



## General Assembly

Distr.  
GENERAL

A/HRC/7/28  
31 January 2008

Original: ENGLISH

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HUMAN RIGHTS COUNCIL  
Seventh session  
Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,  
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,  
INCLUDING THE RIGHT TO DEVELOPMENT**

**Report submitted by the Special Representative of the Secretary-General  
on human rights defenders, Hina Jilani**

## Summary

This report focuses on follow-up activities undertaken by the Special Representative and the role of stakeholders in implementing her recommendations and illustrates the Special Representative's work in the three main areas of her activities, i.e. communications, country visits and thematic reports.

In the area of communications, the Special Representative shows that following up on cases includes not only following up on individual situations reported in communications, but also looking at cases as a whole to identify general trends. The quantitative and thematic analysis of communications enables it to identify challenges and achievements in the implementation of the Declaration on Human Rights Defenders (General Assembly resolution 53/144, annex) and to formulate targeted recommendations to address specific implementation gaps.

The Special Representative proposes some methodological tools that can be used to facilitate follow-up activities, in particular to assess the situation of human rights defenders on the ground. For instance, she outlines a schematic list of indicators aimed at assessing the situation of human rights defenders on the ground and a matrix to undertake follow-up visits.

In her recommendations, the Special Representative emphasizes the role of stakeholders in following up on her activities. She recommends to States to respond in a timely, systematic and comprehensive manner to her communications. She also invites States to see the communications procedure as an opportunity not only to redress individual situations but also to correct structural gaps in the implementation of the Declaration on Human Rights Defenders, of which the individual cases are just a symptom.

The Special Representative recommends to develop and strengthen capacity-building activities on the Declaration and the mandate of the Special Representative as well as to strengthen the role of regional and international networks and organizations which often act as interfaces between the Special Representative and sources on the ground. These are two strategic measures that would increase the impact of her work.

The Special Representative recommends that the situation of human rights defenders be one of the elements to review in the Universal Periodic Review (UPR) of the Human Rights Council.

The Special Representative believes that the intensification of collaboration and joint initiatives among existing international and regional mechanisms for the protection of human rights defenders reinforces the overall system for the protection of human rights defenders and its follow-up capacity.

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## **I. ACTIVITIES DURING THE PERIOD OF REVIEW**

1. The present report is submitted pursuant to Human Rights Council decision 1/102 and resolution 5/1, in which the Council decided to extend exceptionally for two successive years the mandates and mandate-holders of all the special procedures of the Commission on Human Rights.

### **A. Communications transmitted to Governments**

2. Between 2 December 2006 and 10 December 2007, the Special Representative sent 372 communications, dealing with the cases of 835 defenders. Communications were sent to 76 countries, and at the time of writing of the present report, 49 of them had provided her with responses to one or more communications. All communications sent and responses received during the period covered by this report are included in addendum 1 to the present report (A/HRC/7/27/Add.1).

### **B. Country visits**

3. During the reporting period, the Special Representative visited Indonesia (5-12 June 2007), the Republic of Serbia, including Kosovo (17-21 September 2007), and The former Yugoslav Republic of Macedonia (24-25 September 2007) as a follow-up to her first visit of January 2003. Separate reports on these visits have been submitted to the current session of the Council as addenda to the present document.

### **C. Cooperation with the United Nations system and intergovernmental organizations**

4. The Special Representative cooperated with bodies of the United Nations and intergovernmental organizations. She was invited to participate in conferences, workshops, seminars and round tables with these organizations on issues related to her mandate.

5. The Special Representative was appointed as one of the seven members of the group of experts which was established pursuant to resolution 4/8 of the Human Rights Council on 30 March 2007 to “ensure the effective follow-up to and to foster the implementation of resolutions and recommendations on Darfur, as adopted by the Human Rights Council, the Commission on Human Rights and other United Nations human rights institutions, as well as to promote the implementation of relevant recommendations of other United Nations human rights mechanisms, taking into account the needs of the Sudan in this regard, to safeguard the consistency of these recommendations and contributing to monitoring the human rights situation on the ground” (para. 7 of the resolution). The Group of Experts met in March, June, October and November 2007, and presented three reports to the Human Rights Council.<sup>1</sup>

6. In March 2007, the Special Representative presented her report to the fourth session of the Human Rights Council (A/HRC/4/37 and Add.1 and 2)

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<sup>1</sup> A/HRC/5/6, A/HRC/6/7 and A/HRC/6/19.

7. Also in March, she held a meeting with the Special Rapporteur on Human Rights Defenders of the African Commission on Human and Peoples' Rights.
8. From 18 to 22 June, the Special Representative attended the Annual Meeting of Special Procedures in Geneva.
9. In October, the Special Representative presented her report to the General Assembly at its sixty-second session (A/62/225), in which she reiterated that the right to peaceful protest is a fully fledged right, which entails the enjoyment of a set of rights internationally recognized and reiterated in 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 (General Assembly resolution 53/144, annex). These rights include freedom of expression and opinion, freedom of association, freedom of peaceful assembly, and trade unions' rights, including the right to strike. The Special Representative particularly drew attention to article 12 of the Declaration that forms the basis for the protection of everyone against retaliation as a consequence of reacting against or opposing, through peaceful means or activities, any act of violation of human rights and fundamental freedoms.
10. In October, she had a meeting with the Great Lakes and Southern Africa Team within the Africa Unit of the Department of Political Affairs in New York to present her mandate and raise concerns with regard to the situation of human rights defenders in that region.

#### **D. Cooperation with non-governmental organizations**

11. The Special Representative continued her fruitful interaction with civil society at the national, regional and international levels. The Special Representative regrets that because of time constraints she was not able to participate in all conferences and seminars to which she was invited. On occasions where the Special Representative could not avail herself, she tried to have one staff member of the Office of the High Commissioner for Human Rights (OHCHR) working on the mandate participating in meetings and conferences, as at the 4th Dublin Platform for Human Rights Defenders and the 9th EU NGO Forum on Human Rights in Lisbon.
12. During the reporting period, the Special Representative participated in numerous events organized by non-governmental organizations (NGOs), including the Wilton Park Conference, the Carter Center Conference in Atlanta, the launch of the Manual on Women Human Rights Defenders in New York, the workshop of the Bar Human Rights Committee in London, the regional conference organized by the Asian Forum for Human Rights and Development as well as the Conference on Women Human Rights Defenders organized by the Asia Pacific Forum on Women, Law and Development (APWLD) both held in Bangkok.

## **II. FROM ACTION TO IMPACT: FOLLOW-UP TO THE ACTIVITIES OF THE SPECIAL REPRESENTATIVE**

### **A. Introduction**

13. After more than seven years since the establishment of the mandate on human rights defenders and her appointment in August 2000, the Special Representative expects this to be her last report to the Human Rights Council. During her tenure, the Special Representative gave

shape to the mandate by adopting her own working methods consistently with the other special procedures, identified priorities and carried out her activities on that basis. She undertook 13 country visits to 12 countries, sent 2,007 communications to 120 countries and presented 34 reports, of which 21 went to the Commission on Human Rights, 7 to the General Assembly and 6 to the Human Rights Council, including the present one.

