



# International Service for Human Rights

## The Reports in Short

ISHR's summaries of documents for the Human Rights Council 4<sup>th</sup> Session

### **The Special Representative of the Secretary-General on Human Rights Defenders<sup>1</sup>**

#### **Mandate Holder**

Hina Jilani

#### **Mandate**

The mandate was created in 2000<sup>2</sup> and focuses on the protection of persons acting individually or in association with others, to promote and protect human rights and fundamental freedoms, and of their right to do so. The Special Representative is mandated to monitor the actual situation of human rights defenders by seeking, receiving, examining and responding to information; strengthen the implementation of the *Declaration on Human Rights Defenders* (the Declaration) by establishing cooperation and dialogue with governments and other actors; and identify themes that are considered to have a fundamental bearing on the role and situation of human rights defenders, such as democratisation, the impact of security legislation, emergency situations and women.

#### **Activities**

- The Special Representative sent out 372 communications to 78 countries, at the time of writing, 40 of these countries had provided responses to one or more of the communications;
- The Special Representative carried out a mission to Brazil from 5 to 21 December 2005. An official visit to Serbia was postponed as the dates conflicted with the second session of the Human Rights Council. A proposed follow-up visit to Guatemala was also postponed by the Government, which declared it could not receive the Special Representative until 2008;
- The Special Representative has continued to put an emphasis on cooperation with all bodies of the United Nations and other intergovernmental organisations;
- Attended numerous events organised by non-governmental organisations (NGOs) including:
  - The World Social Forum in Karachi, Pakistan
  - The Carter Centre Conference in Atlanta, USA
  - The World Forum on Human Rights in Nantes, France
  - The First International Conference on lesbian, gay, bisexual and transgender human rights in Montreal, Canada
  - 2<sup>nd</sup> Human Rights Defenders' Forum in Asia in Bangkok, Thailand.

#### **Annual Report**

---

<sup>1</sup> Summary written by Rami Chalabi, edited by Gareth Sweeney and Hannah Klein, Information Team, ISHR

<sup>2</sup> Commission on Human Rights *Resolution 2000/61*

## **Scope**

The first part of the report describes the various activities of the Special Representative throughout the year. The report goes on to describe the situation of human rights defenders working in the field of economic, social and cultural rights, as well as violations against the rights that have been accorded to them by the *Declaration on Human Rights Defenders*. The report also focuses on defenders who are at particular risk.<sup>3</sup>

## **Summary and Key Conclusions**

### *NGO participation in the work of the Human Rights Council*

- NGOs need to be reassured that civil society participation in the work of the Human Rights Council will remain vital and be broadened.

### *Defenders of Economic, Social and Cultural Rights (ESCR)*

- Collective action, which is protected by Article 12 of the *Declaration on Human Rights Defenders*, has become the most vulnerable to obstruction and repression;
- In light of the comments of the Committee on Economic, Social and Cultural Rights, the Special Representative is of the view that ‘defenders of ESCR should be seen as a force in inducing States parties to take positive steps towards ratifying and implementing the Covenant and the rights it recognizes’;<sup>4</sup>
- Defenders of ESCR have been threatened verbally, in writing, as well as physically attacked, kidnapped, tortured and even killed. These violations have been perpetrated both by the State and non-State entities.

### *Defenders of land rights, natural resources and environmental issues*

- Since the establishment of the mandate, the Special Representative has sent out 81 communications dealing with violations of the rights of defenders working on issues of land rights, natural resources, and environmental issues such as pollution and waste-dumping;
- This group is particularly vulnerable to attacks and violations in countries of Latin America and in parts of Asia;
- Defenders of these rights often come from indigenous and minority groups. These populations are often working to secure the right to use land that they consider to be theirs;
- Women as a group are particularly vulnerable when it comes to issues concerning land rights and, in particular, inheritance rights. Defenders are working against discriminatory inheritance practices that deprive women of their equal rights to own, inherit, and control property, including land and housing;
- According to the statistics of communications sent by the Special Representative, defenders of land rights and natural resources are the second most vulnerable group when it comes to danger of being killed because of their activities in defence of human rights;
- Defenders working on land rights are often broad grassroots-based movements. These movements face several specific challenges, including that they are often accused of not being properly registered and are deemed illegal. Another is that defenders engaged in social movements are accused of forming criminal gangs.

---

<sup>3</sup> Defenders of the rights of indigenous peoples, minorities, lesbian, gay, bisexual, transgender and intersex persons, and women.

<sup>4</sup> Report of the Special Representative on human rights defenders, Paragraph 33.

### *Labour rights*

- Defenders working on labour rights have the largest amount of alleged violations of those working on ESCR (115 cases);
- The majority of defenders who work on labour rights do so in the framework of trade union work and face the challenge of having their work recognised as human rights work;
- With respect to cases reported by the Special Representative, it is in Latin America that most threats to the physical integrity of trade union activists have been reported;
- Defenders working on labour rights remain the most vulnerable group.

