

INTERNATIONAL SERVICE FOR HUMAN RIGHTS (ISHR)  
HUMAN RIGHTS DEFENDERS OFFICE (HRDO)



REVIEW OF THE SYSTEM OF SPECIAL PROCEDURES BY THE HUMAN  
RIGHTS COUNCIL:

WHAT CHALLENGES FOR THE MANDATE ON HUMAN RIGHTS  
DEFENDERS?

July 2006



## Table of Contents

Introduction .....	2
1. The current situation .....	3
The new Human Rights Council .....	3
The Special Representative on human rights defenders .....	4
2. The Declaration on Human Rights Defenders .....	5
3. The Special Representative on human rights defenders .....	7
4. United Nations resolutions on human rights defenders .....	9
The Commission on Human Rights Resolution 2005 .....	9
The General Assembly Resolution 2005 .....	11
The Human Rights Council's first session .....	12
5. What's next? .....	14
The review of the special procedures .....	14
6. What can you do? .....	18
The review of the special procedures .....	18

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### Annexes

1. General Assembly Resolution 60/251 establishing the Human Rights Council
2. Membership of the Human Rights Council
3. List of UN resolutions on human rights defenders 1998-2005
4. Commission on Human Rights Resolution 2005/67 on human rights defenders
5. General Assembly Resolution 60/151 on human rights defenders
6. Cuba's proposed amendment L.99 to Commission on Human Rights draft resolution L.85 (Res. 2005/67)
7. Voting record on Cuba's proposed amendment L.99
8. Table and chart of co-sponsors of UN resolutions on human rights defenders
9. Letter to governments requesting support for the continuation of the mandate of the Special Representative on human rights defenders
10. 1<sup>st</sup> session of the Human Rights Council, Item 4, references to human rights defenders





## Introduction

The UN reform process presents new opportunities and challenges to improve and strengthen the system of special procedures, the mechanism created by the United Nations Commission on Human Rights (the Commission) to address specific human rights issues or country-specific situations. Now that the Commission has been abolished, the system of special procedures has been transferred to the Human Rights Council (the Council), which has been established in replacement of the Commission within the United Nations system for the promotion and protection of human rights. The Council is required to undertake a review of the system of special procedures within one year, that is by June 2007.

### *Content of this kit*

This briefing kit clarifies what specific opportunities and challenges lie ahead in the coming months and throughout the first year of operation of the new Council with regard to the special procedures in general, and in particular to the mandate on human rights defenders. It provides information on how human rights defenders issues have been dealt with so far within the UN and presents some options to human rights defenders and their organisations for their lobbying efforts at the national level.

Section 1 provides background information on the transition from the Commission to the Council and its implications for special procedures. Sections 2 and 3 examine the *UN Declaration on Human Rights Defenders* and the mandate of the Special Representative of the Secretary-General on the situation of human rights defenders respectively. Section 4 is devoted to an analysis of the latest decisions on human rights defenders adopted by the Commission and the General Assembly in 2005. Section 5 and 6 address the challenges identified in Section 1 in relation to the special procedures and suggests action to be taken by defenders to influence the process.

Several annexes include information on the support lent by UN member States to the resolutions on human rights defenders over the years and a letter requesting support from States for the continuation of the mandate of the Special Representative on human rights defenders.

For further information and analysis on the transition from the Commission to the Council, see *A new chapter for human rights: a handbook on issues of transition from the Commission on Human Rights to the Human Rights Council*, published by the International Service for Human Rights (ISHR) and Friedrich-Ebert-Stiftung (FES) and available at <http://www.ishr.ch/handbook>.

## 1. The current situation

### The new Human Rights Council

After intense negotiations among member States, the General Assembly decided on 15 March 2006 to establish a new body to deal with human rights issues: the Human Rights Council (the Council)<sup>1</sup>. The new Council replaces the Commission on Human Rights (the Commission). The Council started its work on 19 June 2006.

The abolition of the Commission and the creation of a new body were the results of dissatisfaction with the Commission, which was perceived as being too political, using double standards and losing credibility. For example, on several occasions the Commission decided for political reasons to address the human rights situation in certain countries, but not in others with similar –if not worse– human rights records. Notwithstanding its deficiencies, the Commission had great historic achievements including the drafting of the *Universal Declaration on Human Rights* and the two major international human rights treaties, the *Covenant on Civil and Political Rights* and the *Covenant on Economic, Social and Cultural Rights*.

The General Assembly Resolution creating the Human Rights Council provides that the Council will “assume [...] all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights in order to maintain a system of special procedures, expert advice and a complaint procedure”<sup>2</sup>.

These mandates and mechanisms include the system of special procedures created in 1967 by the Commission to address specific human rights issues or country situations. This system consists of over 40 thematic and country mandates held by independent experts generally appointed by the Chairperson of the Commission, the UN Secretary-General or the High Commissioner for Human Rights upon request by the Commission. Mandate holders are independent, not paid, serve in a personal capacity and are not State representatives. They monitor and report on the situation of human rights, receive individual complaints by victims of violations and make recommendations to States and other actors. Through their reports and action, they provide an independent and impartial assessment of the human rights situation in different countries as well as an effective protection mechanism for people at risk.

Not only does the General Assembly Resolution establishing the Council transfer the special procedures from the Commission to the Council, it also specifies that the Council shall “review and, where necessary, improve and rationalize all mandates” and that “the Council shall complete this review within one year after the holding of its first session”<sup>3</sup>. The Council is therefore expected to review all special procedures mandates by June 2007.

According to the text of the Resolution, the Council is not obliged to retain the present system of special procedures but only a system. Thus, it is not obliged to retain all current mandates. It has the authority, if the review indicates it is necessary, to modify mandates or decrease their number. The Council has the authority to regulate not only the number and scope of mandates but also other features of the system such as the working methods and the appointment procedure.

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<sup>1</sup> General Assembly *Resolution 60/251 (A/RES/60/251)*, 15 March 2006. See Annex 1.

<sup>2</sup> General Assembly *Resolution 60/251*, supra note 1, para 6.

<sup>3</sup> Ibid.

During the first session of the Council, in June 2006, it has been agreed that the all mandates and mandate holders' terms expiring in July 2006, including the mandate on human rights defenders, will be extended for a period of a year. The extension was needed to avoid a gap in protection in the areas covered by the mandates expiring in 2006.

### **The Special Representative on human rights defenders**

The mandate of the Special Representative of the Secretary-General on the situation of human rights defenders was created in 2000<sup>4</sup>, following the adoption of the *UN Declaration on Human Rights Defenders*<sup>5</sup>, to monitor and report on the situation of defenders in all parts of the world. The Special Representative monitors violations of the rights of defenders generally, receives individual complaints from defenders alleging violations, undertakes country visits in order to better evaluate the situation of defenders in a specific country, and makes recommendations for action to States and other actors.

The Special Representative since the mandate was established has been Hina Jilani, a noted human rights attorney from Pakistan. Thematic special procedures mandate holders usually hold the position for a period of three years and their mandate can only be renewed once. Hina Jilani has held the mandate on human rights defenders since 2000 and therefore she is not eligible for reappointment. However, the Council has extended her mandate for one year pending the review of the special procedures. The future of the mandate, therefore, is open.

A further issue of concern is the recent attempt both at the Commission and at the General Assembly to weaken the text of the resolution on human rights defenders, adopted every year by the Commission and the General Assembly<sup>6</sup>. Some States have recently proposed the inclusion of strong language aimed at limiting the scope of the mandate of the Special Representative. In this context, there is a fear that the review process might offer these States an opportunity to weaken and undermine the mandate and procedure for politically motivated reasons.

An analysis of the challenges outlined in this section will be provided in Section 5 below.

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<sup>4</sup> Commission on Human Rights *Resolution 2000/61* (E/CN.4/RES/2000/61), 26 April 2000. See *infra* Section 3.

<sup>5</sup> *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Internationally Recognized Human Rights and Fundamental Freedoms* (commonly known as Declaration on Human Rights Defenders), General Assembly *Resolution 53/144* (A/RES/53/144), 8 March 1999. See *infra* Section 2.

<sup>6</sup> See *infra* Section 4.

## 2. The Declaration on Human Rights Defenders<sup>7</sup>

In 1998 the General Assembly adopted the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Internationally Recognized Human Rights and Fundamental Freedoms*, commonly known as the Declaration on Human Rights Defenders.

The Declaration codifies the international standards that protect the activity of human rights defenders around the world, recognising the legitimacy of human rights activity and the need for this activity and those who carry it out to be protected.

The Declaration specifies how the rights contained in the major human rights treaties apply to the specific role and situation of human rights defenders, and outlines some specific duties of States and the responsibilities of everyone with regard to defending human rights.

The rights protected under the Declaration include:

- The right to conduct human rights work individually and in association with others;
- The right to form associations and non-governmental organisations (NGOs);
- The right to meet or assemble peacefully;
- The right to seek, obtain, receive and hold information relating to human rights;
- The right to criticise the government and other public authorities;
- The right to offer and provide professionally qualified legal assistance or other advice and assistance in defence of human rights;
- The right to unhindered access to and communication with non-governmental and intergovernmental organisations;
- The right to effective protection under national law in opposing, through peaceful means, State acts or omissions that result in human rights violations;
- The right to solicit, receive and utilise financial resources for the purpose of protecting human rights.