14. The underlying purpose of all the reporting activities of the Special Representative has been to fulfil her overarching protection mandate in compliance with the Declaration. In assessing the impact of the work of the Special Representative, it is essential to assess both the effectiveness of the mandate as a protection mechanism and the responsiveness of stakeholders, Governments in particular, to her recommendations. This aspect of the work of special procedures is known as follow-up and is intended to include “the full range of measures taken to encourage, facilitate and monitor the implementation of recommendations by any of the Special Procedures”.<sup>2</sup>

15. The Special Representative considers that ending her tenure with a report focusing on follow-up activities is timely, to assess the achievements of the mandate but also to provide a basis for continuity.

16. The distinctive methodological feature of follow-up activities of this mandate compared to other special procedures is the use of the Declaration as a benchmark to measure progress in the situation of human rights defenders.

17. This report provides an overview of the follow-up activities undertaken by the Special Representative and the role of stakeholders in this process and in implementing her recommendations. It takes the major features of work of the mandate, i.e. communications, country visits and thematic reports, to illustrate how each component has been followed up on. The purpose is not to give an exhaustive account of all these activities carried out by the Special Representative but to provide illustrations that give shape to a methodology to follow-up that can be replicated and strengthened.

18. This report is based on the previous work of the Special Representative. Therefore, the sources used are almost exclusively the reports of the Special Representative. In particular, this report is to be read in conjunction with her report to the sixty-second session of the Commission on Human Rights (E/CN.4/2006/95), which gave an overview of the steps taken in implementing the mandate, and her first report to the Commission (E/CN.4/2001/44), in which she focused on her mandate and methods of work.

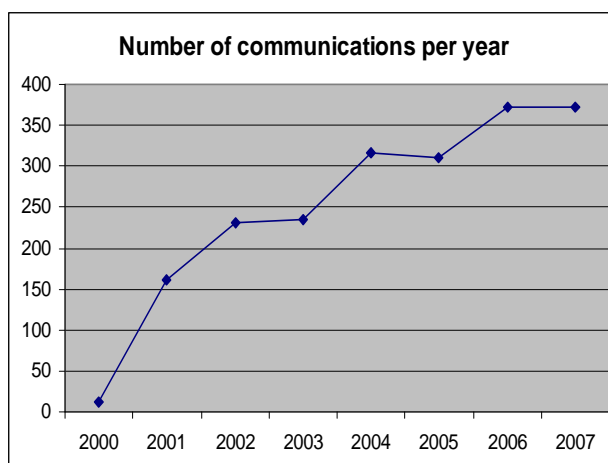
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<sup>2</sup> Manual of the United Nations Human Rights Special Procedures, 2006 draft, para. 88.

## B. Communications

### 1. Data on communications

19. Since the beginning of her tenure, the Special Representative sent 2,007 communications to 120 countries.<sup>3</sup> The number of communications steadily increased over the years and remained stable in the last two. So did the number of countries to which communications were sent.



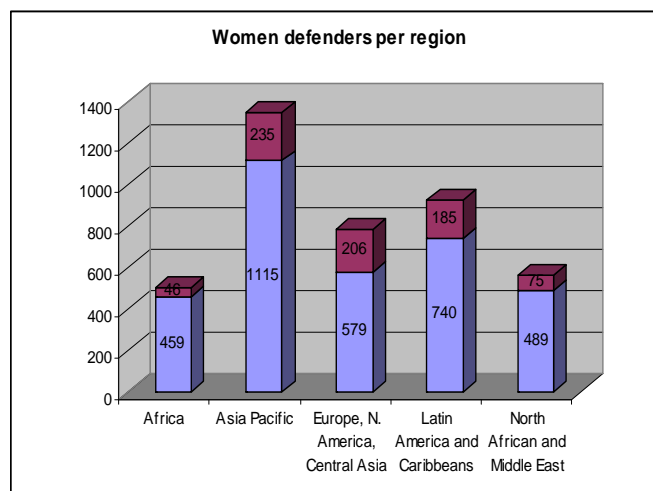
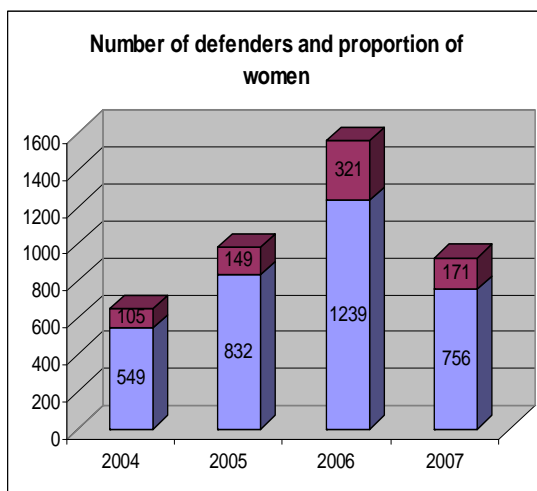
20. In 2004, OHCHR upgraded the database on communications. This allowed the collection of a wider range of data, which are presented in the next paragraphs. Data refer to the period 1 January 2004 to 10 December 2007.

21. The Asia and Pacific region accounts for the highest number of communications (31 per cent), followed by Latin America and the Caribbean (27 per cent), North Africa and the Middle East (15 per cent), Africa (14 per cent), and Europe, North America and Central Asia (13 per cent).

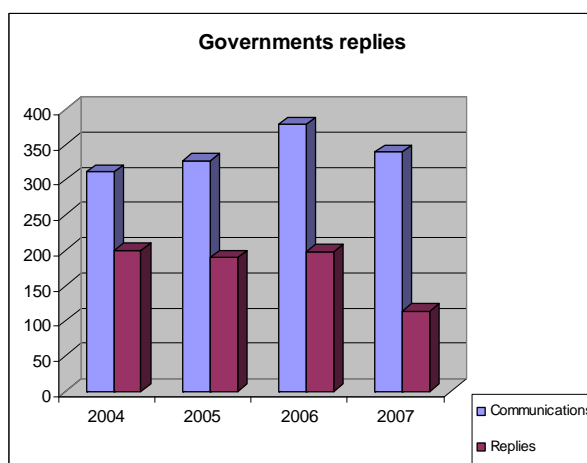
22. Communications sent concerned the situation of 3,376 defenders. Women defenders represented 22 per cent of cases addressed in communications, although this increased by eight points between 2005 (18 per cent) and 2006 (26 per cent). The regional breakdown indicates that communications concerned women defenders in higher proportions in Europe, North America and Central Asia, where 36 per cent of defenders whose situation was addressed in communications were women; followed by Latin America and the Caribbeans (25 per cent); Asia Pacific (21 per cent); North Africa and Middle East (15 per cent); and Africa (10 per cent).

