



# Introduction





INTRODUCTION

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## Human Rights Defenders caught between daily repression and international hypocrisy

### ▷ Fifty Votes in Favour, Three Abstentions

The year 2000 was marked by the creation, within the framework of the United Nations, of a mechanism for the protection of human rights defenders.

Years of campaigning to create awareness among governments, the media and public opinion will have been necessary for this long expected success to have been achieved.

The creation by the 56th Session of the Commission for Human Rights of the post of the U.N. Secretary General's Special Representative for Human Rights Defenders<sup>1</sup> is a great victory for all those who fight on a daily basis for all people to have their fundamental rights and freedoms protected.

The international community's realisation of the extent of the repression of human rights defenders was signalled by the adoption in 1998 of a Declaration on Human Rights Defenders<sup>2</sup> by the United Nations General Assembly. The establishment of a mechanism to protect their activities on an international basis constituted the next step.

The adoption of a resolution concerning the creation of this mechanism was supported by a great majority of States, co-sponsored by more than 70 States<sup>3</sup>, and adopted by 50<sup>4</sup> of the 53 members of the Commission; China, Cuba and Rwanda abstained. The resolution had been presented by Norway and Morocco, who argued the case for a new mechanism due to the extent of the problems being

1 See annex « *Towards an international protection* » and resolution E/CN4/RES/2000/61 of April, 26 2000

2 See annex « *Towards an international protection* » and the Declaration on Human Rights Defenders

3 South Africa, Germany, Argentina, Australia, Austria, Belgium, Bosnia Herzegovina, Botswana, Bulgaria, Canada, Chile, Costa Rica, Croatia, Denmark, Ecuador, Spain, Estonia, United States of America, Finland, France, Georgia, Greece, Guatemala, Hungary, Ireland, Iceland, Italy, Japan, Lettonia, Latvia, Liechtenstein, Luxembourg, Madagascar, Morocco, Nicaragua, Nigeria, Norway, New Zealand, The Netherlands, Poland, Portugal, Republic of Korea, Czech Republic, Romania, United Kingdom, Senegal, Slovakia, Slovenia, Sweden, Switzerland, Swaziland, Ukraine, Albania, Armenia, Bangladesh, Belarus, Burundi, Cyprus, Republic of Macedonia, Haiti, Liberia, Malta, Mauritius, Nepal, Niger, Paraguay, San Marino, Sri Lanka, Thailand, Tunisia, Turkey, Uruguay, Venezuela.

4 Germany, Argentina, Bangladesh, Bhutan, Botswana, Brazil, Burundi, Canada, Chile, Colombia, El Salvador, Ecuador, Spain, United States of America, Russian Federation, France, Guatemala, India, Indonesia, Italy, Japan, Lettonia, Liberia, Luxembourg, Madagascar, Morocco, Mauritius, Mexico, Nepal, Niger, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Korea, Democratic Republic of Congo, Czech Republic, Romania, United Kingdom, Senegal, Sudan, Sri Lanka, Swaziland, Tunisia, Venezuela, Zambia.



encountered by human rights defenders and by the insufficient nature of the mechanisms which already exist.

This huge backing, which included the most repressive States, shows that no one wanted to risk directly opposing the adoption of this resolution and thereby clearly display their repressive policies. However, at the national level, many of those same States do not hesitate to openly violate the rights of associations. In this way, they hypocritically and, unfortunately regularly, contradict their international commitment.

The resolution gives the Special Representative a mandate for the protection of human rights defenders, and for the prevention and promotion of the Declaration on Human Rights Defenders. The legitimacy of this mandate is reinforced by the large support given to the resolution in the vote. The mechanism created can therefore count on substantial support from the international community, which will be needed.

Repression, as shown in this report, continues to target human rights defenders with ever-greater intensity. The methods used are ever more diverse and pernicious, affecting both public and private areas alike. Moreover, no geographic zone is spared. For that reason, the task of the Special Representative is as complex as it is crucial. The creation of this post gives rise to hopes that must not be disappointed.

With the benefit of the experience gained since its creation in 1997, and on the basis of recommendations made by its member and partner organisations at local, national and regional levels, the Observatory intends to support the efforts of Special Representative Hina Jilani<sup>5</sup>, appointed on 18 August 2000, to carry out her mandate.



