

Human Rights Council - 27th session

(8th September – 26th September 2014)

Clustered Interactive Dialogue with the Working Group on Arbitrary Detention and the Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-Recurrence

10 September 2014

Statement by Ireland

Ireland welcomes the Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-Recurrence, Mr de Greiff, and thanks him for his third report to this Council.

Ireland commends Mr de Greiff and the host states on the country visits and regional consultations undertaken so far, as well as the impending visit to Côte d'Ivoire.

Mr de Greiff's report comprehensively highlights the importance of measures aimed at promoting truth, justice, reparations and guarantees of non-recurrence working as dynamic parts of a coherent system. Ireland welcomes the focus of the report on strengthening accountability through prosecutorial prioritisation strategies, given the complicated and widespread nature of crimes against humanity and war crimes.

The report suggests the participation of victims as a means for ranking the hierarchy of criminal prosecutions. Ireland notes the positive developments in the international community regarding victim participation in criminal proceedings.

We would be interested to hear the Special Rapporteur's view on the extent to which victim participation can and should shape prosecutorial strategy.

Ireland congratulates the Working Group on Arbitrary Detention on all it has achieved during its mandate and its efforts to appeal to governments to remedy the situation of detainees. Ireland thanks the Working Group for its report on arbitrary detention as well as its report on national, regional and international laws, regulations and practices on the right to challenge the lawfulness of detention before a court.

Ireland condemns in the strongest terms prolonged and arbitrary detention, and the consequent deprivation of liberty. The right to liberty is a fundamental right recognised under customary international law. Anyone deprived of his or her liberty by arrest or detention should have the right to bring proceedings before court in order that the court may decide without delay on the lawfulness of the detention and order his or her release if the detention is not lawful. We particularly welcome the Working Group's focus on over-incarceration in

pre-trial detention, the non-derogability of the remedy of habeas corpus in states of emergency, and the rights of child detainees. Persons in detention are particularly vulnerable to abuse of their rights, as they are not in a position to verify the lawfulness of their detention and their daily life is dependent on staff at the detention facilities. In a state of emergency, these problems are exacerbated.

We also wish to commend the Working Group on their work on the draft basic principles and guidelines on remedies and procedures on the right of anyone deprived of his or her liberty by arrest or detention to challenge the lawfulness of detention before court, and look forward to the outcome of this work.

Could the Working Group elaborate on how the basic principles and guidelines are expected to impact State compliance with international law regarding arbitrary detention?