<sup>3</sup> Data refer from the beginning of the mandate until 10 December 2007 included. The number of communications related to 2007 includes cases sent from 2 December 2006 to 10 December 2007 for the first two graphs. In the following graphs, data are calculated using the calendar year from 1 January to 31 December with the exception of 2007 which includes data from 1 January to 10 December 2007.





23. The average rate of Governments' replies to communications is 52 per cent, five points higher than the average rate of replies for communications sent by the whole system of special procedures (47 per cent). Older communications received a considerable higher rate of replies with 64 per cent of communications replied to for those sent in 2004 and only 34 per cent of replies received for communications of 2007.<sup>4</sup> While the Special Representative welcomes a rate of replies of some two thirds for older communications and understands that time appears to be an important factor to respond to communications, she nevertheless invites States to reply to them more consistently and in a timely manner. Replies received many months or a few years after the alleged facts took place lose much of their relevance and allow only for limited follow-up.



24. The Special Representative also follows up on cases through the additional information that sources submit on the same case. Further information can report positive or negative

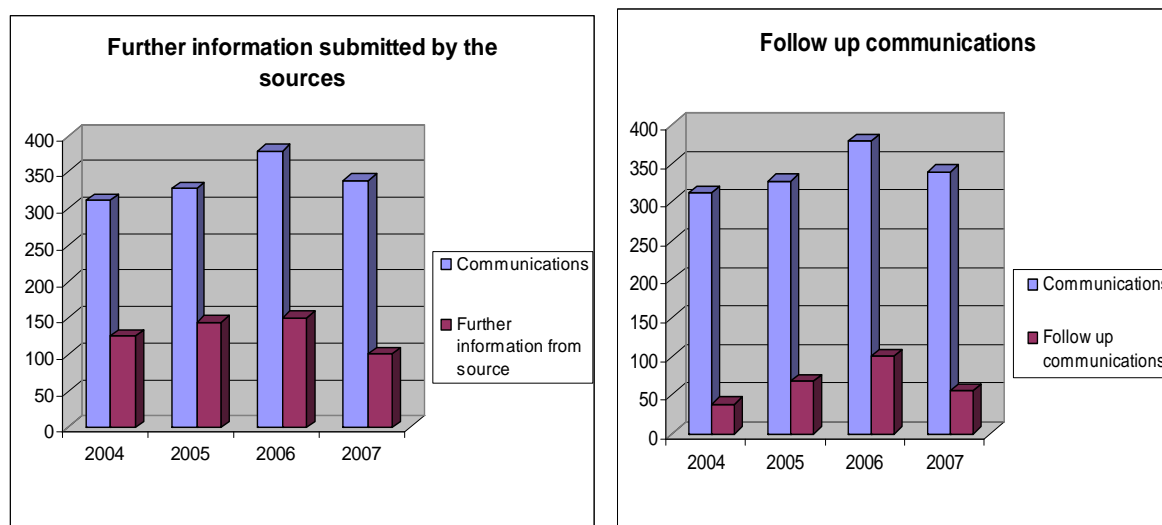
<sup>4</sup> 64 per cent of communications were replied to in 2004; 58 per cent in 2005; 52 per cent in 2006; and 34 in 2007.

developments. In the latter, the Special Representative sends follow-up communications. On average, the Special Representative receives further information from sources in 38 per cent of communications, with no significant change from one year to the other, with the exception of 2007, when understandably less follow-up information was received as the cases are recent.

25. Sources that submit the larger number of cases are also those submitting further information in higher percentages. This is probably due both to resources and to a better understanding of the mechanism. When further information was received from the source, the Special Representative sent a follow-up communication in about half of the cases. This means that sources submitting further information more often have more chances to have their case followed up on by another communication of the Special Representative.<sup>5</sup>

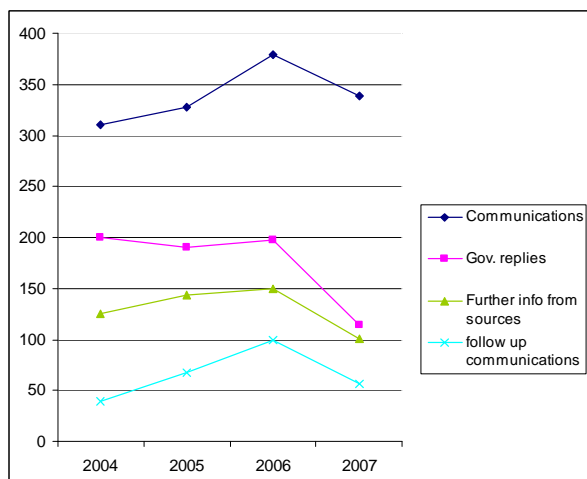
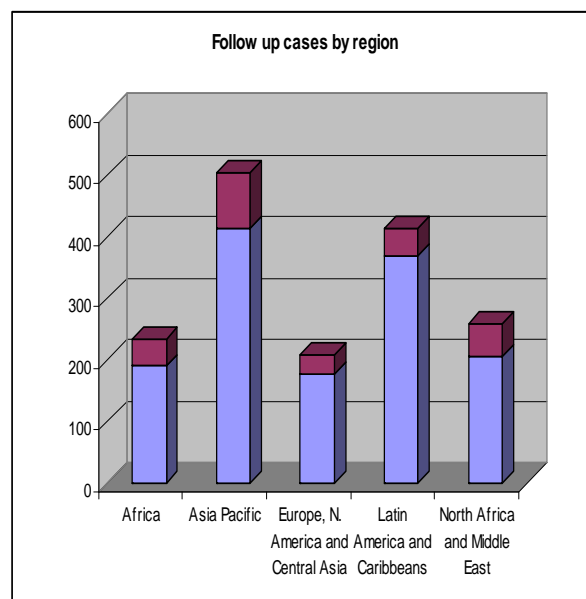
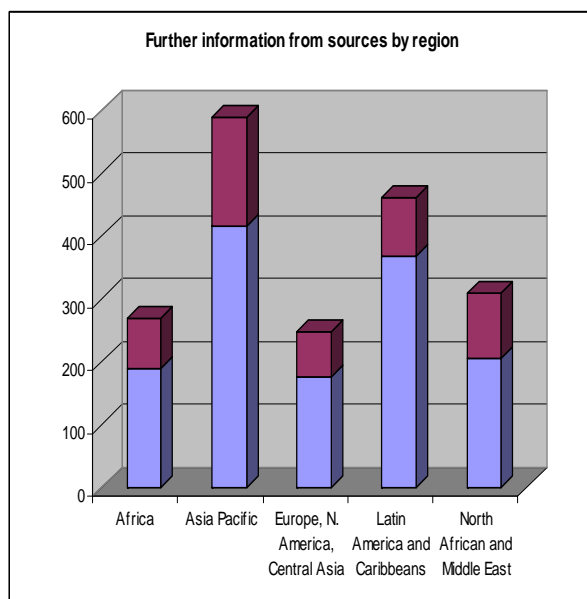
26. The regional breakdown indicates that sources submitted further information in higher proportions for cases in the North Africa and Middle East region (50 per cent), followed by Africa and Asia and the Pacific (42 per cent), Europe, North America and Central Asia (39 per cent) and Latin America (25 per cent).