The Declaration confirms the general responsibility of States to protect, promote and implement all human rights and to ensure that all persons under their jurisdiction enjoy all human rights in practice. In addition, it also spells out more specific State duties including, *inter alia*, to conduct prompt and impartial investigations of alleged violations of human rights and to take all necessary measures to ensure the protection of everyone against any form of violence or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

The Declaration also emphasises that everyone has duties towards and within the community and everyone can be a human rights defender. Its provisions outline responsibilities for everyone to promote human rights, to safeguard democracy and its institutions, and not to violate the human rights of others. Special reference is

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<sup>7</sup> The information provided in this section has been taken from: Office of the UN High Commissioner for Human Rights, Fact Sheet No. 29, *Human Rights Defenders: Protecting the Right to Defend Human Rights*.



made to the responsibilities of persons exercising professions that can affect the human rights of others, such as police officers, lawyers, judges, etc.

For further information on the mandate of the Special Representative, see Office of the UN High Commissioner for Human Rights (OHCHR) Fact Sheet No. 29, available at <http://www.ohchr.org/english/about/publications/sheets.htm>.

### 3. The Special Representative on human rights defenders<sup>8</sup>

In 2000, two years after the adoption of the *Declaration on Human Rights Defenders*, the Commission on Human Rights decided to appoint an independent expert with the mandate to monitor and report on the situation of human rights defenders in all parts of the world. This was the first mechanism at the international level to protect defenders in accordance with the rights enshrined in the Declaration. Ms. Hina Jilani was appointed as the first Special Representative of the Secretary-General (SRSG) on human rights defenders.

The Special Representative undertakes activities in complete independence of any State and is not a United Nations staff member. His/her mandate is:

- To seek, receive, examine and respond to information on the situation and the rights of human rights defenders;
- To establish cooperation and conduct dialogue with governments and other interested actors on the promotion and effective implementation of the Declaration;
- To recommend effective strategies to better protect human rights defenders and follow up on recommendations;
- To protect human rights defenders and their work taking up individual cases with the governments concerned.

#### **The activities of the Special Representative**

The mandate of the Special Representative is a very broad one and requires the identification of strategies, priorities and activities to implement it. "Protection", which includes both the protection of defenders themselves and the protection of their right to defend human rights, is the Special Representative's overriding concern. In practice, the Special Representative undertakes the following activities:

- a) Contacts with human rights defenders: the SRSG receives information from defenders, including allegations of human rights violations committed against them, and uses this information to identify concerns to be raised with States.
- b) Contacts with States: the SRSG maintains regular contacts with States both at forums such as the Commission and the General Assembly and on a bilateral basis through meetings or written correspondence. The SRSG can meet with individual State delegations to raise specific issues of concern and to seek State support, for example, by addressing a case or by obtaining an invitation to visit.
- c) Contacts with other key actors, such as national parliaments, regional intergovernmental organisations, and national human rights institutions.
- d) Individual cases: the SRSG takes up individual cases of human rights violations committed against human rights defenders. Information on such cases is received from a variety of sources, including State authorities, NGOs, UN

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<sup>8</sup> The information provided in this section has been taken from: Office of the UN High Commissioner for Human Rights, Fact Sheet No. 29, *Human Rights Defenders: Protecting the Right to Defend Human Rights*.

agencies, the media and individual human rights defenders. When receiving reliable information, the Special Representative makes contact with the government of the State concerned through an “urgent action” letter, when a violation is continuing or about to occur, or an “allegation” letter, when the violation has already occurred and its impact on the human rights defender affected can no longer be changed. The primary objective of the letters is to ensure that State authorities are informed of the alleged violation as early as possible and that they have an opportunity to investigate it and to end, prevent or redress it.

- e) Country visits: the SRSG can also conduct official visits to States that agree to receive the mandate holder. These visits provide an opportunity to examine in detail the role and situation of human rights defenders in the country, to identify particular problems and to make recommendations on how these could be resolved. The visit, which brings the SRSG into contact with government ministers, independent human rights institutions, UN agencies, the media, NGOs and human rights defenders, is intended to provide an independent and impartial assessment that will be of use to all actors in strengthening both the contribution of defenders to human rights and their protection.

For further information on the mandate of the Special Representative, see OHCHR Fact Sheet No. 29, available at <http://www.ohchr.org/english/about/publications/sheets.htm>.

#### 4. United Nations resolutions on human rights defenders

Every year the Commission on Human Rights and the General Assembly adopt a number of resolutions on a diverse range of issues. A resolution is a decision adopted by vote of the majority, or by consensus<sup>9</sup>, concerning a specific issue (such as torture, extrajudicial or summary executions, the situation of human rights defenders, or housing) or a specific country. The content of a resolution may vary considerably, ranging from an expression of concern, a call for action upon States and other relevant actors or a request to the Secretary-General to report on a specific issue, to the establishment of a new mechanism such as a special procedure.

The discussion and adoption of a resolution is important because it brings the attention of the international community to a specific issue or situation of concern. For example, the adoption of the resolution on Belarus during the 2003 session of the Commission marked the beginning of increasing international attention on the situation in that country, which led to the creation of a new country mandate during the 2004 session of the Commission. Moreover, by annually passing resolutions reaffirming or elaborating on a particular human right, the Commission and the General Assembly contribute to the development and interpretation of international law.

Both the General Assembly and the Commission adopt a resolution on human rights defenders each year. Although each resolution usually builds upon the one adopted the previous year, both the language and the specific issues addressed may vary from year to year and differ from the Commission to the General Assembly. The resolutions adopted by the Commission in 2000 and 2003 respectively created and renewed the mandate of the Special Representative on human rights defenders<sup>10</sup>.

##### **The Commission on Human Rights Resolution 2005<sup>11</sup>**

Its content:

The Resolution on human rights defenders adopted at the 61<sup>st</sup> session of the Commission in 2005 emphasised the important contribution of individuals and NGOs to the promotion and protection of human rights, including in combating impunity, promoting access to justice, to information, and public participation in decision-making; and in promoting, strengthening, and preserving democracy, peace and security<sup>12</sup>.

It acknowledged the work of the Special Representative on human rights defenders and welcomed her report to the Commission describing the activities undertaken and analysing trends and issues affecting human rights defenders throughout the world<sup>13</sup>. The text reiterated the duty of States to cooperate with the mandate and urged them to investigate promptly urgent appeals and allegations of human rights violations brought to their attention by the Special Representative, to take timely action to

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<sup>9</sup> A decision is adopted by consensus when there is no vote and no formal objection.

<sup>10</sup> For a list of all resolutions on human rights defenders adopted by the Commission on Human Rights and the General Assembly, see Annex 3.

<sup>11</sup> Commission on Human Rights *Resolution 2005/67* (E/CN.4/RES/2005/67), 20 April 2005. See Annex 4.

<sup>12</sup> *Ibid*, preambular paragraph (PP) 8 and 9.

<sup>13</sup> *Ibid*, PP 12 and operative paragraph (OP) 2.

prevent violations, and to promote awareness and training with regard to the *Declaration on Human Rights Defenders*<sup>14</sup>.

The Resolution also expressed concern that human rights defenders in many countries are still facing threats, harassment and insecurity as a result of their activities, and that grave violations, including killings, are on the increase<sup>15</sup>. The current issue of counter-terrorism and national security legislation was also addressed, and States were urged to ensure that any measures in this field comply with their human rights obligations and that counter-terrorism and national security legislation are not used to target human rights defenders and hinder their work<sup>16</sup>.

The Resolution also reiterated the Commission's concern about the severe risks faced by women human rights defenders and by defenders of rights of persons belonging to minorities<sup>17</sup>.

The 2005 Resolution extended the protection accorded to human rights defenders in relation to combating impunity and investigating complaints to their relatives who often face abuses due to the human rights activity carried out by a member of their family<sup>18</sup>. It also expressed concern for the first time about the increase in restrictive legislation regulating freedom of association, particularly with regard to the creation and operation of NGOs<sup>19</sup>.

Contentious elements:

To understand and assess the meaning of a resolution, it is also important to see what was discussed during its negotiation and eventually left out of the final text. NGOs lobbied for the introduction in the text of a reference to sexual orientation. In many countries human rights activists are being targeted because of their work against discrimination, violence, and other human rights violations based on sexual orientation. However, NGO attempts failed and the resolution contained no language on sexual orientation or gender identity.

A further controversial issue was the attempt by a State to include a paragraph referring to domestic law as the juridical framework within which all human rights activities should be conducted<sup>20</sup>, in accordance with Article 3 of the Declaration, which reads:

“Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realisation of those rights and freedoms should be conducted”.

The Special Representative has stated that the reference to domestic law as the juridical framework for human rights defenders' activities included in Article 3 of the Declaration must be read together with Article 4, which reads:

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<sup>14</sup> Ibid, OP 12 and 14.

<sup>15</sup> Ibid, PP 4.

<sup>16</sup> Ibid, PP 11 and OP 6.

<sup>17</sup> Ibid, PP 6.

<sup>18</sup> Ibid, OP 7 and 8.

<sup>19</sup> Ibid, PP 5.

<sup>20</sup> See Annex 7, Cuba's proposed amendment L.99.

“Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field”.

In other words, domestic law represents the juridical framework within which all human rights defenders’ activities must be conducted in so far as the domestic system fully complies with and reflects applicable international human rights standards.