### A particularly comprehensive and action-oriented mandate

The Special Representative has the advantage of having plenty of room for manoeuvre. Her mandate is not limited to individual cases of persecuted human rights defenders; she also has the authority to take action in general situations, for example the application of freedom of association in a particular country. The main focus of her work is the effective implementation of all of the provisions of the Declaration on the Protection of Human Rights Defenders.

In terms of protection, the mandate of the Special Representative is very clearly geared towards action. Mandated to, "*Seek, receive, examine and respond*", the Representative is not only the main recipient of information about defenders of human rights, but is also empowered to carry out unlimited

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<sup>5</sup> She is a Pakistani lawyer and a founding member of the Pakistan Human Rights Commission. She has been very involved in the defense of women's rights, and manages a centre of legal and judicial assistance within her office. Her involvement is internationally recognised and she has been personally targeted on several occasions.



research independently. In addition, and as the main point, if the Representative examines cases of violations of the rights and freedoms of human rights defenders, she has the authority to respond and take action. To this end, she will be able to use the mechanisms established by other U.N. procedures, such as urgent appeals, letters of allegation, press releases, visits to the country, etc.

The Representative is also authorised to draw up, "*effective strategies to better protect human rights defenders and follow up the recommendations*". Not only will she identify and respond to the attacks to which human rights defenders are subjected, but will also make concrete recommendations on the implementation of the Declaration.

When it comes to ways of taking action, the Representative must cooperate and be in direct contact with governments and all "*interested parties*", which, in addition to the United Nations special agencies, include regional organisations, other agencies, and NGOs.

As the main United Nations mechanism on the issue of human rights defenders, the Representative must be given the necessary material support, including money to run the office and cover travelling expenses. The 57th Session of the Commission for Human Rights will need to clearly respond to this issue.

At last, within this system, an important place has been given to NGOs.



### **A sophisticated variety of repressive methods: a typological approach**

The information sent to the Observatory - whether from local, national, regional, or international NGOs, or directly from threatened individuals - shows that the strategies of repression established throughout the world to neutralise human rights defenders are increasingly complex, pernicious and sophisticated. All defenders' rights are being violated and the range of perpetrators and those responsible for these violations has grown larger and more diverse; e.g. agents linked directly or indirectly with the State, which includes para-military groups, individuals, private groups, and, to a lesser extent, armed opposition groups. This evolution has been accompanied by regional idiosyncrasies.

A typological approach to the violations of which human rights defenders are victims show the diversity of methods used.

A distinction can thus be made between individual rights guaranteed by the International Charter for Human Rights and notably the Universal Declaration of Human Rights (UDHR), as well as the Declaration on Human Rights Defenders (DHRD) and the recognised rights of associations and individuals involved in the defence of human rights on the basis, in particular, of the Declaration on Human Rights Defenders (DHRD).

Individual rights guaranteed first and foremost by the Universal Declaration of Human Rights and also by the Declaration on Human Rights Defenders:



- **Violation of the right to life** (article 3 of the UDHR, article 1 of the DHRD): summary executions, assassinations, forced disappearances, abductions, murder attempts, death threats.
- **Violation of the right to physical and psychological integrity** (article 5 of the UDHR, article 1 of the DHRD): torture, ill-treatment, threats.
- **Violation of the right to a private life** (article 12 of the UDHR, article 1 of the DHRD): harassment, smear campaigns, surveillance, telephone tapping, confiscation of identification papers.
- **Restrictions on freedom of expression** (article 19 of the UDHR, article 6b, 6c, 7 and 9.3 of the DHRD): confiscation of reports, harassment, arrests and detentions, prosecution. These violations can be carried out either in an extra-judicial capacity or on legal grounds, but neither case conforms with the provisions of the DHRD.
- **Restrictions on freedom of circulation** (article 3 of the UDHR, article 16a of the DHRD): confiscation of passports, being forbidden to leave the country, limitations on movements within the country. These violations can be carried out either in an extra-judicial capacity or on legal grounds, but neither case conforms with the provisions of the DHRD.
- **Violations of the right to work** (article 23 of the UDHR, article 11 of the DHRD): dismissals from work, obstruction in finding another job. These violations can be carried out either in an extra-judicial capacity or on legal grounds, but neither case conforms with the provisions of the DHRD.