27. Nineteen per cent of the communications sent by the Special Representative are follow-up communications.<sup>6</sup> There has been a considerable increase of follow-up cases between 2004 (12 per cent) and 2006 (26 per cent), with 16 per cent in 2007. Regions with a higher percentage of further information submitted had more follow-up cases (26 per cent in North Africa and the Middle East and only 12 per cent in Latin America).



<sup>5</sup> It should be noted that not all the subsequent information submitted by the source calls for a follow-up communication by the Special Representative, especially when the developments reported are positive.

<sup>6</sup> By "follow-up communication" is meant a communication which explicitly refers to one or more previous communications.



## 2. Thematic analysis of communications

28. Another way of following up on communications has been through the thematic analysis carried out by the Special Representative in several reports, which has allowed her to identify trends, prevalence of certain forms of violations, categories of defenders affected, and actors involved in the States' response, and to identify specific recommendations needed to address gaps in the implementation of the Declaration.

29. In her reports to the Commission on Human Rights in 2004 and 2005 (E/CN.4/2004/94 and E/CN.4/2005/101), the Special Representative analysed communications sent in the reporting year and identified trends related to defenders targeted; vulnerability; types of violations; perpetrators; and outcome of cases and government responses.

30. More recently, she undertook a thematic analysis of communications focusing on the right to assembly (A/61/312); defenders working on economic, social and cultural rights (A/HRC/4/37); defenders at particular risk (A/HRC/4/37); and the right to protest in the context of freedom of assembly (A/62/225).

31. In her report to the General Assembly in 2006 (A/61/312), which contains an analysis of communications on freedom of assembly, based on violations suffered by human rights defenders in their exercise of freedom of assembly, the Special Representative identified six categories of violations: arrests; violence against defenders during assemblies including defenders who have been killed; threats against defenders; travel restrictions for defenders wishing to participate in assemblies to promote and protect human rights; assemblies that are interrupted or that are not allowed to be held; and restrictions imposed on freedom of assembly through legislation.

32. The report presented in 2007 to the General Assembly (A/62/225) built on that analysis and focused on the right to protest in the context of freedom of assembly. In order to give prominence to the protest element of the analysis, the information was organized on the basis of: groups of protesters i.e. women defenders, student activists, trade unionists and defenders working on the rights of lesbian, gay, transgender and bisexual persons (LGBT); and thematic areas of protest, i.e. the anti-globalization movement, demonstrations linked to elections, peace demonstrations and protests linked to land rights and environmental claims.

33. The analysis of communications related to violations committed against defenders working on economic, social and cultural rights identified issues on which defenders work and the specific violations they are exposed to because of their engagement in these areas.

34. Through her analysis of communications, the Special Representative has also been able to identify defenders who are at particular risk of becoming victims of human rights violations. Defenders at particular risk are those defending the rights of indigenous peoples and minorities; those defending the rights of LGBT persons; and women human rights defenders (A/HRC/4/37).

35. The high number of communications accumulated over the years made such a thematic analysis possible, and findings are credible as they are not based on anecdotal evidence but on a solid number of cases.

### **3. Building a constructive dialogue between Governments, the Special Representative and sources**

36. The main purpose of communications is to provide some degree of protection to defenders whose rights are violated or at risk of being violated. The effectiveness of this protection depends on how constructive the dialogue between Governments, the Special Representative and sources is.

37. A constructive dialogue also facilitates follow-up to communications in a process whereby sources submit reliable information to the Special Representative, who transmits cases pertaining to her mandate to Governments, which provide replies to the communications received. This process, which visually represents a line with the sources and Governments at the extreme and the Special Representative acting as intermediary between the two, can turn into a cycle by

which further information provided by the sources and the observations of the Special Representative can lead to follow-up communications and follow-up replies from Governments until a case can be considered closed.

38. While this is the ideal process that communications should follow until cases are solved, it happens more on an ad hoc basis than systematically. All actors in the process, Governments, sources and the Special Representative herself, need to strengthen their respective capacity to make full use of the potential of the communications procedure. The following sections will address achievements and gaps of each actor in this area.

39. Other stakeholders can play a positive role in this respect. These are national institutions, the United Nations system and in particular United Nations Country Teams (UNCTs), regional organizations and the diplomatic community. They can act as mobilizing agents and as a bridge between Governments and defenders as well as between the Special Representative and defenders, particularly those at the local level.

#### **4. Governments' responsiveness and fight against impunity**

40. The first request to Governments in a communication of the Special Representative is always to verify the veracity and accuracy of the allegations reported. The role of Governments is then to report on the measures adopted to investigate the violations, prosecute perpetrators, compensate victims, protect defenders at risk, and prevent future human rights violations.

41. The degree of Governments' responsiveness to these questions in the communications procedure determines the need for follow-up. When Governments report concrete and targeted measures taken to fight impunity of violations against defenders, communications can be considered closed.

42. The Special Representative regrets that this is not the case in most of her communications. A quantitative analysis of replies, with the achievements and weaknesses in this area, has been made above; the present section considers the quality of such replies.

43. When replies fail to address the specific queries of the mandate in relation to the treatment of human rights defenders, the dialogue that the communications procedure aims at building is of poor quality.

44. Although specific questions are asked in allegation letters or urgent appeals sent to Governments, the replies received seem to suffer from a lack of relevant information and structure. Often the questions that were asked are left unanswered, while other information that may not have been solicited is given instead.

45. In other cases, replies insist on the supposed illegal acts committed by the defenders involved, without any explanation of the action or omission of the Government which is the central concern of the communication. Governments have rarely acknowledged the human rights activities of defenders and their responses usually fail to address or meaningfully comment on the possible link between a human rights activity and reported violations. Replies that repeatedly and exclusively focus on the presumed illegality of the activities of defenders indicate alarming patterns of criminalization of defenders.

46. If replies were constructed in a methodological and informative manner, this would greatly enhance the mandate's capacity to analyse them and arrive at conclusive results. Comprehensive replies would enable the Special Representative and Governments to fully grasp the situation of human rights defenders and the progress and setbacks in the implementation of the Declaration. This would enhance the efficiency as well as the mutual benefits of the communication between Governments and the Special Representative, reducing the need for the mandate to request further information, as replies can act as benchmarks against which subsequent developments in the situation of human rights defenders can be monitored and measured.