Article 3 is directed towards the obligation to implement and promote the rights of human rights defenders in domestic law. However, a reference to Article 3 in isolation from other provisions could send the signal of a shift in the Commission’s attention from ensuring protection of defenders to ensuring that States can use national legislation as a means to control them and restrict their activities<sup>21</sup>. Furthermore, it could also encourage the existing trend of States invoking national law in their responses to communications sent by the Special Representative concerning individual cases<sup>22</sup>. For example, in many cases of arbitrary detention, States increasingly justify it referring to counter-terrorism legislation. Although the proposed amendment was eventually rejected, the fact that 20 member States of the Commission supported it reflects the difficulties in promoting and protecting defenders and demonstrates the significant work required on this issue and the challenges ahead<sup>23</sup>.

### **The General Assembly Resolution 2005<sup>24</sup>**

A positive development concerning the last human rights defenders resolution adopted by the General Assembly was the reinsertion of a specific reference to women defenders<sup>25</sup> after it was deleted from the Resolution adopted in 2004. An innovation was the specific reference to the responsibility of States in ensuring the protection of human rights defenders in times of conflict and peace-building, which often make human rights defenders particularly vulnerable<sup>26</sup>.

On a negative note, the General Assembly Resolution added specific reference to human rights defenders abiding by national legislation in their work<sup>27</sup>. This paragraph closely resembled the amendment proposed by a member State at the Commission in 2005, discussed above, and which was defeated only by a small margin. Its inclusion in the text of the General Assembly Resolution was the price for adopting the Resolution by consensus, i.e. with no vote, without formal objections. Member States preferred accepting the inclusion of this paragraph in order to adopt the Resolution by consensus – expressing stronger support for the text – rather than taking the risk of a State calling for a vote.

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<sup>21</sup> Position expressed by the European Union, *Explanation of vote of the European Union on L.99 (Amendment to draft resolution L.85, Human Rights Defenders)*.

<sup>22</sup> See Commission on Human Rights, Report of the Special Representative of the Secretary-General on human rights defenders (2006), E/CN.4/2006/95, para 41.

<sup>23</sup> For information on the vote on Cuba’s proposed amendment and the position of each member State, see Annex 7.

<sup>24</sup> General Assembly *Resolution 60/151 (A/RES/60/151)*, 16 December 2005. See Annex 5.

<sup>25</sup> *Ibid*, PP 6.

<sup>26</sup> *Ibid*, OP 4.

<sup>27</sup> *Ibid*, PP 14.

A further negative aspect of the Resolution was that the text failed to reflect adequately the crucial role of defenders in the preservation and restoration of peace and security, which was the focus of the Special Representative's report to the General Assembly. The language used recognises "the substantial role that human rights defenders can play in supporting peace through dialogue, openness, participation and justice including by monitoring and reporting on human rights"<sup>28</sup>. However, the text does not mention the role of human rights defenders as early warning mechanisms, capable of alerting the international community before a situation escalates into violent conflict.

### **The Human Rights Council's first session**

All special procedures were transferred to the Human Rights Council by the General Assembly Resolution establishing the Council. Special procedures mandates that were up for renewal during the last session of the Commission in March 2006, including the mandate on human rights defenders, were in a peculiar situation, as these mandates were to come to an end in July 2006<sup>29</sup>. Prior to and during the last session of the Commission, there were discussions among member States as to how to respond to this situation. The Commission could have renewed these mandates, extended the terms of the mandate holders or appointed new mandate holders but it took the view that these mechanisms had been transferred to the Council and it did not have the authority to address these issues. It was therefore for the Council to take action in this regard.

In its first session in June 2006, the Council renewed these mandates and extended the terms of the mandate holders for one year as part of an omnibus resolution<sup>30</sup> through which all mandates were renewed and existing mandate holders terms extended. Therefore the current Special Representative on human rights defenders, Hina Jilani, will continue her work as mandate holder for a further year.

During the first session of the Council, member States also discussed pressing human rights issues under the Council's agenda Item 4 (Implementation of General Assembly *Resolution 60/251*). Five issues were raised: the situation in the Occupied Palestinian Territories; the situation and rights of migrants; discrimination based on religion or belief and incitement to religious hatred; the peace process in Sudan; and the situation of human rights defenders.

12 member States made statements regarding the issue of human rights defenders. All of them, including Pakistan, Malaysia, Azerbaijan, Sri Lanka, and Indonesia, recognised the important role of defenders for the promotion and protection of human rights. Mexico, Canada and Switzerland also explicitly expressed support to the vital work of the Special Representative on human rights defenders, Ms. Hina Jilani. Mexico stated that neither the rule of law nor situation of emergencies or derogation of rights could be used to limit the exercise of the rights enshrined in the *United*

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<sup>28</sup> Ibid, PP 8.

<sup>29</sup> The mandates expiring in July 2006 are the following: Special Rapporteur on adequate housing; Working Group on people of African Descent; Working Group on arbitrary detention; Independent Expert on the question of human rights and extreme poverty; Special Rapporteur on the right to food; Special Representative of the Secretary-General on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Representative of the Secretary-General on the human rights of internally displaced persons; Independent Expert on the effects of economic reform policies and foreign debt; and, Special Rapporteur on violence against women.

<sup>30</sup> An omnibus resolution is a resolution that covers many issues together, an example of this kind of a resolution is the omnibus resolution on economic, social and cultural rights issues, see Commission on Human Rights *Resolution 2005/22*.

*Nations Declaration on Human Rights Defenders.* With specific regard to the work of the Council, Argentina and Austria (on behalf of the EU) stated that the Council should continuously and permanently lend attention to human rights defenders issues. Argentina also added that all special procedure mandate holders should consider, within their respective mandates, the status of implementation of the *Declaration on Human Rights Defenders*.

The following thematic issues were raised: impunity for violations against defenders (Pakistan, Canada, Japan, Switzerland); restrictions to freedom of expression, including on the media and the Internet (Canada, Austria on behalf of the EU, Germany); restrictions to freedom of association (Germany); the adoption of legislation and policies negatively affecting defenders, and the use of the criminal justice system to curtail defenders' activities (Austria on behalf of the EU); and the rights of women and of indigenous peoples (Mexico).

For the full text of the references made by member States to human rights defenders issues, see Annex 10.



## 5. What's next?

The creation of the Human Rights Council has brought uncertainty about the future shape of the system of special procedures and about individual mandates. The General Assembly has required the Council to undertake a review of the system as a whole and of individual mandates, which can include the discontinuation of certain mandates. The fate of the mandate on human rights defenders is therefore now linked to this review. This section will provide some information and analysis on what may happen in the coming months.

### **The review of the special procedures**

The system of special procedures is universally recognised as one of the main strengths of the former Commission on Human Rights. The special procedures have been one of the Commission's major achievements and constitute an essential cornerstone of the UN's efforts to promote and protect internationally recognised human rights and contribute to the prevention of violations. The special procedures, however, have been a victim of their own success. Over the last nine years their number has increased dramatically, from 29 in 1997 to the current 41. This has led to serious challenges to the system. In particular, problems and criticisms have emerged with regard to: availability of resources; lack of cooperation by States; coordination among mandate holders; overlaps between mandates; lack of consistency with regard to working methods and activities; and the appointment procedure, which in certain cases led to the appointment of some mandate holders who lack independence and expertise.

The need for the development of a truly integrated system of special procedures in a more consistent way clearly emerged well before the recent negotiations on UN reform. There have been a number of discussions, studies and suggestions by special procedures themselves, UN bodies, the High Commissioner for Human Rights and NGOs identifying the major challenges and limitations faced by special procedures and the steps that need to be taken to strengthen the system. Against this background, the Council's mandate to review the special procedures has been no surprise. Awareness of their strengths and flaws represents the bottom line of the review process, which should build on the strengths to introduce changes capable of remedying the weaknesses. However, there is no agreement among States on the best suitable solution. In addition, in the last few years there have also been an increasing number of attacks on the special procedures individually and collectively that have aimed to terminate key mandates and limit their independence or working methods. If this trend is manifested in the review, the special procedures will be greatly weakened. NGOs have to respond to the attacks with proposals that will strengthen the system and improve its effectiveness.

Suggestions have been advanced concerning various aspects of the special procedures, including:

- Selection and appointment of mandate holders;
- Interaction of mandate-holders with the media;
- Interaction of the special procedures with the Commission/Council and the General Assembly;
- Working methods and good practices;
- Admissibility criteria for individual communications and procedure for their consideration;

- Rationalisation of mandates;
- Coordination among special procedures.

These issues have been raised by States during past discussions about enhancing the effectiveness of the special procedures<sup>31</sup>. Although it is still unclear at this stage what the scope of the review will be and how it will be undertaken, it is very likely that these same issues will be addressed when the Council will start discussions on the review.

Examining the implications of all proposals put forward in recent years falls outside the scope of this briefing kit. However, we will examine how the review process, while offering a good opportunity to strengthen the system and make it more effective, could at the same time be (mis)used to introduce limitations and restraints on the mandate holders' ability to act effectively and independently.

### *Selection and appointment of mandate holders*

Another issue that is likely to be addressed during the review is the procedure for the appointment of mandate holders. This is a very sensitive issue since it has a direct impact on the independence and expertise of the persons appointed. So far, mandate holders have usually been appointed by the Chairperson of the Commission after consultation with all regional groups<sup>32</sup>. While in most cases the independence and expertise of the special procedures have been preserved, this has not always been so. There have been cases where the person appointed held government positions in his or her home country at the same time, which is considered by the mandate holders themselves incompatible with the requisite impartiality and independence<sup>33</sup>.