### *Marriage, mothers, and children*

- The Special Representative has acted on cases concerning defenders raising issues such as trafficking of women, forced marriages, forced abortion and/or forced sterilisation of women;
- The Special Representative has sent 36 communications to governments concerning the issues of child labour, sexual exploitation of children, children in prison, and human rights education for children.

### *Housing rights and forced evictions*

- Defenders working on the right to adequate housing also advocate for non-discrimination against minorities in securing housing. They campaign against illegal or forced evictions in relation to projects such as dam building, the construction of highways and railway lines, gas pipelines, and different kinds of ‘urban development projects’.
- The Special Representative has acted on at least 12 cases where defenders have been killed because of their work on housing rights.

### *Right to food and water, right to health, right to education*

- Since the establishment of the mandate, the Special Representative has sent five communications concerning defenders working on the right to food or the right to water;
- Many defenders who work on issues connected with HIV/AIDS face the challenges of having their work recognised as human rights work as well as the stigma attached to this health issue;
- Many of the defenders working to promote and protect labour rights are also active in teachers’ unions and unions for university employees.

### *Challenges faced by human rights defenders of ESCR*

- According to the Special Representative, violations of the rights of defenders working on ESCR are equal to those faced by those working on civil and political rights. However, those working in the field of ESCR have a hard time having their work accepted as ‘real’ human rights work. This might have several effects, including difficulties attracting funding, a lack of coverage by the media, a lack of attention paid to violations of these defenders’ rights and a hesitation in seeking remedial measures;
- National legislation is often weak in terms of regulating ESCR;
- The Special Representative has been informed that there is often a lack of redress mechanisms available to defenders and communities to ensure the effective protection and justiciability of their ESCR;
- In several communications, the Special Representative has expressed concern over alleged collusion between local authorities and the private sector, which have led to violations against defenders working on ESCR.

### **Defenders at particular risk:**

- Indigenous peoples;
- Minorities;
- Lesbian, gay, bisexual, transgender and intersex persons;
- Women human rights defenders.

### **Conclusions and Recommendations**

- The Special Representative recommends appropriate guarantees in national constitutions that give full legitimacy and recognition to activities for the promotion and protection of these rights;
- States must ensure that civil society actors have the full opportunity to participate in discussions of social or economic policies or projects and to monitor the effects of such policies and projects;
- Judiciaries must be vigilant and consistent in upholding the right to peaceful action for attaining social and economic rights;
- The Special Representative urges governments to improve access to information for human rights defenders, as well as access to authorities in order to participate in assessing the impact of State policies on the realisation of ESCR;
- The Special Representative encourages defenders and defenders' organisations to submit shadow reports to the Committee on the implementation of the International Covenant on Economic, Social and Cultural Rights.

### **Mission to Brazil**

#### **Activities**

- The Special Representative conducted a country visit to Brazil from 5 to 21 December 2005, during which she met with senior government officials, a wide range of human rights defenders, and representatives of intergovernmental organisations and States.

#### **Scope**

- The objective of the visit was to assess the situation and role of human rights defenders in Brazil;
- The Special Representative describes the human rights community and strategies they have adopted to confront the various trends that result in the violation of human rights.

### **Summary and Key Conclusions**

- Despite positive developments, there are serious concerns regarding the security of human rights defenders;
- The Constitution of Brazil marks extraordinary progress in the consolidation of fundamental rights and guarantees. The constitutional framework has been instrumental in providing an impetus to activities in the promotion and protection of human rights, particularly in the field of economic, social and cultural rights;
- There is growing awareness amongst activists that they are entitled to the protection of international human rights law in conducting activities for the promotion and protection of economic, social and cultural rights;
- Despite the return of democracy and a sound legal framework for the defence of human rights, defenders continue to be threatened or harmed;
- The Pastoral Land Commission (CPT) reported that 39 leaders of rural workers were killed in 2004 and 38 in 2005;

- The reports received by the Special Representative show that in most cases land rights activists are murdered by hired gunmen or private militias commissioned by private landowners;
- The Indigenous Missionary Council (CIMI) reported that in 2005, 33 members of indigenous communities were murdered at the instigation of powerful landowners, in many cases with the collusion of local authorities and the direct support of local police forces;
- Human rights defenders working for the preservation of the environment become even more vulnerable because of the remoteness of the areas in which they are active. It has been reported that many face threats against their lives;
- State and federal officials, civil servants and elected representatives working to enforce the rule of law in order to protect human rights have also suffered attacks and received threats;
- The Special Representative voices her most serious concern that death threats against defenders are for the most part not investigated by local and federal authorities;
- Human rights defenders in the south and in urban centres reported that their work is being increasingly hampered by the criminalisation of their activities by State authorities. The Special Representative was seriously concerned about the role of law enforcement in suppressing public gatherings and the use of excessive force against peaceful assemblies.

### **Key Recommendations**

- The State must play a more proactive role in mediation of social conflict and in giving legitimacy to interventions by human rights defenders;
- The Federal Government must negotiate with state governments to broaden the programme established for the protection of human rights defenders;
- The review of existing mechanisms for the monitoring and accountability of the State security apparatus is strongly recommended;
- There is a need for a special mechanism to receive complaints and investigate violations of the rights of defenders.