## **5. An expanded network of sources on the ground in a position to follow cases**

47. A large network of sources, including and especially those on the ground, is essential to follow up on cases addressed in communications. The Special Representative is not in a position herself to gather information on the ground for the hundreds of cases she handles every year. As explained in the section below, she can do so in a limited number of cases, usually through and during her country visits.

48. In order to ensure that an increasing number of sources can inform the mandate of follow-up to communications, potential sources must be adequately informed and trained on how to use the mandate as well as on the importance of submitting such information. Outreach initiatives and training activities are instrumental to reach more defenders on the ground and to build their capacity to use the mandate.

49. At the grass-root level, the question of language is often a barrier that prevents local and national organizations from accessing the mandate directly. At the same time, defenders and organizations that address the mandate for the first time and are not familiar with its procedures need much more feedback and guidance from OHCHR staff. This is where regional and international organizations and networks that act as hubs for defenders on the ground play an important role as interfaces between the Special Representative and sources at the grass-root level. Reinforcing the capacity of these organizations is therefore strategic to do more follow up-work.

## **6. Ad hoc meetings, country visits and press releases as a means to follow up on communications**

50. During her tenure, the Special Representative has on several occasions held ad hoc meetings to follow up on cases brought to her attention through the communications mechanism and during country visits. She discussed cases with some Permanent Missions to the United Nations in Geneva to learn about developments on defenders whose situation she had addressed in communications.

51. Country visits have also been an opportunity to directly follow up on cases on the ground with national authorities and civil society. During her visits, the Special Representative consistently raised cases previously addressed to the country in communications that she considered as still pending.

52. The Special Representative has also issued press releases to follow up on communications sent to Governments, or on previous press releases, as an additional means of action when she feels that her concerns are to be raised publicly. In 2007, she issued press releases following up on situations addressed in communications with regard to the ongoing campaign against human rights defenders in Myanmar,<sup>7</sup> the suspension and the subsequent reinstatement of the Chief Justice in Pakistan,<sup>8</sup> and the constitutional reform in Venezuela<sup>9</sup>. In 2006, she condemned the lack of respect for human rights shown in the eviction of Bassac residents in Phnom Penh.<sup>10</sup>

### **C. Country visits**

53. Country visits and reports thereon are among the most powerful means that special procedures have to make a difference at the national level. The major force of country visits lies in the momentum they create. Seizing this momentum to turn the potential for change generated by a country visit into decisions, actions and results is a primary responsibility of the stakeholders to whom the recommendations contained in the report on the visit are addressed, most commonly Governments, human rights defenders, national institutions and the international community.

54. While responsibility for the actual implementation of recommendations lies with the stakeholders, mainly Governments, follow-up activities of the Special Representative are important to both document the impact of the visit as well as to maintain continued dialogue and engagement with the country, which can give additional impetus to national efforts to improve the situation of human rights defenders.

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<sup>7</sup> Press releases dated 25 April 2007 and 28 September 2007,  
<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/F9CC50DE2050A8CFC12572C800578C4B?opendocument> and  
<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/78352E3E45A4C341C1257365001418E2?opendocument>.

<sup>8</sup> Press releases dated 21 March 2007 and 6 August 2007,  
<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/B3076DBAE35B0F97C12572A5005D4209?opendocument> and  
<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/FA9770E8E0584315C125732F00560FE0?opendocument>.

<sup>9</sup> Press release dated 30 November 2007,  
<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/3A9D80608052F4FCC12573A30073E377?opendocument>.

<sup>10</sup> Press releases dated 30 May 2006 and 29 June 2006,  
<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/9435B2ABA16C7F8BC125717E002A277F?opendocument> and  
<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/C9FEDB586D9A189EC125719C00596D3D?opendocument>

55. Country visits open opportunities to establish direct contacts with institutions and organizations, which allows the Special Representative to make more targeted interventions after the visit. Similarly, county visits allow defenders to learn about the mandate and how to access it. The Special Representative consistently remarked significant improvements in the flow of information to and from a country after a mission. This in itself is a positive outcome of a visit and constitutes a channel to monitor the situation of human rights defenders and the level of implementation of recommendations.

56. Like other mandate-holders, the Special Representative used questionnaires to request information on achievements and challenges in the implementation of her country-based recommendations. She did so for her report to the Commission on Human Rights at its sixty-second session (E/CN.4/2006/95/Add.5), which focused on developments in the implementation of the Declaration. All the 11 countries visited by the Special Representative<sup>11</sup> are among the 118 countries that are profiled in that report. Country reports were used as major references to assess progress and identify challenges and concerns. It is interesting to note that in all the countries which she had visited, at least one stakeholder responded to the questionnaire and for six of them, responses were received by the Government, civil society organizations and/or the UNCT. Even more remarkable was the rate of Government replies to the questionnaire: 64 per cent from countries that had received a visit of the Special Representative, while the average for the 118 countries reviewed in the report was 30 per cent. This clearly indicates a higher level of responsiveness of stakeholders in countries visited by the Special Representative, particularly among Governments.

57. The Special Representative carried out two follow-up missions, the first one being to Colombia in 2004, three years after her country visit. Although carried out in agreement with the Government, the follow-up mission to Colombia was not a fully-fledged country visit and did not have a dedicated report. Nevertheless, the two-day mission allowed gathering new first-hand information which was reported as an update in the 2005 communications report (E/CN.4/2005/101/Add.1, paras. 203-216). In November 2007, the Special Representative was informed that the report on her country visit in 2002 (E/CN.4/2002/106/Add.2) was being used as evidence in a case currently pending before the Inter-American Court of Human Rights. This is a good example of how other stakeholders, in this case a regional human rights mechanism, can use country visit reports.

58. The second follow-up mission was an official country visit undertaken to The former Yugoslav Republic of Macedonia in September 2007, four years after the country visit. The report on the visit undertaken in 2004 (E/CN.4/2004/94/Add.2) was used as the basis to assess progress and gaps in the subsequent four years. To facilitate the assessment, a matrix was prepared containing a list of over 60 issues, findings and recommendations detailed in a schematic manner. For each item, information on developments that had occurred between 2003 and 2007 was sought before and during the mission. This allowed immediately identifying areas

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<sup>11</sup> As specified above, the overall number of countries visited by the Special Representative is 13. They were 11 in 2006, when the report referred to was issued.



in which progress had been more prominent, and others which stagnated more. On this basis, new recommendations were made, which are contained in her report on this mission (A/HRC/7/23/Add.4).

59. The example given below illustrates the methodology used. While this methodology provides a sound basis to assess the situation of human rights defenders in light of a first report, it is nevertheless important to make follow-up visits flexible enough to allow capturing new developments or concerns that go beyond the coverage of the first report but which should be considered in order to make a fair and accurate assessment of the situation of human rights defenders.