In addition, the current process is not sufficiently transparent and lacks public accountability. While the review provides an opportunity to establish a transparent and broadly consultative process, it may result in a procedure that is not better, but worse, than the current one. For instance, some States have suggested that if government officials cannot be appointed, members of NGOs also should not be eligible for appointment for the same reason of ensuring their independence. However, the issue at stake is independence *from States*, since the special procedures mainly monitor and react to violations committed by State authorities. An interesting suggestion has been advanced by the High Commissioner, who proposed the creation of an Advisory Panel chaired by the High Commissioner and composed of experts from all regions and constituencies. The Advisory Panel would define criteria and requirements for appointment to the different mandates, administer a roster of suitable candidates and submit to the Chairperson of the Council a list of eligible experts for each position<sup>34</sup>.

### *Interaction with the media*

A further proposal concerns the interaction between mandate holders and the media. It has been suggested that special procedures should not be permitted to make

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<sup>31</sup> For example, during the seminar on "Enhancing and Strengthening the Effectiveness of Special Procedures" organised by OHCHR in October 2005.

<sup>32</sup> The members of the Commission/Council are organised in five regional groups: Africa, Asia, Eastern Europe, Latin America and the Caribbean, and Western Europe and Others. A few mandate holders are appointed by the Secretary-General or the High Commissioner for Human Rights.

<sup>33</sup> Report of the Twelfth Annual Meeting of the Special Procedures, 20 July 2005.

<sup>34</sup> OHCHR paper *Enhancing the Effectiveness of the Special Procedures of the Commission on Human Rights*.

public statements or speak with the press concerning alleged human rights violations unless the allegation has previously been discussed with the State concerned with adequate time for investigation, reply, and action<sup>35</sup>. Press releases or other forms of interaction with the media are effective tools that mandate holders may use to apply pressure to governments, particularly in cases of severe and immediate human rights violations. They are especially useful where there is a need for urgent action to prevent or end a serious violation of human rights. To give an example, ten special procedure mandate holders made a joint statement expressing their concern regarding the mass forced evictions in Zimbabwe in 2005. This statement was widely reported in the press and helped build international awareness and action to address what was occurring at the time. Restricting the special procedures' ability to engage the media as they think appropriate means depriving them of a powerful tool and would compromise the effectiveness of the system.

#### *Admissibility criteria for individual communications*

Several States have suggested that specific and stringent criteria should be introduced with regard to the admissibility of individual communications<sup>36</sup>. In particular, they have proposed a requirement that domestic – or even regional – remedies be exhausted before a communication can be accepted<sup>37</sup>. This means that before requesting the intervention of special procedures, the victim of the violation should first try to use all remedies available at the national level, for example by making formal complaints – administrative or judicial – and waiting for the outcome of the process, which may be a very lengthy procedure. Only after the victim has resorted unsuccessfully to all reasonably available national remedies, is a complaint to special procedures admissible.

This closely resembles the admissibility criteria generally applicable to the more formal complaint procedure of the UN treaty monitoring bodies. However, treaty bodies act as quasi-judicial bodies when dealing with individual cases. This is not generally the case with special procedures. With special procedures the process is not adversarial and is aimed merely at informing the State authorities of the allegation received by the mandate holder, so that they can take action to prevent or end the violation and open an investigation. The communication is not a decision on the part of the mandate holder on whether the State is complying or not with its international obligations. It is simply in most cases a request for information. Moreover, the strength of the special procedures, which has made it an effective protection tool, is its very lack of formality, which allows for quick reaction by mandate holders and States. The requirement of exhaustion of domestic remedies would add a serious burden on complainants and on the mandate holder and the very limited staff and would make this procedure much less effective and much less accessible to victims of violations and other people at risk.

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<sup>35</sup> OHCHR seminar on the special procedures, *supra* note 31, position of the United States. The Asian Group also argued for the adoption of guidelines for special procedures' interaction with the media.

<sup>36</sup> Victims of human rights violations can submit a complaint/communication to the special procedures, which then will contact the State concerned requesting information and investigation on the case. See *supra* section 3.

<sup>37</sup> The introduction of the requirement of exhaustion of domestic remedies has been supported by a number of countries, including the United States (exhaustion of "reasonable" domestic remedies), and the African and Asian Groups in their position paper presented at the OHCHR seminar on the special procedures, *supra* note 31.

### *Rationalisation of mandates*

The review will also focus on the number and scope of the mandates and their subject matter. Historically, special procedures were not developed as a coherent system. Mandates were set up on a case-by-case basis and each mandate was envisaged as an individual procedure rather than a mechanism that was part of a larger system. Coupled with the rapid increase in the number of mandates in recent years, this ad hoc process has led to some States and bodies to call for the consolidation or reduction of mandates for reasons of overlap, resource limitations and a perception that the current number of mandates is unmanageable in terms of the Commission's workload. Also very recently, some States have suggested a "deliberate and careful examination of the necessity and purpose of each existing mandate"<sup>38</sup> and expressed the need to rationalise them to avoid overlap and duplication. Counter arguments have been put forward for these concerns. For instance, it has been pointed out that overlaps between mandates are being managed by the special procedures themselves through greater co-ordination; that overlaps exist because of the overlapping nature of human rights issues; and that the special procedures should have priority in the agenda of the Commission since they are its main monitoring mechanism. Despite these arguments, NGOs fear that the exercise may be used to terminate mandates that are considered by some States to be too effective at highlighting violations within countries.

As seen in Section 4 of this document, the mandate of the Special Representative on human rights defenders has recently faced some challenges. It is important to highlight that this is the only mandate that comprehensively deals with human rights defenders issues, many of which would not otherwise be covered as such by any other special procedures. Its creation has played an essential role in the dissemination and implementation of the *Declaration on Human Rights Defenders* and in raising awareness about the urgent need to create a favourable environment for activities for the defense of human rights. While most special procedures only focus on human rights violations, the mandate on human rights defenders encompasses both the physical protection of defenders from violations and the protection of the activities they carry out. For example, the Special Representative intervened in a case where the police raided the offices of an NGO and arbitrarily arrested staff members and all persons present on the premises<sup>39</sup>. The case raised concerns both regarding the safety and liberty of the persons arrested and the clear attempt of the authorities to hinder the activities of that organisation. For its contribution and comprehensive scope, it is important that the mandate is maintained.

While the creation of this mandate has played an essential role in the implementation of the *Declaration on Human Rights Defenders*, much remains to be done. Now perhaps even more than before, an effective protection mechanism for human rights defenders is required.

For further information on the Human Rights Council and its review of the system of special procedures, see *A new chapter for human rights: a handbook on issues of transition from the Commission on Human Rights to the Human Rights Council*, published by the International Service for Human Rights and Friedrich-Ebert-Stiftung and available at <http://www.ishr.ch/handbook>.

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<sup>38</sup> OHCHR seminar on the special procedures, supra note 31, position of the United States.

<sup>39</sup> Commission on Human Rights, Report of the Special Representative of the Secretary-General on human rights defenders (2005), E/CN.4/2005/101/Add.1, para 315.

## 6. What can you do?

The review of the special procedures will be a crucial process with considerable implications for the UN human rights system and for the credibility of the Council. All concerned actors will have to direct their efforts to ensure that the review is not used to weaken or terminate special procedure mandates for purely political reasons and that the process is used instead to strengthen them and address issues that have hampered their functioning, particularly at a political level.

NGOs should direct their efforts towards ensuring that the problems that have emerged so far are addressed and the strengths of the system maintained. Particular areas of focus should be: that the criteria for the selection and appointment of mandate holders are transparent and ensure expertise and independence; that the system is not reviewed in such a way as to restrict the special procedures' ability to intervene in individual cases, to engage with the media and offer effective protection; and that the rationalisation of mandates does not result in arbitrarily limiting their number and discontinuing important mandates. In particular, the review should not infringe upon the independent role of special procedures to determine collegially their working methods and processes.

It is essential that the mandate of the Special Representative on human rights defenders is maintained and strengthened. As the Special Representative stated, "it is now a generally shared opinion that the added value of this mandate exceeds any possibility of duplication with other special procedures of the Commission"<sup>40</sup>. The fact that the mandate encompasses both the physical protection of defenders and the protection of the activities they carry out makes it unique.

### The review of the special procedures

NGOs should follow and try to influence the process on two levels. The first concerns the review of the special procedures in general, including the nature of the system, the functions of mandates and the appointment procedures of mandate holders, to ensure that the independence and effectiveness of the system is strengthened, not undermined. In this regard, the following actions could be considered:

- NGO action should focus on lobbying at the national level, not only in Geneva  
Action and lobbying efforts at the national level are more important since the decision on the position to take in the Council is adopted by governments back in their capitals. Governments must be held accountable at the national level for their action at the international level. Local NGOs can raise public attention and debate on the international action of their government, for example organising seminars, workshops and engaging the media.
- Non-Council member States also have a role to play  
While specific attention should obviously be given to the members of the new Council, which are the ones actually voting in the new body, non-Council members also have a role to play and can influence the negotiations and the decision that will be taken by the Council. They should not be left out of NGO lobbying efforts.

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<sup>40</sup> Commission on Human Rights, Report of the Special Representative of the Secretary-General on human rights defenders (2006), E/CN.4/2006/95, para 14.

- Letter-writing  
A simple action NGOs can take is writing a letter to their government addressing the issue of the review of the special procedures. The letter could be sent to responsible ministers and parliamentarians as well as to influential newspapers.
- Use the States' voluntary pledges  
The commitments made before the Council elections by candidate States through voluntary pledges (see box) provide a useful basis to scrutinise State action in the course of the review of the special procedures and to hold them accountable at the international and national levels, should they not act accordingly.

