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HUMAN RIGHTS COUNCIL  
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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251  
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Written statement\* submitted by Human Rights Advocates, Inc. (HRA),  
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.

[19 February 2007]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **The Right to Vote**

1. Human Rights Advocates, Inc. (HRA) submits the following statement on the issues of voting rights.

### **The Right to Vote**

2. Article 25 of the International Covenant on Civil and Political Rights (ICCPR) codifies the principles of public participation and voting, stating that every citizen shall have the right to, take part in public affairs, vote in “genuine periodic elections”, by “universal and equal suffrage”, having equal access to public service in his country. The Human Rights Committee in General Comment No. 25 and makes clear that violations of these individual rights justify claims under the first Optional Protocol. Moreover, the right to public participation and to vote is protected by Protocol One to the European Convention on Human Rights, Article 23 of the American Convention on Human Rights, and Article 13 of the African Charter of Human and People’s Rights. Article 7 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) protects the right of women to vote on an equal basis with men. Despite widespread recognition, many governments continue to derogate voting rights by the operation of law, fraudulent means, the use of new technology, and media bias. It is critical that the Council take action to promote this fundamental right. Finally, the right to vote is the most fundamental of all human rights as a means to protect against the violation of other human rights. The right to vote is an example of why it is critical that the Council’s agenda allows for raising issues not already before it.

### *Lack of Genuine and Transparent Elections due to Electronic Voting*

3. The ICCPR’s Article 25 states that every citizen has the right to take part in “genuine” elections. The unreliability, security concerns, and human error associated with new electronic voting technology threatens this right. Reports surrounding the 2006 elections in the United States suggest that problems persist with electronic voting technology. It should be noted that, after the elections, leaders in various public posts acknowledged and pledged to correct deficiencies prior to the 2008 election.
4. A study before the elections demonstrated that electronic voting machines were susceptible to vote stealing and denial of service attacks.<sup>1</sup> The ease of conducting attacks virally, through passive means not easily detected and erasing evidence of wrongdoing enhances the threat that these attacks pose to electronic voting machines. Additionally, it was reported that discrepancies in vote tallies and malfunctions with electronic voting machines occurred in primary elections in the United States.<sup>2</sup> Despite warnings many states did not make necessary changes with voting machines or software because of lack of time.

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<sup>1</sup> Ariel J Feldman et al., Princeton University, Security Analysis of the Diebold AccuVote-TS Voting Machine (2006).

<sup>2</sup> ELECTIONLINE.ORG, THE 2006 ELECTION 5 (2006).

5. Use of direct recording electronic (DRE) machines resulted in 181 reports of flipped votes, situations where the voter's choice is not reflected according to national voter advocacy group.<sup>3</sup> In many instances the opposing candidate's name was reported reflected on the screen of the machine.
6. Voters and officials encountered problems where states used machines equipped with a Voter Verified Paper Audit Trail (VVPAT). Problems included the text on the paper trail not matching choices given by the machine, the printer running out of paper, the printer just not operating, or the printout not matching the voter's choice.<sup>4</sup>
7. In a race in Florida's 13th Congressional District, with a margin of victory of 369 votes, machines in one county did not record votes for 18,000 voters.<sup>5</sup> According to reports one poll worker said the touch-screen machines did not register votes for Congress and the county election chief was reported to have identified problems in displaying the congressional race on screens days before the election.<sup>6</sup>
8. The new technology proved difficult to operate as many election officials across the country did not prepare poll workers. Poll workers in Pittsburgh and Cleveland faced difficulty starting voting machines.<sup>7</sup> In Denver poll workers could not quickly troubleshoot touch screen voting machines.<sup>8</sup> It was estimated that over 20,000 did not vote in Denver due to resulting long lines.<sup>9</sup>

