

**Statement by Mrs. Margaret Sekaggya, United Nations Special Rapporteur on the
situation of human rights defenders**

**Parliamentary Mechanisms to Protect Human Rights Defenders
Spanish Congress, Madrid, 4 February 2010**

Dear distinguished guests, dear friends,

It is an honour and privilege to be here with you today, and share my experience as United Nations Special Rapporteur on the situation of human rights defenders, which I hope will contribute to reach further parliamentary commitment on mechanism that can be introduced to protect human rights defenders.

I first wish to thank Peace Brigades International (PBI), together with the Government of Spain, for convening this important and timely event, as Spain is currently assuming the European Union (EU) presidency. I take this opportunity to voice my full support to the valuable and legitimate work of PBI in several regions of the world, which is a source of inspiration to all of us.

I very much welcome the resolution passed unanimously by the Spanish Congress in 2007, which acknowledges the relevance of the role I play, and urges the

Government of Spain “to support both politically and financially the effective functioning of my mandate”.

Mandate of the Special Rapporteur on the situation of human rights defenders

The mandate on human rights defenders was established in 2000 by the former Commission on Human Rights as United Nations Special Rapporteur on the situation of human rights defenders. I am mandated to promote the effective and comprehensive implementation of the 1998 United Nations Declaration on Human Rights Defenders through cooperation and constructive dialogue and engagement with Governments, relevant stakeholders and other interested actors. I specifically am tasked to protect human rights defenders in the context of their work, and I am pleased to know that you give priority to my mandate.

The Declaration on Human Rights Defenders, though not legally binding in itself, contains a series of principles and rights that are based on the human rights standards enshrined in other international instruments that are legally binding. The Declaration gains additional strength from the fact that it was adopted by consensus by the General Assembly, and therefore represents a very strong commitment by States to its implementation. The Declaration states that “(e)veryone has the right to individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” (article 1).

Human rights defenders are fundamental in any effort to implement the overall international human rights framework. Establishing, promoting and sustaining democracy, maintaining international peace and security, and providing or advancing a people-oriented agenda for development cannot be accomplished without the contributions that human rights defenders make. Parliamentarians have a central role in this process.

Main challenges faced by human rights defenders

Human rights defenders are activists, including journalists, lawyers, judges and trade unionists, whose work allows others to exercise their human rights. Defenders play a critical role in ensuring that human rights enshrined in the international human rights treaties translate into meaningful rights at the national level. Some human rights defenders are internationally known, but the majority remain in the obscure.

These brave individuals often operate at great risk to their safety and many times the safety of their families. They suffer harm and face grievous threats to their life, liberty, security, independence and credibility. State apparatus, oppressive laws and other tools of repression continue to be used against defenders in an attempt to deter them from the valuable work they contribute to the promotion of human rights. Methods of targeting defenders are more and more sophisticated and dangerous; just as the range of perpetrators of violations grow wider.

Trends and challenges

Let me be more specific.

There are several trends which I can see from the submissions I receive and from the communications I send. One very worrisome trend in many countries is a visible increase in the adoption of laws and regulations restricting the space for human right activities. Numerous national laws continue to be or have recently become incompatible with international standards and with the Declaration in particular. This phenomenon demonstrates that, instead of outright prohibiting NGO or other human rights activities, some Governments increasingly turn to more subtle means by trying to restrict civil society activities through the judiciary or public administration. Additionally, existing laws and regulations are often applied in a way by governments and registration authorities that are highly detrimental to the independent functioning of a healthy civil society. Ambiguity of requirements, lack of transparency, burdensome and lengthy procedures all have the potential of restricting the right to freedom of association.

Some **NGO framework laws** adopted during the past five years introduced far-reaching restrictions on the ability of organizations to carry out their activities without interference. Registration authorities increasingly operate under significant Government influence or control. NGO framework laws leave a broad margin of discretion for the decisions of registration authorities often without providing adequate means to contest such decisions, and in many cases allowing for a complete lack of independent judicial oversight.

Defenders may also face arrests, detention and harsh sentences, including the death penalty, under various **State secrecy laws**. I am concerned that legislation on State secrecy often lacks clarity on what constitutes a State secret and that States frequently resort to such legislation to silence defenders and political opponents. The activities of defenders are also often criminalized and their freedom of association and expression violated through the use of extremely broad provisions of criminal codes.

Communications I send also demonstrate that the **criminalization** of human rights defenders' activities by State authorities has not decreased. Some States tend to systematically invoke national security and public safety to restrict the scope of activities of defenders. In many countries, trade unionists, member of NGOs and social movements face repeated arrests and criminal proceedings for charges of "forming criminal gangs", "obstructing public roads", "inciting crime", "creating civil disobedience" or "threatening the State security, public safety or the protection of health or morals". Moreover, human rights defenders or victims of human rights violations are threatened, denied access to courthouses and their clients, and arrested and charged under various criminal provisions. The multitude of arrests and detentions of defenders also contributes to their stigmatization, since they are depicted and perceived as troublemakers by the population.