The second level of NGO action regards the mandate of the Special Representative on human rights defenders. Efforts should be spent to ensure that this mandate is not discontinued, but renewed and strengthened. The following suggestions can be considered:

- Letter-writing  
The letter addressing the issue of the review of special procedures generally could also refer specifically to the mandate on human rights defenders requesting support for its renewal. In Annex 9 you will find a sample letter requesting the government's support for the continuation of the mandate of the Special Representative on human rights defenders.

### **Voluntary pledges**

The General Assembly resolution establishing the Human Rights Council encourages States candidate to membership of the Council to make voluntary pledges that will be taken into account at the time of election. According to the guidelines suggested by OHCHR, the pledges should contain commitments regarding State action both at the national and at the international level, including future contribution to the work of the Council and cooperation with other human rights bodies.

Concerning the international level, States should *inter alia*:

- Cooperate with the special procedures, accepting requests for visits and responding positively to communications;
- Contribute to international human rights initiatives through the provision of human, technical and financial resources;
- Commit to fully support and engage constructively with the Council;
- Commit to an open and constructive engagement in a robust universal periodic review procedure;
- Commit to the meaningful engagement of NGOs within the Council.

Concerning the national level, States should *inter alia*:

- Identify principal human rights challenges and the steps to be taken to meet those challenges;
- Indicate their approach to the contribution of civil society, including in the formulation and implementation of domestic human rights policy and programs;
- Commit to the highest standards in the promotion and protection of human rights.

Voluntary pledges are available at <http://www.un.org/ga/60/elect/hrc>. For an example, see Annex III below. OHCHR Suggested Elements for Voluntary Pledges and Commitments by Candidates for Election to the Human Rights Council are available at: <http://www.ohchr.org/english/13042006.pdf>.

- Use the steady increase in support for the mandate to lobby for further support  
The steady increase in support for this mandate since 2000 is in itself a good argument in favour of retaining the mandate and could be used to counter the recent challenges that have been posed to it. In Annex 8 you will find a table and a chart that illustrate the growing number of States sponsoring the resolution on human rights defenders. The number of co-sponsors of the last General Assembly resolution was 83 compared to 74 in 2004.
- Focus on the specificity of the mandate  
A key argument for maintaining the mandate on human rights defenders is its specificity compared to other special procedures. The mandate on human rights defenders is the only one encompassing both the physical protection of defenders and the activities that they carry out, and further extending to the conditions that ensure a favourable environment for human rights activities, including legislation.
- Refer to State actions that violate the rights of human rights defenders and impede their work  
Another strong argument for lobbying to maintain the mandate is highlighting and documenting the increasing number of violations against human rights defenders and the adoption of legislation restricting human rights activities. This trend requires maintaining an effective protection and monitoring mechanism.





## Annex 1

### General Assembly Resolution 60/251 establishing the Human Rights Council

3 April 2006  
**Sixtieth session**  
Agenda items 46 and 120  
05-50266

*The General Assembly,*

*Reaffirming* the purposes and principles contained in the Charter of the United Nations, including developing friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and achieving international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all,

*Reaffirming also* the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action, and recalling the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights<sup>3</sup> and other human rights instruments,

*Reaffirming further* that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis,

*Reaffirming* that, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, all States, regardless of their political, economic and cultural systems, have the duty to promote and protect all human rights and fundamental freedoms,

*Emphasizing* the responsibilities of all States, in conformity with the Charter, to respect human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language or religion, political or other opinion, national or social origin, property, birth or other status,

*Acknowledging* that peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being, and recognizing that development, peace and security and human rights are interlinked and mutually reinforcing,

*Affirming* the need for all States to continue international efforts to enhance dialogue and broaden understanding among civilizations, cultures and religions, and emphasizing that States, regional organizations, non-governmental organizations, religious bodies and the media have an important role to play in promoting tolerance, respect for and freedom of religion and belief,

*Recognizing* the work undertaken by the Commission on Human Rights and the need to preserve and build on its achievements and to redress its shortcomings,

*Recognizing also* the importance of ensuring universality, objectivity and non-selectivity in the consideration of human rights issues, and the elimination of double standards and politicization,

*Recognizing further* that the promotion and protection of human rights should be based on the principles of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings,

*Acknowledging* that non-governmental organizations play an important role at the national, regional and international levels, in the promotion and protection of human rights,

*Reaffirming* the commitment to strengthen the United Nations human rights machinery, with the aim of ensuring effective enjoyment by all of all human rights, civil, political, economic, social and cultural rights, including the right to development, and to that end, the resolve to create a Human Rights Council,

1. *Decides* to establish the Human Rights Council, based in Geneva, in replacement of the Commission on Human Rights, as a subsidiary organ of the General Assembly; the Assembly shall review the status of the Council within five years;

2. *Decides* that the Council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner;

3. *Decides also* that the Council should address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon. It should also promote the effective coordination and the mainstreaming of human rights within the United Nations system;

4. *Decides further* that the work of the Council shall be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development;

5. *Decides* that the Council shall, inter alia:

(a) Promote human rights education and learning as well as advisory services, technical assistance and capacity-building, to be provided in consultation with and with the consent of Member States concerned;

(b) Serve as a forum for dialogue on thematic issues on all human rights;

(c) Make recommendations to the General Assembly for the further development of international law in the field of human rights;

(d) Promote the full implementation of human rights obligations undertaken by States and follow-up to the goals and commitments related to the promotion and protection of human rights emanating from United Nations conferences and summits;

(e) Undertake a universal periodic review, based on objective and reliable information, of the fulfillment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs; such a mechanism shall complement and not duplicate the work of treaty bodies; the Council shall develop the modalities and necessary time allocation for the universal periodic review mechanism within one year after the holding of its first session;

(f) Contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies;

(g) Assume the role and responsibilities of the Commission on Human Rights relating to the work of the Office of the United Nations High Commissioner for Human Rights, as decided by the General Assembly in its resolution 48/141 of 20 December 1993;

(h) Work in close cooperation in the field of human rights with Governments, regional organizations, national human rights institutions and civil society;

(i) Make recommendations with regard to the promotion and protection of human rights;

(j) Submit an annual report to the General Assembly;

6. *Decides also* that the Council shall assume, review and, where necessary, improve and rationalize all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights in order to maintain a system of special procedures, expert advice and a complaint procedure; the Council shall complete this review within one year after the holding of its first session;

7. *Decides further* that the Council shall consist of forty-seven Member States, which shall be elected directly and individually by secret ballot by the majority of the members of the General Assembly; the membership shall be based on equitable geographical distribution, and seats shall be distributed as follows among regional groups: Group of African States, thirteen; Group of Asian States, thirteen; Group of Eastern European States, six; Group of Latin American and Caribbean States, eight; and Group of Western European and other States, seven; the members of the Council shall serve for a period of three years and shall not be eligible for immediate re-election after two consecutive terms;

8. *Decides* that the membership in the Council shall be open to all States Members of the United Nations; when electing members of the Council, Member States shall take into account the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto; the General Assembly, by a two-thirds majority of the members present and voting, may suspend the rights of membership in the Council of a member of the Council that commits gross and systematic violations of human rights;

9. *Decides also* that members elected to the Council shall uphold the highest standards in the promotion and protection of human rights, shall fully cooperate with the Council and be reviewed under the universal periodic review mechanism during their term of membership;

10. *Decides further* that the Council shall meet regularly throughout the year and schedule no fewer than three sessions per year, including a main session, for a total duration of no less than ten weeks, and shall be able to hold special sessions, when needed, at the request of a member of the Council with the support of one third of the membership of the Council;

11. *Decides* that the Council shall apply the rules of procedure established for committees of the General Assembly, as applicable, unless subsequently otherwise decided by the Assembly or the Council, and also decides that the participation of and consultation with observers, including States that are not members of the Council, the specialized agencies, other intergovernmental organizations and national human rights institutions, as well as non-governmental organizations, shall be based on arrangements, including Economic and Social Council resolution 1996/31 of 25 July 1996 and practices observed by the Commission on Human Rights, while ensuring the most effective contribution of these entities;

12. *Decides also* that the methods of work of the Council shall be transparent, fair and impartial and shall enable genuine dialogue, be results oriented, allow for subsequent follow-up discussions to recommendations and their implementation and also allow for substantive interaction with special procedures and mechanisms;

13. *Recommends* that the Economic and Social Council request the Commission on Human Rights to conclude its work at its sixty-second session, and that it abolish the Commission on 16 June 2006;

14. *Decides* to elect the new members of the Council; the terms of membership shall be staggered, and such decision shall be taken for the first election by the drawing of lots, taking into consideration equitable geographical distribution;

15. *Decides also* that elections of the first members of the Council shall take place on 9 May 2006, and that the first meeting of the Council shall be convened on 19 June 2006;

16. *Decides further* that the Council shall review its work and functioning five years after its establishment and report to the General Assembly.