#### *Abridgement by Operation of Law*

9. Egypt's arbitrary use of the vague Political Parties Law to regulate licensing and activities of political parties and disallow activity that contradicts "national unity" resulted in the exclusion of many parties from the political process.<sup>10</sup> In January 2007, a court upheld a decision denying recognition to thirteen political parties.<sup>11</sup> The law and its application does not conform to the ICCPR right of all citizens to take part in the conduct of public affairs, directly or indirectly through freely chosen representatives.
10. Article 25 extends voting rights to "every citizen." However, in some countries, even citizens are denied the right to vote as a matter of law. In the United States, all mentally competent adults have the right to vote except for convicted felons. This restriction on the right to vote is disproportionate to the offense and sentence, and

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<sup>3</sup> VOTERSUNITE.ORG, VOTE TRUSTUSA, & VOTER ACTION, E-VOTING FAILURES IN THE 2006 MID-TERM ELECTIONS 5-6 (2007).

<sup>4</sup> *Id.* at 7.

<sup>5</sup> Jim Stratton, *Ballots Favored Dems*, THE ORLANDO SENTINEL, Nov. 22, 2006, at A1, available at <http://www.verifiedvotingfoundation.org/article.php?id=6423>

<sup>6</sup> ELECTIONLINE.ORG, *supra* note 2, at 9.

<sup>7</sup> *Id.* at 7.

<sup>8</sup> VOTERSUNITE.ORG, VOTE TRUSTUSA, & VOTER ACTION, *supra* note 3, at 11.

<sup>9</sup> *Id.* at 15.

<sup>10</sup> HUMAN RIGHTS WATCH, *MONOPOLIZING POWER, EGYPT'S POLITICAL PARTIES LAW 8* (2007).

<sup>11</sup> Challiss McDonough, *Egyptian Court Rejects New Political Parties*, VOICE OF AMERICA NEWS, Jan. 8, 2007, <http://www.voanews.com/english/2007-01-08-voa49.cfm>.

results in a disproportionate racial impact on minorities.<sup>12</sup> The Human Rights Committee criticized such disenfranchisement in the past. The European Court of Human Rights has also found that the restriction of voting rights of all convicted prisoners violated Article 3 of Protocol No. 1 of the European Convention on Human Rights.<sup>13</sup>

11. Despite legal protections, women faced considerable obstacles to participation as voters, administrators and candidates in 2006 Presidential and local elections in Yemen.<sup>14</sup> Women candidates received pressure from political parties, civil servants, electoral officials, and family and tribe members to end their candidacy.<sup>15</sup> The institutional opposition to participation contravenes CEDAW.

#### *Abridgment by Fraud*

12. During the 2006 presidential election in Belarus, campaign activity occurred at polling stations on behalf of the incumbent, identical signatures were observed on voting lists at polling stations, voting did not always take place in secrecy, ballot boxes were not always sealed and unauthorized persons were observed in polling stations directing poll workers.<sup>16</sup> Additionally, the OSCE obtained reports that authorities held over 100 campaign activists under detention or administrative arrest the day prior to the election.<sup>17</sup> Numerous reports also conveyed accounts of threats and harassment. This activity conflicts with Article 25's core provisions, which call for the ability to take part in public affairs and vote in genuine elections by secret ballot that expresses "the will of the electors."
13. Although elections in Aceh, Indonesia represented a significant step forward in resolving conflict between the government and local groups, there are allegations that the election was not free of fraudulent activity. Evidence surfaced of candidates using money to win over voters, ballots went missing and voter who were not registered at polling stations were frequently allowed to vote.<sup>18</sup> European Union monitors observed similar problems involving the failure to seal ballot boxes, lack of adherence to procedure in voter identification and voter intimidation in Uganda.<sup>19</sup>
14. In Egypt, the Minister of Justice ordered two judges attempting to investigate irregularities in the 2005 parliamentary elections to stand before a disciplinary tribunal.<sup>20</sup> Eight other judges also faced threats of disciplinary action.<sup>21</sup> While, the

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<sup>12</sup> Paragraph 14 of the Human Rights Committee's General Comment 25 provides that restrictions on the right should be proportionate to the offense and sentence. HRC Gen. Comment 25, U.N. doc. CCPR/C/21/Rev.1/Add.7 (1996).