I am further concerned about the increasing of **slander laws** and **provisions by Government officials to sanction critical statements and reports by human rights organizations**. Numerous civil codes and anti-extremisms laws contain vague provisions such as "humiliating national pride" and "attacking honour and dignity",

which are often used to retaliate against critical human rights activities. Authorities and non-State actors increasingly resort to civil and criminal defamation suits against defenders raising their voice against violations of freedom of opinion and expression and carrying out activities for free and fair elections. Civil defamation suits, used in particular against journalists and newspapers, are as damaging as criminal defamation charges and have a disastrous impact on the freedom of opinion and expression. The severe fines to be paid can endanger the existence of newspapers by forcing them into bankruptcy. Civil defamation suits are also launched in order to silence political opponents who are subsequently sentenced to heavy fines. Similarly, civil and criminal defamation and libel proceedings often used against members of human rights NGO speaking out against human rights violations. The fines and prison sentences received may effectively cripple such organizations, while the threat of civil and criminal proceedings may also lead to self-censorship and diminished human rights monitoring.

Another rather worrisome trend is the **stigmatization** of defenders. The growing characterization of human rights defenders as “enemies of the State” or “political opponents” by State authorities and state-owned media is of particular concern, as it is regularly used to delegitimize the work of defenders and increase their vulnerability. Defenders cannot in any circumstances be seen as legitimate targets for abuse by State and non-State actors.

Defenders most exposed to violations

Ladies and Gentlemen,

Certain groups of defenders are exposed to specific forms of violations and attacks. They need specific and enhanced protection. They need targeted and deliberate efforts to make the environment in which they operate safer, more enabling and more accepting. Those who address human rights challenges deemed sensitive or controversial are particularly susceptible to attacks.

(a) Women defenders

Women defenders are most likely to be subjected to certain specific forms of violence, especially since they frequently work on specific issues that challenge established customs or norms and are therefore often culturally sensitive. Women human rights defenders are often targeted by various parts of the social and political establishment with forms of prejudice, exclusion and repudiation, in particular when they work in the area of women's rights. This can be particularly acute when women defenders are perceived as challenging cultural norms and social constructs related to gender, femininity and sexuality. Since January 2009, I have sent 86 communications concerning the situation of women defenders.

(b) Defenders working to promote LGTB rights

I am further concerned about continuing denigration campaigns and the violent threats against defenders of lesbian, gay, bisexual and transgender rights. The right to peaceful assembly is also often denied to defenders working on lesbian, gay, bisexual and transgender (LGTB) issues. The police do not provide adequate protection for such demonstrations. In numerous cases, from all regions, police or government officials are

the alleged perpetrators of violence and threats against defenders of LGTB rights. Complaints relate to violence. Attacks are often not taken seriously by the police. They are not always investigated properly. Defenders have been threatened, had their houses and offices raided, been attacked, tortured, sexually abused, tormented by regular death threats and even killed.

(c) Defenders working to promote and protect the rights of indigenous peoples and minorities

Similarly, I am concerned about the struggle of indigenous peoples and minorities over land rights and the right to use and to freely dispose of their natural wealth and resources. The majority of cases are reported from Latin America, and the region with the second largest number of cases is Asia.

(d) Defenders working on economic, social and cultural rights

Defenders working in the field of economic, social and cultural rights (ESCR) often have a harder time having their work accepted as human rights work. This might have several effects, including difficulties attracting funding, a lack of coverage from the media to violations of these defenders' rights, and a lack of attention paid to these violations and a hesitation in seeking remedial measures at the domestic or international level.

Even when they do not experience active repression, defenders working on ESCR often report that they receive no response from the authorities to concerns they express

regarding these rights. Again this is often a consequence of the above-mentioned misconception that defenders working in the field of ESCR are not “real” human rights defenders.

(e) Students and youth engaged in promoting human rights

Acts of repression and retaliation against student activists engaged in protests have been particularly harsh. The fact that the Special Rapporteur on the question of torture joined my mandate in 9 out of the 10 communications I sent on student protests indicates the brutality of violations affecting student defenders. This is of even greater concern because of the young age of students, who are sometimes under 18; their youth adds to the severity of the violations suffered. In addition, children and young students have less means than adults, including economic ones, to defend themselves as victims of human rights violations.

Dear friends,

I look forward to working with all of you to find meaningful ways to enhance the effectiveness of my mandate, and, ultimately, to ensure a safer, more enabling and more accepting environment for human rights defenders throughout the world. I trust Spain will continue its valuable efforts in supporting the work of defenders and making their plight more visible within and outside the European Union.

I thank you for your attention.
