights defenders, supports minority and underrepresented groups, including women, and diminishes the likelihood of violent political transitions.
2. Around the world, citizens eager for a voice in their governance are acting publicly against entrenched regimes, as witnessed recently in Egypt and Tunisia. Elsewhere, minorities suffer in silence, lacking the rights to vote or run for office. No international body has established best practices for public participation amongst different political systems. HRA contends it is critical that the Council find and promote such standards to forestall the cycle of political stagnation, strife and human rights violations worldwide.
3. This Statement first establishes the legal right to equal, free, public participation in politics. Next, it catalogues recent illegal as well as legal discrimination that derogates the right. Finally, HRA offers recommendations, urging the Council to appoint a Special Rapporteur to investigate abuses and establish best practices for responsive elections.

Legal Bases of the Right to Political Participation

4. The rights to vote, participate in, and benefit from public service are affirmed in both the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Article 21 of the UDHR provides, "(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives." ICCPR Article 25 declares that every citizen shall have the right and opportunity "to take part in the conduct of public affairs...; To vote and be elected at genuine periodic elections ...; To have access, on general terms of equality, to public service" The European Convention on Human Rights (Article 14), International Convention on the Elimination of All Forms of Racial Discrimination (Art. 5), and Comment 25 to the ICCPR guarantee equality of access to these political rights.
5. Non-treaty bodies within the UN have recently reaffirmed the connection between political participation and other human rights, including the security of human rights defenders and minority groups. The Forum on Minority Issues stated, "At the most basic level . . . respect for fundamental human rights, including the right to non-discrimination, the right to vote and to be elected, and to freedom of expression, association and assembly, will contribute to the participation and representation of persons belonging to minorities, as well as to diminishing tensions, thus leading to the maintenance of peace and stability."¹ That body similarly noted, "[t]he numerical disadvantage of minority status" can diminish enjoyment and protection of the group's political rights.²
6. The Special Rapporteur on the situation of human rights defenders, who has a mandate to uphold the rights of women in particular, submitted to the Council that

¹ Forum on Minority Issues, Recommendations (Nov. 12-13, 2009) (A/HRC/13/25) ¶8.

² Forum on Minority Issues, Recommendations (Dec. 14-15, 2010) ¶8.

defenders face "heightened risks" during electoral periods. "Freedom of expression and assembly are often restricted before, during and after elections. In many cases, acts of intimidation start long before the beginning of election campaigns."³

Recent Derogations of the Right to Political Participation

7. In 2010, various governments illegally obstructed political organizing, campaigning, voting, and the counting of ballots through force and fear. Some examples of misconduct, reported by UN Special Rapporteurs, underscore the connection between political participation and other human rights. In one notable case, a clear election winner was prevented from taking office.

Derogations by Force, Fraud or Fear

8. The nation of Côte d'Ivoire successfully voted its will in a November 28 run-off presidential election. However, incumbent Laurent Gbagbo never recognized results declaring Alassane Ouattara the winner. Since then, the head of the UN Operation in Côte d'Ivoire (UNOCI) Y. J. Choi estimates more than 270 have been killed, some 33,000 refugees have fled into Liberia, and 20,000 are displaced internally.⁴ Women have borne the brunt of the attacks, according to Margot Wallström, UN Envoy on Sexual Violence in Conflicts, who linked reports of sexual assaults to a campaign of political targeting after the election.⁵

9. Secretary-General Ban Ki-moon acknowledged Côte d'Ivoire's election results, and said that altering the results of the presidential election "would be a grave injustice and set an unfortunate precedent."⁶ The upcoming elections in nearby Liberia as well as Nigeria must not follow the example set by Côte d'Ivoire. With refugees streaming into Liberia, UN Humanitarian and Resident Coordinator for Liberia Moustapha Soumare said, "We should not forget that Liberia is in a post-conflict mode and just emerging from a 14-year civil war with presidential elections coming up very soon."⁷ Already, in Nigeria, there have been numerous reports of politically motivated attacks, killings, threats and intimidation targeting political candidates and their supporters. Human rights defenders, who will play a key role in monitoring Nigeria's April election, are at increased risk of violence.⁸

10. In Egypt, police used the Emergency Law to disrupt and prevent campaign rallies and detain people indefinitely without charge. Shura Council elections were marred by violence at polling stations and apparent vote rigging. Female election monitors were

³ Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya (Dec. 30, 2009) (A/HRC/13/22) ¶56.