Issues and recommendations of the first report	Developments between first and second mission	Relevant stakeholders: (1) in a position to provide information; and (2) responsible for implementation	Information gathered during the follow-up visit	Findings and recommendations
No independent oversight mechanism to investigate violations committed by the police	Establishment of an oversight mechanism	Ministry of Interior (responsible for the implementation) Defenders (provide information on the effectiveness of the mechanism)	Information on how to access the mechanism is not available in minority languages. The mechanism is not used by defenders and groups belonging to minorities	The Special Representative welcomes the recently established oversight mechanism. She has however reported that the mechanism is not being used by defenders and groups belonging to minorities. This is because information on the mechanism has not been made available in minority languages. The Special Representative recommends ensuring that information on the mechanism is made available and disseminated in minority languages.

*Note:* The present example has been made to illustrate the methodology used and does not refer to any country.

## **D. Thematic reports**

### **1. Overview of thematic reports**

60. The Special Representative fulfilled her reporting requirements to the Human Rights Council and the General Assembly by studying and analysing thematic areas relevant to defenders and the implementation of the Declaration. Along the years, she addressed new topics and built on previous reports to deepen knowledge and understanding of the obligations related to the implementation of the Declaration and to give visibility to the challenges faced by defenders.

61. In this section of the report, the Special Representative gives an overview of the thematic areas she addressed and how she followed up on them from one report to the other to build a coherent framework and discourse on human rights defenders.

62. In her report to the Commission on Human Rights in 2002 (E/CN.4/2002/106), the Special Representative studied the impact of the 11 September 2001 attacks on human rights defenders. She pointed to the danger that the terrorist attacks of 11 September and the global war on terrorism may be used by some Governments as a pretext to breach human rights and to restrict and attack human rights defenders. She continued to analyse this issue in her report to the General Assembly in 2007 on the right to protest in the context of the freedom of assembly, in which she focused on anti-terrorism measures and how they restrict the right to protest and freedom of assembly, particularly affecting peace demonstrations after 11 September (A/62/225, para. 83). She also developed her analysis in this area by addressing the impact of security legislation on defenders and the role and situation of defenders in emergencies (A/58/380). In her report to the General Assembly in 2005 (A/60/339), the Special Representative focused on the essential role of human rights defenders in the preservation, restoration and building of peace and security.

63. The Special Representative studied the enjoyment of freedoms which are especially instrumental for the work of defenders and in her reports, focused on freedom of association and the impact of restrictions on the work of defenders (A/59/401), and on freedom of assembly, first by analysing violations suffered by defenders in the exercise of this right (A/61/312) and then by addressing the right to protest in the context of freedom of assembly (A/62/225).

64. The Special Representative consistently addressed the specific situation of women defenders. She did so in her report to the Commission on Human Rights in 2002 (E/CN.4/2002/106, paras. 80-94) and in other reports, reiterating consistently that women defenders face specific risks and therefore need additional protection measures to work in a secure environment (E/CN.4/2006/95, para. 10, A/61/312, paras. 72-73, A/HRC/4/37, paras. 98-104, A/62/225, paras. 59-66).

65. In addition to her attention to the gender dimension in the work of defenders, the Special Representative also addressed the situation of defenders who enjoy less protection, are more at risk of violations, or both. In that context, she analysed the situation of defenders working on economic, social and cultural rights, those defending the rights of indigenous peoples and minorities and those defending the rights of LGBT persons (A/HRC/4/37).

66. The importance of regional mechanisms for the protection of human rights defenders was also addressed in some of her reports (A/57/102, and E/CN.4/2006/95, paras. 60-66).

67. This short review shows the areas developed by the Special Representative as it relates to current human rights challenges that affect the work of defenders, such as security legislation and counter-terrorism measures; gaps in defenders' enjoyment of the rights and freedoms set forth in the Declaration, such as freedom of association, freedom of assembly and the right to protest; the situation of defenders enjoying less protection or more exposed to human rights violations; and the human rights mechanisms for the protection of human rights defenders as they develop at the regional level.

68. While the Special Representative hopes that this is an important basis for a better understanding of the Declaration as well as a set of recommendations to facilitate its implementation, there is no doubt that this work needs to be continued and expanded in order to advance the human rights discourse on defenders and to further empower them by equipping them with more knowledge on the Declaration and the implications and ramifications of its implementation and of the lack of implementation.

## **2. Report on country profiles**

69. The Special Representative's report to the Commission on Human Rights in 2006 contained a compilation of the developments in the situation of human rights defenders and the implementation of the Declaration in 118 countries since 2000. The countries included in the report were for the most part countries to which the Special Representative had addressed communications on individual cases over the past six years, as well as countries for which, despite not having been the object of communications, consistent and reliable information had been received in response to the questionnaire she had sent in preparation of the report. This comprehensive report offered a general picture of the situation of human rights defenders worldwide. It identified areas of progress in the implementation of the Declaration and remaining challenges faced by defenders. It was largely hailed by human rights defenders as a very useful tool for advancing their cause in their respective countries.

70. That report was supposed to be the final one of the Special Representative, as she had by then served two terms on the mandate. However, because of the developments within the Human Rights Council, the Special Representative's tenure was extended for two more years.

71. That report can serve two purposes as regards follow-up. On the one hand, it represented a thorough exercise of follow-up and stocktaking of the activities of the Special Representative at the country level. Each country profile contained in the report reviewed the communications sent and the findings and recommendations of country visits when applicable. On the other hand, the wealth of information contained in that report and its pragmatic approach make it a benchmark against which progress on the implementation of the Declaration could be measured. Regular updating of that report would make it a lively tool with the potential to reflect processes in addition to contents.

### **3. Engaging stakeholders in thematic areas**

72. The recommendations of thematic reports are mainly addressed to Governments, some to human rights defenders, others to national institutions, the international community, including regional organizations, and in some cases to the media. Each of these stakeholders should devise strategies aimed at implementing recommendations addressed to them and using reports as advocacy tools to give more strength and legitimacy to their claims, positions and concerns.

73. While this remains mainly within the responsibility of stakeholders, the role of the Special Representative is to encourage to the extent possible this kind of dynamics. Some ideas in that respect could be: using questionnaires to be sent to stakeholders for the preparation of thematic reports. This would make stakeholders participate more directly in the preparation of reports, hence more inclined to take ownership of the conclusions and recommendations reached; to hold consultations to gather through a participatory process suggestions on topics to be addressed; to organize expert seminars in preparation of thematic reports; to disseminate reports among stakeholders and encourage further dissemination and translation in languages other than the official United Nations languages; to undertake surveys among stakeholders to find out how reports are being used and what could be done to increase their impact.