<sup>13</sup> *Hirst v. United Kingdom*, no. 74025/01, ECHR (2005), available at <http://www.echr.coe.int>

<sup>14</sup> EUROPEAN UNION, ELECTION OBSERVATION MISSION YEMEN 2006 FINAL REPORT 26 (2006).

<sup>15</sup> *Id.* at 27.

<sup>16</sup> ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE, INTERNATIONAL ELECTION OBSERVATION MISSION: PRESIDENTIAL ELECTION REPUBLIC OF BELARUS – 19 MARCH 2006, at 13 (2006)

<sup>17</sup> *Id.* at 8.

<sup>18</sup> ASIAN NETWORK FOR FREE ELECTIONS, ANFREL STATEMENT OF ACEH ELECTION 3-4 (2006).

<sup>19</sup> EUROPEAN UNION, ELECTION OBSERVATION MISSION UGANDA 2006 FINAL REPORT 32 (2006).

<sup>20</sup> Press Release, Human Rights Watch, Egypt: Investigate Election Fraud, Not Judges (Apr. 26, 2006). <http://hrw.org/english/docs/2006/04/25/egypt13269.htm>.

disciplinary board acquitted one judge and gave the other a reprimand,<sup>22</sup> the disciplinary proceedings represent an obstruction to transparent elections and the expression of the will of the people.

15. In Pakistan, widespread irregularities in 2005 local elections included ballot stuffing, vote buying, multiple voting and selective use of indelible ink.<sup>23</sup> In Balochistan province, an election official openly backed candidates.<sup>24</sup> Public statements by government authorities now suggest 2007 parliamentary elections may be delayed for no legitimate reason.<sup>25</sup>

#### *Media Derogation of Legitimate and Transparent Elections*

16. Many elections are not accompanied by unbiased media coverage. In Georgia the Uniform Election Code allowed for an equal amount of free television advertisement time for candidates. However, outside of this free time, the overwhelming majority of coverage went to the incumbent president and the government.<sup>26</sup> This coverage was regularly indistinguishable from campaign advertisement because the same campaign slogans as in the paid advertisements were used in news coverage.<sup>27</sup> In Belarus the control of the media was more explicit. Although the election code allows for free airtime on state TV, opposition messages faced censorship.<sup>28</sup> The OSCE reported three instances where television and radio cut opposition messages or censored them outright.<sup>29</sup> Additionally, police confiscated non-state newspapers on multiple occasions during the campaign.<sup>30</sup> Voters depend principally on the media represents to collect information during elections; therefore it is vital that the media exercise an objective role in delivering complete and unbiased information.

#### *Conclusion and Recommendations*

17. HRA calls on all nations to comply and respect all relevant treaties supporting the right to vote; and calls upon the Council to appoint a Special Rapporteur dealing with the right to vote, who can conduct a study on meaningful parameters of election-related norms, commitments, principles, and good practices and collect and address complaints regarding abridgment of the right.

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<sup>21</sup> Public Statement, Amnesty International, Egypt: Disciplinary action against judges a challenge to judicial independence (Apr. 28, 2006), <http://web.amnesty.org/library/Index/ENGMDE120072006?open&of=ENG-EGY>.

<sup>22</sup> Mohamed El-Sayed, *Balances of Power*, AL-AHRAM WEEKLY ON-LINE, Dec. 28, 2006, <http://weekly.ahram.org.eg/2006/826/eg1.htm>

<sup>23</sup> INTERNATIONAL CRISIS GROUP, PAKISTAN'S LOCAL POLLS: SHORING UP MILITARY RULE 9 (2005).

<sup>24</sup> *Id.* at 10.

<sup>25</sup> Press Release, Human Rights Watch, Pakistan: Bus Should Urge End to Military Rule (Feb. 25, 2006).

<sup>26</sup> ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE, GEORGIA: MUNICIPAL ELECTIONS 5 OCTOBER 2006, at 15 (2006).

<sup>27</sup> *Id.*

<sup>28</sup> ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE, *supra* note 15, at 9-10.

<sup>29</sup> *Id.* at 10.

<sup>30</sup> *Id.* at 9.