⁴ UN News Centre, Countries ready to reinforce UN peacekeepers in Côte d'Ivoire amid tense impasse Feb. 4, 2011, <http://www.un.org/apps/news/story.asp?NewsID=37475&Cr=ivoire&Cr1=>.

⁵ UN News Centre, UN envoy urges protection from sexual violence amid Côte d'Ivoire crisis, Jan. 27, 2011, [http://www.un.org/apps/news/story.asp?NewsID=37395&Cr=ivoire&Cr1=&Kw1=sexual violence&Kw2=&Kw3=](http://www.un.org/apps/news/story.asp?NewsID=37395&Cr=ivoire&Cr1=&Kw1=sexual%20violence&Kw2=&Kw3=).

⁶ UN News Centre, Côte d'Ivoire: UN and African blocs must remain united to ensure respect of poll results – Ban, Jan. 29, 2011, <http://www.un.org/apps/news/story.asp?NewsID=37417&Cr=ivoire&Cr1=>.

⁷ UN News Centre, Côte d'Ivoire: UN reinforces peacekeepers as officials warn of risks of genocide, Jan. 19, 2011, <http://www.un.org/apps/news/story.asp?NewsID=37311&Cr=ivoire&Cr1=>.

⁸ Amnesty International, African Union: Make Human Rights the Basis of Shared Values, Jan. 24, 2011.

arrested and detained despite having adequate identification. Women-only voting stations suffered understaffing and vote-stealing.⁹

Derogations by Law

11. Some residents and citizens are denied their right to vote and politically participate as a matter of law or as a consequence of bureaucratic regulations.

12. Felony disenfranchisement in the United States violates norms of prisoner rehabilitation and political equality for men of African descent. Around 13 percent of African-American men are denied voting rights nationwide. Virginia, one of the states with harsh penalties, has streamlined a process to extend voting rights to felons: 1,269 applicants were approved to vote there last year. However, in Iowa, a newly elected governor quickly rescinded a 2005 law that restored voting rights to those who had completed their felony sentences.¹⁰

13. Elsewhere, the United Kingdom appears set to end its 140-year disenfranchisement law barring prisoners from voting, following a 2004 ruling by the European Court of Human Rights that such an exclusion from the democratic process was unlawful.¹¹

14. In Europe, many Roma EU citizens were not able to register their residence in the destination country, a direct violation of the Free Movement Directive. This has a "domino effect" on their enjoyment of key privileges, including the right to vote.¹²

15. In Haiti, popular political party Fanmi Lavalas was excluded from legislative and presidential elections, possibly a cause of the low 22% voter participation rate. More than 100,000 voters who had registered did not receive their voting cards, and 15 presidential candidates were denied space on the ballot without explanation.¹³

16. China's two-year National Human Rights Action Plan 2009-2010 clearly articulated the goal of expanded, orderly political participation at all levels of society. However, new regulations restrict domestic NGOs that receive foreign funding, posing a threat to citizens' freedom of association. The regulations impair independent groups, including important legal and womens' rights organizations, more than government-connected non-profits.¹⁴

Recommendations and Conclusion

17. The right to vote and participate is fundamental. Although the UN has provided resources to promote voting rights in the past, no structured effort to establish and enforce elections guidelines and best practices has taken hold. HRA urges the Council to appoint a

⁹ Egyptian Center for Women's Rights, First Monitoring Press Release: Shoura Council Election, June 1, 2010.

¹⁰ The Sentencing Project, Disenfranchisement News, Jan. 6, 2011, http://www.sentencingproject.org/detail/news.cfm?news_id=1056.

¹¹ The Independent, Leading article: The case for democracy behind bars, Nov. 3, 2010, <http://www.independent.co.uk/opinion/leading-articles/leading-article-the-case-for-democracy-behind-bars-2123389.html>.

¹² Jesse Gutman, The Romani People and the Free Movement Directive, Legal Frontiers, <http://www.legalfrontiers.ca/2010/10/the-romani-people-and-the-free-movement-directive>.

¹³ Brian Concannon Jr. & Jeena Shah, US will pay for Haitian vote fraud, Boston Globe, Dec. 15, 2010 http://www.boston.com/bostonglobe/editorial_opinion/oped/articles/2010/12/15/us_will_pay_for_haitian_vote_fraud.

¹⁴ Human Rights Watch, China: Promises Unfulfilled (2011) at ¶43.

Special Rapporteur on the right to political participation who will investigate derogations before they lead to massive, severe human rights violations, especially against women. As this is International Year for People of African Descent, the Council should take extra measures to ensure adequate and equal political representation for minority groups suffering disenfranchisement.