*72nd plenary meeting  
15 March 2006*

## Annex 2

### Membership of the Human Rights Council

Algeria	2007
Argentina	2007
Azerbaijan	2009
Bahrain	2007
Bangladesh	2009
Brazil	2008
Cameroon	2009
Canada	2009
China	2009
Cuba	2009
Czech Republic	2007
Djibouti	2009
Ecuador	2007
Finland	2007
France	2008
Gabon	2008
Germany	2009
Ghana	2008
Guatemala	2008
India	2007
Indonesia	2007
Japan	2008
Jordan	2009
Malaysia	2009
Mali	2008
Mauritius	2009
Mexico	2009
Morocco	2007
Netherlands	2007
Nigeria	2009
Pakistan	2008
Peru	2008
Philippines	2007
Poland	2007
Republic of Korea	2008
Romania	2008
Russian Federation	2009
Saudi Arabia	2009
Senegal	2009
South Africa	2007
Sri Lanka	2008
Switzerland	2009
Tunisia	2007
Ukraine	2008
United Kingdom	2008
Uruguay	2009
Zambia	2008

### Annex 3

#### List of UN resolutions on human rights defenders 1998-2005

<b>2005</b>	General Assembly, 60 <sup>th</sup> session Commission on Human Rights, 61 <sup>st</sup> session	Res. 60/161 Res. 2005/67
<b>2004</b>	General Assembly, 59 <sup>th</sup> session Commission on Human Rights, 60 <sup>th</sup> session	Res. 59/192 Res. 2004/68
<b>2003</b>	General Assembly, 58 <sup>th</sup> session Commission on Human Rights, 59 <sup>th</sup> session	Res. 58/178 Res. 2003/64, renewing SRSG mandate
<b>2002</b>	General Assembly, 57 <sup>th</sup> session Commission on Human Rights, 58 <sup>th</sup> session	Res. 57/209 Res. 2002/70
<b>2001</b>	General Assembly, 56 <sup>th</sup> session Commission on Human Rights, 57 <sup>th</sup> session	Res. 56/163 Res. 2001/64
<b>2000</b>	General Assembly, 55 <sup>th</sup> session Commission on Human Rights, 56 <sup>th</sup> session	Res. 55/98 Res. 2000/61, creating SRSG mandate
<b>1999</b>	General Assembly, 54 <sup>th</sup> session	Res. 54/170
<b>1998</b>	General Assembly, 53 <sup>rd</sup> session	Res. 53/144, adopting the Declaration

## Annex 4

### Commission on Human Rights Resolution 2005/67 on human rights defenders

*The Commission on Human Rights,*

*Recalling* General Assembly resolution 53/144 of 9 December 1998, by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, annexed to that resolution and reiterating the importance of the Declaration and its wide dissemination,

*Recalling* all previous resolutions on this subject, in particular its resolution 2004/68 of 21 April 2004, and taking note of General Assembly resolution 59/192 of 20 December 2004,

*Noting with deep concern* that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities,

*Gravely concerned* by the continuing high level of human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world and the increase in especially grave violations, such as killings, attacks on and threats to the physical integrity of defenders and their relatives,

*Recalling* that human rights defenders are entitled to equal protection of the law, and deeply concerned about the increase in new restrictive legislation regulating the creation and operation of non-governmental organizations and any abuse of civil or criminal proceedings against human rights defenders because of their activities for the promotion and protection of human rights and fundamental freedoms,

*Concerned* at the considerable and increasing number of communications received by the Special Representative of the Secretary-General on the situation of human rights defenders which, together with the reports submitted by some of the special procedure mechanisms, indicate the serious nature of the risks faced by human rights defenders including during periods of special vulnerability, and including the severe consequences for women human rights defenders and defenders of rights of persons belonging to minorities,

*Noting with deep concern* that, in a number of countries in all regions of the world, impunity for threats, attacks and acts of intimidation against human rights defenders persists and that this impacts negatively on the work and safety of human rights defenders,

*Emphasizing* the important role that individuals, non-governmental organizations and groups play in the promotion and protection of human rights and fundamental freedoms, including in combating impunity, promoting access to justice, information and public participation in decision-making, and promoting, strengthening and preserving democracy,

*Recognizing* the importance of the role of human rights defenders, through dialogue, openness, participation and justice, in the prevention of violence and the promotion of sustainable peace and security,

*Recalling* that, in accordance with article 4 of the International Covenant on Civil and Political Rights, certain rights are recognized as non-derogable in any circumstances and that any measures derogating from other provisions of the Covenant must be in accordance with that article in all cases, and in this regard, recalling Human Rights Committee general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency, which underlines the exceptional and temporary nature of any such derogations,

*Gravely concerned* that, in some instances, national security and counter-terrorism legislation and other measures have been misused to target human rights defenders or have hindered their work and safety in a manner contrary to international law,

*Welcoming* the significant work conducted by the Special Representative of the Secretary-General and encouraging continued cooperation between the Special Representative and other special procedures of the Commission,

*Welcoming also* regional initiatives and the cooperation between international and regional mechanisms for the promotion and protection of human rights defenders, and encouraging further development in this regard,

*Welcoming further* the steps taken by some States towards adoption of national policies or legislation for the promotion and protection of human rights defenders,

*Recalling* that the primary responsibility for promoting and protecting human rights rests with the State, and noting with deep concern that the activities of some non-State actors pose a major threat to the security of human rights defenders,

*Emphasizing* the need for strong and effective measures for the protection of human rights defenders,

1. *Calls upon* all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, including by taking, as appropriate, practical steps to that end;

2. *Welcomes* the reports of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2001/94, A/56/341, E/CN.4/2002/106 and Add.1-2, A/57/182, E/CN.4/2003/104 and Add.1-4, A/58/380, E/CN.4/2004/94 and Add.1-3, A/59/401 and E/CN.4/2005/101 and Add. 1-3 and Add.3/Corr.1);

3. *Condemns* all human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world and urges States to take all appropriate action, consistent with the Declaration and all other relevant human rights instruments, to eliminate such human rights violations;

4. *Calls upon* all States to take all necessary measures to ensure the protection of human rights defenders, and to ensure and maintain an environment conducive to the work of human rights defenders;

5. *Also calls upon* all States to ensure, protect and respect the freedom of expression and association of human rights defenders, in particular through transparent, non-discriminatory, expeditious and inexpensive procedures for the acquisition of legal status as organizations or associations if such acquisition is required, in accordance with national legislation;

6. *Urges* States to ensure that any measures to combat terrorism and preserve national security comply with their obligations under international law, in particular, under international human rights law, and do not hinder the work and safety of human rights defenders;

7. *Emphasizes* the importance of combating impunity for threats, attacks and acts of intimidation against human rights defenders and their relatives, and in this regard urges States to take appropriate measures consistent with obligations under international law, in particular international human rights law and international humanitarian law;



8. *Urges* States to ensure that complaints from human rights defenders about threats or violations against them and their relatives are investigated promptly and addressed in a transparent, independent and accountable manner;

9. *Urges* all States to cooperate with and assist the Special Representative in the performance of her tasks and to furnish all information for the fulfilment of her mandate upon request;

10. *Calls upon* States to give serious consideration to responding favourably to the Special Representative's requests to visit their countries and urges them to enter into a constructive dialogue with the Special Representative with respect to the follow-up to, and implementation of her recommendations;

11. *Urges* those States that have not yet responded to the communications transmitted to them by the Special Representative to answer without further delay;

12. *Encourages* all States to investigate promptly urgent appeals and allegations brought to their attention by the Special Representative and to take timely action to prevent violations of the rights of human rights defenders;

13. *Invites* States to translate the Declaration into national languages and to take measures to improve its dissemination;

14. *Encourages* States to promote awareness and training in regard to the Declaration in order to enable officials, agencies, authorities and the judiciary to observe the provisions of the Declaration and thus promote better understanding and respect for human rights defenders;

15. *Encourages* relevant national authorities to promote awareness, better understanding and respect for human rights defenders through education programmes;

16. *Requests* the Secretary-General to provide the Special Representative with all necessary human, material and financial resources in order to enable her to continue to carry out her mandate effectively, including through country visits;

17. *Requests* all concerned United Nations agencies and organizations, within their mandates, to provide all possible assistance and support to the Special Representative in the implementation of her programme of activities;

18. *Invites* relevant United Nations bodies, including at the country level, within their respective mandates and working in cooperation with States, to give due consideration to the Declaration and to the reports of the Special Representative, and requests in this context the Office of the United Nations High Commissioner for Human Rights to draw the attention of all relevant United Nations bodies, including at the country level, to the reports of the Special Representative;

19. *Requests* the Special Representative to continue to report on her activities to the General Assembly and to the Commission in accordance with her mandate;

20. *Decides* to consider this question at its sixty-second session, under the same agenda item.