Rights guaranteeing freedom of action to individuals and associations on the basis of the Declaration on Human Rights Defenders:

- **Violations of the right to form, join and participate in organisations** (article 5b of the DHRD): difficulties in registering, being deregistered, closure of NGOs, suspension of NGOs activities, smear campaigns.
- **Violations of the right to meet or assemble peacefully** (article 5a of the DHRD): banning of demonstrations and meetings, or violent dispersals.
- **Violations of the right to communicate with NGOs and IGOs** (article 5c and 9.4 of the DHRD): confiscation of material, reports, theft.
- **Violations of the right to hold, seek, obtain and receive information** (article 6a of the DHRD): confiscation of reports and material, theft, unauthorised international investigations.
- **Violations of the right to offer and provide judicial support** (article 9c of the DHRD): banning lawyers from seeing or attending to their clients, forbidding or limiting access to prisons, debarring of lawyers.



- **Violations of the right to attend public hearings, procedures and trials** (article 9b of the DHRD): refusal to authorise international observers, turning people back at the border.
- **Violations of the right to receive funding** (article 13 of the DHRD): judicial proceedings, closure of NGOs.
- **Non conformity between domestic law and the dispositions of the instruments for the protection of human rights** (articles 2 and 3 of the DHRD): creation of restrictive laws related to associations.

What is striking today is the combined use of all of these methods of repression. Under attack are both the organisations and their members, and regarding the latter, their private life is targeted as much as their public activities. Concrete harassment strategies are implemented.

The combined use of these sophisticated methods applies to all regions. In every continent, trade unionists, environmental activists, and lawyers are targeted by the authorities. In every continent, human rights defenders are executed, threatened with death, and persecuted solely because of their commitments. However, the level of intensity and the frequency of use of one or another of the methods vary from one region to another.

In Latin America, defenders first and foremost have to face violations of their right to life and their physical and psychological integrity. This continent has a sad record of death threats, victims of forced disappeared, and summary executions. For Colombia alone,<sup>6</sup> the Observatory has, between November 1999 and February 2001, reported 18 summary executions<sup>6</sup> and more than 50 death threats.

In the Maghreb and the Middle East, the main violations have to do with the right to a private life, and, in a relatively high number of cases, violations of the right to work and freedom of movement and association.

In Europe, it appears that defenders are particularly victims of judicial proceedings directly linked with the exercise of freedom of speech. In that regard, the situation in Turkey and Kirghizistan is a good example.

In Africa, like in Asia, arrest and arbitrary detention are the main risks at stake for human rights defenders. In Africa many arrests are made outside any judicial context, for example in the Democratic Republic of Congo.

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<sup>6</sup> Information from the Observatory indicates that, in 1999, 6 activists have been killed in their struggle for peace.



## Associations under scrutiny

The facts reported in these pages of more than 350 human rights defenders repressed in 52 countries<sup>7</sup> remind us, as if it were necessary, that the adoption of texts does not stop the violation of the rights they are designed to protect.

It appears that in almost 60 States, human rights defenders are exposed to a high risk of harassment and repression, while in a dozen other States, it is impossible to effectively defend human rights. In some 30 other countries, this activity is constantly or systematically attacked. And finally, in some 20 States, to defend freedoms is synonymous with harassment, or in any case an activity entailing risk.

In all regions of the world, repressive states try to block the capacity of action of defenders by violating their right of association. The authorities are most focused on that freedom and use very different and sophisticated methods to achieve their goals.

This year, the Observatory has decided to illustrate this phenomenon by describing the diversity of restrictions on the freedom of association. The situations described show how much the respect of that freedom conditions the margin of possible action for human rights defenders.

The task that remains to be done, to ensure that human rights defenders are effectively guaranteed the freedom to act, is still enormous, and the creation of a mechanism for protection at the international level is far from constituting a success.

For the effective protection of defenders, mobilisation is essential at both the universal and regional levels in particular by the States that have primary responsibility when it comes to guaranteeing the right to defend fundamental rights and freedoms.

Sidiki Kaba and Eric Sottas

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<sup>7</sup> The report is far from complete and refers to cases the Observatory received during the period covered.