

[Special Rapporteur on human rights defenders presents report on defenders at particular risk](#)

10.03.2012

On 5 March 2012, the Special Rapporteur (the SR) on human rights defenders (HRDs), Margaret Sekaggya presented her [fourth annual thematic report to the Human Rights Council](#) (the Council). The report focused on HRDs at particular risk, including journalists and media workers, defenders working on environmental and land issues, and youth and student defenders.

The interactive dialogue that followed Ms. Sekaggya's presentation saw States divided along familiar fault lines. A large number of States welcomed the report,^[1] echoing the SR's concerns regarding the violations experienced by the highlighted groups. Others were more critical of the report,^[2] with a number of States saying that the rights of HRDs need to be balanced against their responsibilities and that HRDs must act in accordance with national legislation. India, Senegal, Cuba, and Algeria went as far as to accuse the SR of overstepping her mandate by including new categories of HRDs and duplicating the work of other special procedure mandates.

During the presentation of her report, Ms. Sekaggya noted that, during the last year, the vulnerable groups highlighted in her report suffered both physical and legal harassment by State and non-State actors. "Journalists and media workers have been targeted because of their reports on human rights violations or because they were witnesses to human rights violations themselves", said Ms. Sekaggya. Violations included killings, arrests, arbitrary detention, torture, and harassment. Furthermore, legal frameworks and tools such as censorship have been "used and abused" to restrict the work of HRDs. Stigmatization of HRDs' work by state officials or the media can foster a climate of intimidation, harassment and violence by non-State actors. Defenders working on land and environmental issues are particularly vulnerable to violence suffered at the hands of multinational corporations and private security companies. Lastly, youth and student defenders, especially those active in the Middle East and North Africa (MENA), have been attacked and abused by security forces in the context of public demonstrations. Judicial and legal harassment of young people is also frequent and tied to legislation that prohibits them from participating in public assemblies. Ms. Sekaggya said that there is a tendency to consider "young age and alleged lack of maturity [...] as grounds for not giving them a say in public affairs". This limits the perception of youth and student movements as simply 'trouble-makers'.

The issue of what falls under the definition of a HRD once again rose to the foreground of the debate. China, Bangladesh and Sri Lanka, among others, voiced their concerns about the lack of a precise definition. These States consider the definition overly broad and therefore at risk of being abused and wielded to protect individuals viewed as HRDs by some but as criminals or terrorists by others. Bangladesh noted that politically motivated actors should not be confused with 'real' HRDs. Similarly, Sri Lanka characterized the term HRDs as one that is very 'amorphous' and warned the SR "not to fall prey to those who masquerade behind the readymade cloak of HRDs creating political havoc wherever they are". Algeria expressed concern that the lack of a specific definition can lead to a broadening of the mandate and duplication of the work of other mandates. In her reply, the SR explained that the groups covered in her report are clearly HRDs. She clarified that anyone who promotes and protects human rights in a peaceful manner is entitled to the protection accorded to HRDs.

Senegal, India, and Cuba also spoke on the question of the SR's mandate, reminding the SR of the requirement to act in accordance with the [Code of Conduct for special procedures mandate holders](#). India chided that the special procedures are not "special prosecutors" and should be broad and thematic rather than focused on individual incidents. Senegal, speaking on behalf of the African Group, expressed concern that the HRDs mandate might overlap with other special procedures and become "omnibus" in nature. In that respect, Senegal warned the SR to be "more vigilant" and to respect the scope of her mandate. Cuba insisted that adherence to the Code of Conduct was needed to reinforce the authority and credibility of the Council.

Negative statements also focused on the issue of national legislation. Although this issue has been raised

during previous dialogues with the Special Rapporteur, detractors may have been further emboldened by the additional reference they succeeded in getting in the last General Assembly resolution on HRDs^[3] regarding the requirement that HRDs operate in the framework of national legislation.^[4] Senegal, Pakistan (on behalf of the OIC), Malaysia, China, Algeria, and Egypt all raised this issue in their interventions. Addressing the issue head-on in her concluding remarks, the SR clarified that while there is no disagreement that HRDs must respect national laws, those laws must in turn comply with international human rights standards.

Several NGOs present raised the issue of reprisals against those cooperating with the UN human rights system. The SR specifically addressed the issue of reprisals against those HRDs cooperating with her mandate. Specifically, the SR noted that she has “once again” been alerted that HRDs in Sri Lanka have been threatened with reprisals should they seek the protection of her mandate. Sri Lanka responded during the dialogue, saying this was “pure conjecture”. Also on the subject of reprisals, Senegal (on behalf of the African group) claimed that the risk of reprisals was increased as a result of HRDs not complying with their ‘responsibilities’. Presumably as an attempt to deflect attention from reprisals by State actors, Senegal also noted that the report highlighted reprisals by non-State actors but did not make any recommendations in that regard. On this issue, the SR recalled that her [2010 report to the General Assembly](#) addressed State responsibility for violations by non-State actors. She reminded States that they bear the primary responsibility for protecting HRDs under their jurisdiction against rights violations not only by State agents, but also private persons or entities.

^[1] Including Belgium, Honduras, the US, the EU, Chile, Norway, the UK, Australia, Spain, Poland, Ireland, Uruguay, Austria, Costa Rica, Colombia, Brazil, France, Switzerland, and Armenia.

^[2] Including India, Morocco, Senegal, Pakistan, Cuba, Malaysia, China, Algeria, Egypt, and Belarus.

^[3] [A/RES/66/164](#)

^[4] See ISHR stories on the 2011 session of the General Assembly [here](#) and [here](#). The General Assembly began adopting resolutions on human rights defenders in 1998 with the adoption of the [Declaration on human rights defenders](#). Though the Declaration included a reference to the requirement that human rights defenders should operate within the framework of national legislation, it was not until 2005 that a similar reference was made in the resolution. This was due to threats by Cuba that it would call a vote on the resolution otherwise. States opposed to civil society engagement seek to include such references in order to limit the rights of defenders to those prescribed by domestic law, which are often not in line with international human rights law.

Two references to national legislation appeared in the General Assembly resolutions on human rights defenders in [2005](#), [2007](#) and [2009](#). One is contained in a preambular paragraph that is based on the reference to national legislation in the Declaration. The other is contained in an operative paragraph that refers to registration requirements. In the last session of the GA in 2011, detractors such as China, Russia and Iran were able to gain an additional reference to the requirement that human rights defenders operate in the framework of national legislation, this time in a new paragraph on peaceful protests. It is worth noting that the references to national legislation are somewhat mitigated by corresponding references to the requirement that national laws be consistent with international human rights law.