*59th meeting*

*20 April 2005*

[Adopted without a vote. See chap. XVII, E/CN.4/2005/L.10/Add.17]

## Annex 5

### General Assembly Resolution 60/161 on human rights defenders

#### **60/161. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms**

*The General Assembly,*

*Recalling* its resolution 53/144 of 9 December 1998, by which it adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms annexed to that resolution, and reiterating the importance of the Declaration and its wide dissemination,

*Recalling also* all previous resolutions on this subject, in particular its resolution 59/192 of 20 December 2004 and Commission on Human Rights resolution 2005/67 of 20 April 2005, 1

*Noting with deep concern* that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities,

*Gravely concerned* by the continuing high level of human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world and by the fact that, in a number of countries in all regions of the world, impunity for threats, attacks and acts of intimidation against human rights defenders persists and that this has a negative impact on their work and safety,

*Recalling* that human rights defenders are entitled to equal protection of the law, and deeply concerned about the increase in new restrictive legislation regulating the creation and operation of non-governmental organizations and any abuse of civil or criminal proceedings against them because of their activities for the promotion and protection of human rights and fundamental freedoms,

*Concerned* by the considerable number of communications received by the Special Representative of the Secretary-General on the situation of human rights defenders that, together with the reports submitted by some of the special procedure mechanisms, indicate the serious nature of the risks faced by human rights defenders, including women human rights defenders,

*Emphasizing* the important role that individuals, non-governmental organizations and groups play in the promotion and protection of human rights and fundamental freedoms, including in combating impunity, promoting access to justice, information and public participation in decision-making and promoting, strengthening and preserving democracy,

*Recognizing* the substantial role that human rights defenders can play in supporting peace through dialogue, openness, participation and justice, including by monitoring and reporting on human rights,

*Recalling* that, in accordance with article 4 of the International Covenant on Civil and Political Rights,<sup>2</sup> certain rights are recognized as non-derogable in any circumstances and that any measures derogating from other provisions of the Covenant must be in accordance with that article in all cases, and underlining the exceptional and temporary nature of any such derogations, as stated in General Comment No. 29, on states of emergency, adopted by the Human Rights Committee on 24 July 2001, 3

*Gravely concerned* that, in some instances, national security and counter-terrorism legislation and other measures have been misused to target human rights defenders or have hindered their work and safety in a manner contrary to international law,

*Welcoming* the significant work conducted by the Special Representative, and encouraging strengthened cooperation between the Special Representative and other special procedures of the Commission on Human Rights as well as other relevant United Nations bodies, offices, departments and specialized agencies and personnel, both at headquarters and at the country level,

*Welcoming also* regional initiatives for the promotion and protection of human rights and the cooperation between international and regional mechanisms for the protection of human rights defenders, and encouraging further development in this regard,

*Welcoming further* the steps taken by some States towards adopting national policies or legislation for the protection of human rights defenders,

*Recalling* that the primary responsibility for promoting and protecting human rights rests with the State, and reaffirming that national legislation consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights defenders conduct their activities, and noting with deep concern that the activities of some non-State actors pose a major threat to the security of human rights defenders,

*Emphasizing* the need for strong and effective measures for the protection of human rights defenders,

1. *Calls upon* all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, including by taking, as appropriate, practical steps to that end;
2. *Wel comes* the reports of the Special Representative of the Secretary-General on the situation of human rights defenders<sup>4</sup> and her contribution to the effective promotion of the Declaration and the improvement of the protection of human rights defenders worldwide;
3. *Condemns* all human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world, and urges States to take all appropriate action, consistent with the Declaration and all other relevant human rights instruments, to eliminate such human rights violations;
4. *Calls upon* all States to take all necessary measures to ensure the protection of human rights defenders, at both the local and the national levels, including in times of conflict and peacebuilding;
5. *Also calls upon* all States to ensure, protect and respect the freedom of expression and association of human rights defenders and, where registration is required, to facilitate registration, including through the establishment of effective and transparent criteria and non-discriminatory, expeditious and inexpensive procedures in accordance with national legislation;
6. *Urges* States to ensure that any measures to combat terrorism and preserve national security comply with their obligations under international law, in particular under international human rights law, and do not hinder the work and safety of human rights defenders;
7. *Also urges* States to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation against human rights defenders and their relatives, including by ensuring that complaints from human rights defenders are promptly investigated and addressed in a transparent, independent and accountable manner;

8. *Urges* all States to cooperate with and assist the Special Representative in the performance of her tasks and to furnish, upon request, all information for the fulfillment of her mandate;
9. *Calls upon* States to give serious consideration to responding favourably to the requests of the Special Representative to visit their countries, and urges them to enter into a constructive dialogue with the Special Representative with respect to the follow-up to and implementation of her recommendations so as to enable her to fulfil her mandate even more effectively;
10. *Urges* those States that have not yet responded to the communications transmitted to them to do so without delay and to investigate expeditiously urgent appeals and allegations brought to their attention by the Special Representative;
11. *Invites* States to translate the Declaration into national languages and to take measures to improve its dissemination;
12. *Encourages* States to promote awareness and training in regard to the Declaration in order to enable officials, agencies, authorities and the judiciary to observe the provisions of the Declaration and thus to promote better understanding and respect for human rights defenders;
13. *Invites* relevant United Nations bodies, including at the country level, within their respective mandates and working in cooperation with States, to give due consideration to the Declaration and to the reports of the Special Representative, and in this context requests the Office of the United Nations High Commissioner for Human Rights to draw the attention of all relevant United Nations bodies, including at the country level, to the reports of the Special Representative;
14. *Requests* that the Office of the High Commissioner as well as other relevant United Nations bodies, offices, departments and specialized agencies consider ways in which they can assist States to strengthen the role and security of human rights defenders, including in conflict situations and peacebuilding;
15. *Requests* the Secretary-General to provide the Special Representative with human, material and financial resources in order to enable her to continue to carry out her mandate effectively, including through country visits;
16. *Requests* all concerned United Nations agencies and organizations, within their mandates, to provide all possible assistance and support to the Special Representative in the implementation of her programme of activities;
17. *Requests* the Special Representative to continue to report annually on her activities to the General Assembly and to the Commission on Human Rights in accordance with her mandate;
18. *Decides* to consider the question at its sixty-second session under the item entitled "Human rights questions".

*64th plenary meeting  
16 December 2005*

## **Annex 6**

### **Cuba's proposed amendment L.99 to Commission on Human Rights draft resolution L.85 (Res. 2005/67)**

(Document E/CN.4/2005/L.99)

#### **Cuba: amendment to draft resolution L.85**

*After* the fifth preambular paragraph, *insert* a new preambular paragraph to read as follows:

*Stressing* that domestic law consistent with the Charter of the United Nations and other obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed, and within which all activities referred to in article 3 of the Declaration should be conducted;

## Annex 7

### Voting record on Cuba's proposed amendment L.99

<b>E/CN.4/2005/L.99 Amendment to L.85</b>					
Argentina	No	Guatemala	No	Republic of Korea	No
Armenia	No	Guinea	Abst	Romania	No
Australia	No	Honduras	No	Russian Federation	Yes
Bhutan	Yes	Hungary	No	Saudi Arabia	Yes
Brazil	No	India	Yes	South Africa	No
Burkina Faso	Abst	Indonesia	Yes	Sri Lanka	Yes
Canada	No	Ireland	No	Sudan	Yes
China	Yes	Italy	No	Swaziland	Abst
Congo	Yes	Japan	No	Togo	Abst
Costa Rica	No	Kenya	Yes	Ukraine	No
Cuba	Yes	Malaysia	Yes	United Kingdom	No
Dominican Republic	No	Mauritania	Yes	USA	No
Ecuador	No	Mexico	No	Zimbabwe	Yes
Egypt	Yes	Nepal	Yes		
Eritrea	Yes	Netherlands	No		
Ethiopia	Yes	Nigeria	Abst		
Finland	No	Pakistan	Yes		
France	No	Paraguay	No		
Gabon	Abst	Peru	No		
Germany	No	Quatar	Yes		
<b>1. YES: 20</b>		<b>2. NO: 27</b>		<b>3. Abstention: 6</b>	

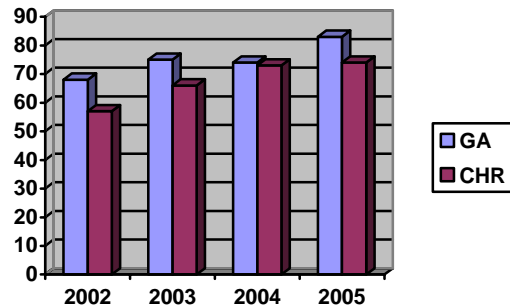






Turkey								
United Kingdom								
USA								
<b>No of co-sponsors:</b>	83	74	74	73	75	66	68	57
<b>Vote:</b>	no	no	no	no	no	no	no	no

The chart below shows the rise in the number of countries co-sponsoring the resolutions on human rights defenders at the General Assembly and at the Commission on Human Rights, from 2002 to 2005.



## Annex 9

### **Letter to governments requesting support for the continuation of the mandate of the Special Representative on human rights defenders**

**Re: Request for support for the mandate of the Special Representative of the Secretary-General on the situation of human rights defenders.**

The United Nations Human Rights Council decided in its first session, in June 2006, to review the system of special procedures inherited from the UN Commission on Human Rights during its first year of operation. The review may include a rationalisation of the special procedures and the creation and termination of new or existing mandates. In light of the importance of the mandate of the Special Representative of the Secretary-General on the situation of human rights defenders, *(name of your organisation)* urges your Government to support maintaining and strengthening this mandate.

The Special Representative on human rights defenders has played a crucial role in implementing the United Nations Declaration on Human Rights Defenders and in enhancing the protection of defenders throughout the world. Its work is essential because it encompasses both the protection of defenders and of their human rights activity. Such a comprehensive scope makes this mandate unique, as it is not found in many other special procedures.

In the past, the resolution on human rights defenders has enjoyed wide support at the Commission on Human Rights and the General Assembly, with more than 70 States as co-sponsors. We trust that you will lend your support to the matter during the first year of operation of the new Council by supporting the continuation of the mandate on human rights defenders.

Defenders rely on the support of States committed to human rights for the continuation of the important work carried out by the Special Representative on human rights defenders. Your government can play an important role in this process by expressing its support for the mandate.

*(Add a brief description of who you are)*

We remain available for any additional information you may require.

Please accept, Excellency, the assurances of our highest consideration,

*(Name and organisation)*

## **Annex 10**

### **1<sup>st</sup> session of the Human Rights Council Item 4: Implementation of General Assembly resolution 60/251 of 15 March 2006 entitled “Human Rights Council”**

#### **References to human rights defenders<sup>1</sup>**

##### **PAKISTAN (on behalf of OIC)**

The Islamic countries recognise the valuable contributions of the human rights defenders for the promotion and protection of human rights as well as the prevention of human rights violations. In view of their important role in the field of human rights, we support calls for continuing efforts for combating impunity and intimidation against human rights defenders.

