

## **Positive dialogue on human rights defenders in Council plenary and progress on landmark negotiations**

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*'Human rights defenders play a vital role in the improvement of human rights around the world and must be protected' – Statement of the Netherlands in response to the report of the UN Special Rapporteur on Human Rights Defenders.*

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The Human Rights Council this week held both a plenary dialogue with the Special Rapporteur on human rights defenders, which focused on the role of national human rights institutions (NHRIs) in promoting human rights. In an informal process, the Council has also commenced negotiations on a landmark resolution, which seeks to protect human rights defenders from laws that restrict their work, and to prevent harassment and criminalisation of defenders through the judicial system.

### **Presentation of the Report**

The Special Rapporteur on the situation of human rights defenders, Ms Margaret Sekaggya, [presented her report to the 22nd session of the Human Rights Council](#) on 4 March 2013, followed by an interactive dialogue with States and NGOs. Ms Sekaggya's report examines the NHRIs in the promotion of human rights and the protection of human rights defenders, and concludes that national human rights institutions that operate independently from government, in compliance with the Paris Principles, are themselves human rights defenders. In addition to her thematic report, Ms Sekaggya presented reports related to her country visits to [Honduras](#), [Tunisia](#), and [Ireland](#).

### **Interactive dialogue in the Council**

Many States agreed that NHRIs that operate in compliance with the Paris Principles can play a substantive role in the protection of human rights defenders. The Special Rapporteur recommended that such institutions establish a focal point for human rights defenders with the responsibility of ensuring their protection and carrying out investigations into any attacks or reprisals. Norway said that NHRIs could also play an important role as bridge builders between civil society organisations and governments. France supported the notion that national institutions have an important role to play with respect to the protection of human rights defenders, while stressing that nevertheless it is primarily the responsibility of States to protect their citizens.

The Special Rapporteur's report also notes that NHRIs face frequent challenges while performing their work, often being victims of threats and attacks. She expressed concern that these challenges and constraints can undermine the independence and efficiency of NHRIs, and their ability to carry out their role to protect human rights defenders. Germany referred to reprisals against NHRIs and defenders who cooperate with the UN as 'particularly reprehensible'.

To strengthen the capacity of NHRIs in this role, the Special Rapporteur called on State authorities to publicly acknowledge the role of NHRIs, and to ensure that their staff are protected in accordance with standards in international law. The Special Rapporteur's conclusion that the staff of NHRIs should have immunity in cases where they are carrying out their official functions 'in good faith' met with some opposition. The Russian Federation described this as 'preferential treatment' and 'unjustifiable', while the Organisation of Islamic Cooperation (OIC) stressed that staff of these institutions should always act within the law and should not be above the legislation of the country in which they operate.

The Special Rapporteur also urged governments to be responsive to NHRI's recommendations and guarantee adequate follow-up, as a means of giving credibility to their work. The International Coordinating Committee

(ICC) of NHRIs called upon States to refrain from unduly interfering with the independence and autonomy of NHRIs and ensure that any instances of intimidation are promptly investigated, with perpetrators brought to justice and a remedy provided to victims.

States also addressed comments to the Special Rapporteur's report to the General Assembly on criminalisation of human rights defenders, with the European Union noting that 'the criminalisation of human rights defenders is a direct attack on human rights themselves'.

In connection with this issue, Slovenia said that one could not ignore the challenges that human rights defenders, particularly those working with women and lesbian, gay, bisexual and transgender (LGBT) persons, face in carrying out their work. The [International Service for Human Rights said](#) that recent months have underscored the urgency to putting a stop to efforts by States to use legislative and judicial measures to undermine the work of defenders. The proposed 'homosexual propaganda' bill in Russia and Ukraine could be used to harass human rights defenders and target those who speak on behalf of LGBT people.

## **Negotiation of the Resolution**

Norway is leading negotiations on a resolution on this issue, reflecting the increasing use of national legislation to constrain the activities of human rights defenders, and violate human rights. One of the issues drawing opposition relates to the funding of NGOs. Several States argue that for the resolution to rule out restrictions on potential sources of funding, is a too large an intrusion into national legislation and the sovereignty of a country, without however pointing out ways to avoid the severe restrictions on civil societies' right to access funds required to operate [suffered by human rights defenders in many contexts](#).

Some States are also referring to existing national legislation and the differences in legal systems to argue against the inclusion of text that states that penalties for defamation should derive from civil law only. Many of the same States believe that the text should include reference to the 'obligations' of human rights defenders, arguing that the current text, which refers only to the obligations of States, is imbalanced.

Women human rights defenders face particular challenges in carrying out their work, both as a result of their identities and as a result of their work to promote human rights. It is because of this dual targeting that the Special Rapporteur on human rights defenders has affirmed that women human rights defenders include both those who work to promote women's human rights and women who are human rights defenders. Accordingly, the present and previous resolutions – including the [mandate of the Special Rapporteur](#) – pay specific attention to the situation of women human rights defenders. However, based on this definition, the inclusion of a specific focus on women human rights defenders has seen some opposition during the negotiations.

ISHR organised a discussion with the Special Rapporteur on human rights defenders to delve deeper into the issue of criminalisation. The event brought together defenders working in Latin America and those working on sexual and reproductive rights. An issue of particular concern to women human rights defenders is that of imposing restrictions on activities on the basis of so-called 'public morals'. As the Special Rapporteur emphasised, international standards must remain the guide when defining restrictions, noting that the concept of public morality is vague and subjective. The Special Rapporteur further noted that any restrictions on the work of human rights defenders must conform with the principle of legality and must be non-discriminatory, strictly necessary, reasonable and proportionate.

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