74. All of these activities and others could enhance the impact of thematic reports. Nevertheless, they are all time-consuming and resource-intensive. A realistic assessment has to be made to identify what can be undertaken and what not. The ideas above are to be seen as a series of possible options identified by the Special Representative on the basis of her experience in the attempt to give shape to a comprehensive methodology to follow up on the work of the mandate.

### **4. Indicators on human rights defenders**

75. Over the years, the Special Representative has been assessing the situation of human rights defenders worldwide on the basis of the rights and duties established in the Declaration. Through thematic studies, country visits, communications and their analysis, the Special Representative has given content to what compliance with the Declaration means.

76. The analytical framework and the parameters developed by the Special Representative to gauge the situation of human rights defenders can be distilled into a set of indicators that facilitate assessing compliance with the Declaration.

77. While the identification of indicators on human rights defenders deserves a thorough analysis and a larger discussion that go well beyond these few paragraphs, the Special Representative wishes to outline schematically a set of indicators that can be used to assess the situation of human rights defenders. She does this with the double purpose of providing a schematic framework for analysis distilled from the monitoring and protection work realized by the mandate, and encouraging her successor as well as other actors working on the assessment of the situation of defenders to further develop and use indicators to measure progress or setbacks in the implementation of the Declaration. Indicators are tools to follow up on the work of the mandate.

78. The Special Representative identifies the following indicators:

*Legislation*

- Compliance of legislation relevant to the activities of defenders with the Declaration. Several laws can be relevant for the activities of human rights defenders, from laws on NGOs, to those on access to information, freedom of peaceful assembly, witness protection, right to strike, etc.

*An enabling environment for human rights defenders*

- Enjoyment of rights and freedoms instrumental to the activities of defenders and recognized by the Declaration, e.g. freedom of expression, association, peaceful assembly, access to information, including access to detention places and police stations, access to remedies. Each of these rights has a full set of indicators to measure their level of implementation, which are not developed in this report;
- Existence and effectiveness of independent national human rights institutions;
- Systematic collaboration with public authorities;
- Systematic participation and consultation in decision-making processes, including in law and policymaking;
- Policies on human rights defenders (e.g. strategy on the implementation of the Declaration, national plan on human rights including human rights defenders, policies on the collaboration with civil society);
- Human rights education policies and programmes;
- Open support to defenders from public authorities and the political establishment.

*To assess the community of human rights defenders*

- Number and types of organizations;
- Type of activities undertaken by defenders:
  - Capacity-building and human rights education;
  - Awareness-raising and outreach;
  - Monitoring and reporting;
  - Legal aid;
  - Research and development of new human rights ideas;
  - Civil, cultural, economic, political and social rights;

- Level of activities and outreach:
  - Grass-root;
  - National;
  - Regional and international;
- Gender:
  - Level of participation, organization and representation of women defenders;
  - Prominence of women's rights on the agenda of defenders;
  - Patterns of gender-based human rights violations against defenders;
- Non-discrimination:
  - Level of participation, organization and representation of defenders belonging to or working on the rights of groups discriminated against (minorities, LGBT persons, disabled persons, indigenous peoples, migrants, etc.);
  - Prominence of equality on the agenda of defenders;
  - Patterns of human rights violations against defenders belonging to or working on the rights of groups discriminated against;
- Networks and coordination:
  - Level of solidarity and coordination among defenders;
  - Existence and effectiveness of common goals and strategies agreed upon by defenders;
  - Networks on thematic areas, at different levels (grass-root towards international and vice versa), across sectors of civil society (academia, social movements, NGOs, trade unions, bar associations, etc.);
- Capacity to access and use national, regional and international human rights mechanisms;
- Transparency, objectivity and accuracy in the work of human rights defenders;
- Funding:
  - Availability of funding opportunities, within and outside the country;
  - Capacity to obtain funding;

- Possibility of determining their own priorities versus being donor-driven;
- Tax exemption for non-profit organizations.

*To assess levels of security of defenders*

- Number and type of attacks and threats against defenders;
- Availability and effectiveness of protection programmes and measures.

*To assess levels of impunity of human rights violations against defenders*

- Number and type of human rights violations against defenders;
- Accessibility of remedies available to defenders;
- Number, quality (prompt and impartial) and outcome of investigations and prosecutions sanctioning violations against human rights defenders and providing compensation to victims;
- Existence, accessibility and effectiveness of independent oversight mechanisms for violations committed by public authorities, including the police.

*Governments' collaboration with regional and international human rights mechanisms<sup>12</sup>*

- Collaboration with the Special Representative:
  - Responsiveness to questionnaires sent by the Special Representative for the preparation of reports;
  - Responsiveness to communications (timelines, comprehensiveness in replying to all the questions, scope of measures taken to address and redress both the individual cases as well as the general situation related to the individual cases);
  - Responding positively to requests of invitations to carry out country visits;
  - Reporting on measures taken to implement recommendations.

## **E. Engaging stakeholders**

79. In addition to the follow-up initiatives carried out directly by the Special Representative to monitor the effectiveness of her work, the impact of the activities of the mandate is maximized

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<sup>12</sup> Sets of indicators can be used to measure the levels of collaboration of Governments with other human rights mechanisms. In this report, the Special Representative only details indicators related to the collaboration with her mandate.

when stakeholders engage in the implementation of the recommendations of the Special Representative and make the promotion and respect of the Declaration their own goal.

80. This section of the report complements previous reports of the Special Representative and in particular her report to the Commission on Human Rights in 2006. The Special Representative reiterates the considerations made therein as regards the role of the different stakeholders, namely the United Nations, including OHCHR, civil society organizations, national institutions and treaty bodies (E/CN.4/2006/95, paras. 67-82).

### **1. Capacity-building and outreach**

81. The first step to get stakeholders engaged is to make them aware of the mandate and to build their capacity to use it.

82. The Special Representative, like other special procedures, does not have the resources to carry out awareness campaigns and capacity-building programmes. She nevertheless undertook activities aimed at increasing awareness and access to the mandate. The numerous conferences, seminars and platforms she attended across the world gave a remarkable visibility to the mandate, established strategic collaborations and engaged defenders' organizations, regional mechanisms, academic institutions, Governments, national institutions, international organizations and others with the mandate.

83. The OHCHR staff supporting the mandate act as resource persons in training sessions and workshops to build the capacity of defenders to access and use the mandate. These training programmes are a good opportunity to sensitize participants on the importance to follow up on the work of the Special Representative and their role in this process. Most of these activities are organized by OHCHR and NGOs dealing with human rights. Some, like the International Service for Human Rights, integrated training on the mandate of the Special Representative as a standard component of their training programmes.

84. The OHCHR factsheet on human rights defenders is a good tool to disseminate knowledge on the Declaration and the mandate of the Special Representative. More efforts should be made to have it translated into languages other than the official United Nations languages.

85. It would be important to develop a training manual on the Declaration and the mandate of the Special Representative, maybe in the framework of a broader training package on special procedures. Such a tool would make training on the mandate and special procedures an activity that could be implemented by many organizations working on human rights capacity-building programmes.