##### **ARGENTINA**

Pensamos que el nivel de protección que se les brinde y el nivel de libertad para ejercer sus funciones, brindadas a los defensores de los derechos humanos, constituyen auténticos « indicadores » del grado de vigencia de los derechos humanos. Creemos que esta materia será un pilar fundamental del futuro ejercicio del examen periódico universal.

En estos mismos momentos, en algunos lugares del mundo, hay defensores de los derechos humanos que no pueden cumplir acabadamente con sus funciones por obstáculos de hecho o de derecho, o peor aun, sufren la intimidación o persecución. Por tal motivo, consideramos que esta materia debería estar entre las cuestiones esenciales, permanentes, de la labor del Consejo.

Seguramente en la sesión de septiembre tendremos la ocasión de examinar el informe de la Representante Especial del Secretario General y, consecuentemente, el Consejo aprobara las decisiones que corresponda. Mas alla de ello, y por la amplitud y gravedad de la cuestión, donde las dilaciones suelen conllevar efectos irreparables, deseamos que todos los procedimientos especiales y grupos de trabajo incluyan entre sus preocupaciones principales la consideración del grado de aplicación de la Declaración sobre los defensores de derechos humanos aprobada por la Asamblea General el 9 de diciembre de 1998.

##### **MEXICO**

Desde la adopción de la Declaración sobre el Derecho y el deber de los individuos, los grupos y las instituciones de promover y proteger los derechos humanos y las libertades fundamentales universalmente reconocidos los gobiernos hemos reconocido que la promoción y defensa de los derechos humanos, requieren de la protección de la ley y de las instituciones nacionales. Para mi gobierno, la categoría, defensores de derechos humanos es muy amplia e inclusiva, pero creemos que la protección debe ser mas vigorosa cuando se trata de defensores de los derechos tanto de la mujeres como de los pueblos indígenas.

El respeto de Estado de Derecho sin duda debe ser una exigencia para toda persona que ejerza cualquier profesión en las democracias contemporáneas, sin embargo, ello no puede ser entendido como una limitación al ejercicio de los derechos que se reconocen en la Declaración sobre defensores. Tampoco situaciones de emergencia o de suspensión de derechos puede justificarse como limitación al derecho a realizar las actividades que

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<sup>1</sup> The following extracts are taken from the statements delivered by States during the discussion of agenda Item 4 at the first session of the Human Rights Council. They are available on the extranet page of the Council, reachable from OHCHR website ([www.ohchr.org](http://www.ohchr.org)).

garantizan la vigilancia y la defensa de todos los derechos humanos. Por ello, se deben erradicar estigmatizaciones o difamaciones de los defensores de derechos humanos, que les impida desempeñar su noble trabajo o, peor aun, que los ponga en situación de mayor riesgo.

Quisiera aprovechar esta oportunidad para externar el total apoyo de mi gobierno a los trabajos de la Representante Especial del Secretario General sobre la cuestión de los defensores de derechos humanos, Sra. Hina Jilani y confiamos en que la manera tan responsable con la que ha desempeñado sus funciones redundara en un efectivo cumplimiento por parte de todos los Estados, de la Declaración de Defensores. Es por ello que México respalda dicho instrumento y le gustaría que el Consejo de Derechos Humanos promueva su cumplimiento alrededor del mundo.

#### **CANADA**

Canada salutes the vital but dangerous work of human Rights defenders and democracy promoters such as Daw Aung San Suu Kyi, Akbar Ganji and Arnold Tsunga as well as Ramón Jahanbegolu, a defender of the Freedom of Expression, recently jailed in Tehran. All make enormous sacrifices struggling for the most basic human rights.

As well, Canada salutes the many anonymous human Rights defenders and democracy promoters whose names will never be heard in this Council but whose efforts are invaluable in achieving its goal at the national level, on the ground.

It is imperative to support and protect human rights defenders and democracy promoters to guarantee space to advocate in an environment free of threats, impunity and media restrictions.

The work of the Special Representative of the Secretary-General for Human Rights Defenders is vital in this protection role. We commend her report on the main areas of progress and remaining challenges that need to be addressed in the implementation of the Declaration.

We ask that at its September session, the Council receive an update on recent developments and a presentation of her last report.

#### **AUSTRIA (on behalf of the EU)**

The role of human rights defenders in the promotion and protection of human rights is an issue that requires careful and permanent attention of the Human Rights Council. The unanimously adopted UN Declaration on Human Rights Defenders is our basis. The European Union pays tribute to the role and courage of human rights defenders and expresses its sincere admiration for their invaluable contribution to advancing respect for human rights worldwide. They also play a central role by providing insights and information to the Council.

A strong civil society can ensure that the needs of the weakest and most vulnerable members of society are taken into account. This is essential for a climate of inclusion and socio-economic progress.

We warmly welcome the progress made in many states where civil society is vibrant and freedom is being consolidated. At the same time we are concerned about reported intimidation, harassment, threats and detention of human rights defenders in many countries. Restrictions on freedom of expression, including on the Internet, limit their ability to speak out on behalf of victims. In several countries, governments are also introducing or amending legislation and policies negatively affecting the work of NGOs. Some countries use the criminal justice system to curtail the activities of human rights defenders. The European Union raises these issues with the countries concerned in an ongoing manner, and, where appropriate, publicises these contacts more widely.

The European Union calls on all states to undertake all necessary measures to establish a safe environment to enable human Rights defenders to carry on their important work.

#### **JAPAN**

We are gravely concerned by continuing violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world. We are also concerned that in a number of countries in all regions of the world, impunity for threats, attacks and acts of intimidation against human rights defenders persist and that this impacts negatively on the work and safety of human rights defenders. Supporting victims of human rights violations is also one of the most important tasks of human rights defenders to be assisted. These efforts can alleviate suffering of victims, and should be intensified. Japan highly values the crucial role that certain individuals, non-government organisations and groups play in promotion and protection of human rights and fundamental freedoms.

#### **SWITZERLAND**

Le rôle des défenseurs des droits humains est à notre avis primordial. Nous soutenons dans ce contexte les recommandations très valables de la Représentante Spéciale, Madame Hina Jilani, émises dans son sixième rapport de janvier de cette année. Nous aimerions en particulier soulever le rôle essentiel de la justice pour garantir un environnement sécuritaire au travail des défenseurs. Ces derniers sont souvent victimes de persécutions, criminalisations et harcèlement en raison de leurs activités. Il est donc essentiel que les auteurs de telles violations –qu'ils soient étatiques ou non étatiques- soient poursuivis, de manière de mettre fin à l'impunité.

#### **GERMANY**

I know myself in complete agreement with Mr. Guenther Nooke, the German Commissioner for Human Rights, when I reiterate the strong belief that the role of civil society and especially of human rights defenders in the promotion and protection of human rights cannot be overestimated. After all, it was also their courage and perseverance that has contributed to the fall of the Iron Curtain across Europe.

Today, we are deeply worried about reported cases of harassment and intimidation of human rights defenders and attempts to restrict their freedom of expression and association in many places in the world. We call on all states to ensure a secure environment for human rights defenders which guarantees conditions conducive to facilitating their endeavours.

#### **MALAYSIA**

Malaysia appreciates the work being undertaken by individuals and organisations that seek to promote and protect human rights and fundamental freedoms everywhere. We too would like to consider that every man and woman who speaks up for human rights and human dignity, as we are all doing today, as those who defend human rights. At the same time, we should be mindful that the words we utter and the actions we take should be within the confines of the rule of law.

#### **AZERBAIJAN**

We recognise the importance of the role of human rights defenders, through dialogue, openness, participation and justice, in the prevention of violence and the promotion of sustainable peace and security.

We emphasise the important role that individuals, NGOS and groups play in the promotion and protection of human rights and fundamental freedoms.

We very much hope that the Council will be able to further develop this topic that becomes more topical as we move along, and elaborate on all aspects in a comprehensive manner in a way to benefit the progress has been made at the time by the Commission on Human Rights.

#### **SRI LANKA**

Mr. President, Sri Lanka has been an original co-sponsor of the resolution on human rights defenders adopted by the Commission on Human Rights. The role of human rights defenders is a core element in the national and international human rights architecture. Every human being with a conscience is also a human rights defender, as human beings are both the beneficiaries and promoters of human rights. In this regard, we recall the contribution made by Mr. Neelan Thiruchelvam, a leader of the oldest Tamil political party in Sri Lanka and a member of the UN Working Group on Minorities, an internationally recognised human rights and peace advocate who was killed in a suicide attack by the LTTE in 1999.

The recent assassinations, mine attacks and ambushes carried out by the LTTE even against non-combatant security forces under flag of the International Monitoring Mission underlies the dilemma Sri Lanka faces of having to negotiate with a groups that is yet to renounce terrorism and violence. However, we remain firm in our commitment to a negotiated political solution that respects human rights and ensures the democratic rights of all our citizens.

#### **INDONESIA**

We would like to express our appreciation to the work of human rights defenders. Indonesia supports their invaluable work in their endeavour towards the promotion and protection of human rights. In this context, it is essential to underline that we in Indonesia always involve our national civil societies, including human rights defenders in our efforts to formulate as well as implement human rights-related program and policies. This constructive synergy can be demonstrated in the recent collaboration during the preparation of government's reports on human rights international instruments ratified by the government.