### **2. The Universal Periodic Review**

86. The Universal Periodic Review (UPR) can be an important opportunity to monitor the situation of human rights defenders in countries reviewed by the Human Rights Council. Through the UPR, all Member States will be reviewed on the basis of universal and equal parameters and standards. These standards include, among others, the Declaration on Human Rights Defenders.



87. The review of countries is based on three reports. One is prepared by the Government while the other two are produced by OHCHR, one of which is a compilation of United Nations information while the other is a summary of contributions by various stakeholders, including civil society organizations and human rights defenders.

88. The Special Representative invites Governments to include in their pledges made at the time of their election to the Human Rights Council commitments on the implementation of the Declaration. Information on the fulfilment of these commitments should then be included in their reports through the UPR. The Special Representative equally encourages other stakeholders, including defenders, to submit contributions on the situation of human rights defenders that will be included in the stakeholders' report prepared by OHCHR.

### **3. Complementarities with international and regional mechanisms**

89. International and regional human rights mechanisms play an important role in strengthening the impact of the work of the Special Representative.

90. Special procedures mandate-holders follow up on each other's work and build on their respective findings and recommendations. Joint activities take place at all levels, from day-to-day communications to press releases, joint country visits and reports. The advice and recommendations of independent experts on countries that would benefit from official visits of mandate-holders prompted the realization of some missions, including those undertaken by the Special Representative. To quote but one example, the Special Rapporteur on the independence of judges and lawyers, in his report on his mission to Brazil, included among his recommendations a country visit by the Special Representative.<sup>13</sup> One year later, the Special Representative visited Brazil. Similarly, the suggestions of the Special Representative prompted requests of invitations by other mandate-holders.

91. At the regional level, several mechanisms and instruments have been established and adopted to increase the protection of human rights defenders - the Special Rapporteur on Human Rights Defenders of the African Commission on Human and Peoples' Rights; the Unit for Human Rights Defenders within the secretariat of the Inter-American Commission for Human Rights; the enhanced mandate of the Commissioner for Human Rights and the forthcoming declaration on human rights defenders of the Council of Europe; the Unit on Freedom of Association within the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR); and the 2004 European Union Guidelines on Human Rights Defenders.

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<sup>13</sup> "In view of the threats and acts of violence against judges, lawyers and defence attorneys, especially those working on cases involving social issues (such as land, indigenous or environmental issues), the Special Rapporteur recommends that the Special Representative of the Secretary-General on the situation of human rights defenders should visit the country" (E/CN.4/2005/60/Add.3, para. 106).

92. The establishment of regional mechanisms for the protection of human rights defenders has been one of the major developments to advance the situation of human rights defenders in the last few years. Further efforts are needed to turn developments into achievements.

93. Regional mechanisms and structures are in their first years of existence. In establishing their own methods of work and practices, it is crucial to share experiences, compare mandates, and identify common objectives. This will facilitate the design of strategies aimed at strengthening complementarities, synergies and cross-fertilization of the mechanisms. The Special Representative hopes that initiatives in that direction will continue in the coming months and years.

94. In the area of follow-up, the potential of regional mechanisms to follow up on recommendations and communications of the Special Representative is of paramount importance. To quote but one example, one of the four areas of action established by the EU Guidelines on Human Rights Defenders is support to United Nations special procedures, including the Special Representative. Strengthening the implementation of the EU Guidelines by raising awareness about them and by disseminating good practices on how to use them has a strategic value. In this respect, the Special Representative welcomes the recent publication of the Front Line booklet on good practices in the implementation of EU Guidelines.<sup>14</sup>

95. Regular exchanges and common planning among existing mechanisms will enable the identification and implementation of common priorities that would strengthen the overall system for the protection of human rights defenders and might prepare the ground for the establishment of new mechanisms in other regions.

### III. CONCLUSIONS AND RECOMMENDATIONS

96. **Following up on the work of the Special Representative is both a methodology as well as an end in itself. It is a methodology to monitor and assess the impact of the work of the Special Representative and to provide her with elements to identify gaps, trends, achievements and concerns in the implementation of the mandate and of the Declaration. Follow-up as an end in itself relates to the actual implementation of the recommendations of the Special Representative, including the collaboration with the mandate. As a methodology, it is part of the working methods of the Special Representative while follow-up intended as implementation of recommendations is within the responsibility of stakeholders, Governments, human rights defenders, international and regional organizations, international and regional human rights mechanisms, national human rights institutions and the media.**

97. **The two understandings of follow-up overlap and depend one on the other. Reviews and analysis of the work of the Special Representative facilitate implementation by further refining and targeting recommendations and advance the discourse on human rights**

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<sup>14</sup> “Front Line Handbook for Human Rights Defenders: What Protection Can EU and Norwegian Diplomatic Missions Offer?”, published by Front Line, November 2007.

defenders. Implementation is strengthened when it is acknowledged by review exercises that recognize experiences and initiatives to follow up on the work of the Special Representative as good practices.

98. In reviewing work on follow-up undertaken by the Special Representative, this report outlines elements of a methodology, which shows how quantitative and qualitative analysis can combine to provide a comprehensive picture of the work of the Special Representative based on data and their analysis and not on perceptions; proposes a matrix to undertake follow-up country visits; outlines a schematic list of indicators to assess the situation of human rights defenders; and underlines the role of stakeholders in following up on each component of the work of the Special Representative, be it communications, country visits or thematic reports.

99. A follow-up methodology is of use not only to the mandate-holder but also to all those committed to the implementation of the Declaration. The Special Representative encourages stakeholders, in their different roles and capacities, to use and further develop this methodology to facilitate the implementation of the Declaration.

100. In this respect, the Special Representative recalls the contribution and collaboration expected from stakeholders to follow up on the activities of the mandate and implement its recommendations.

#### **Communications**

Governments should respond to all the communications sent by the Special Representative. Replies should be timely and comprehensive in responding to the questions asked by the Special Representative. In addition to these minimum requirements, a good practice for replies is to provide information not only on the measures taken to redress the individual situation reported but also on the initiatives undertaken to prevent similar situations from happening again. In some cases, by reporting individual situations, communications point in fact to structural and systematic problems of which individual situations are a consequence. Governments should see the communications procedure as an opportunity to be alerted to situations that, if addressed properly and thoroughly, can improve not only the situation of individual defenders but the overall environment of human rights defenders, which is a fundamental indicator of the general situation of human rights in a country.

Human rights defenders, and organizations and institutions that act as sources of communications, should provide follow-up information on cases submitted to the Special Representative in a more systematic manner. They should also look at replies sent by Governments and provide feedback on that basis. Sources on the ground are in a better position to assess the information provided in Governments' replies. In order to improve the exchange of information between sources on the ground and the Special Representative, the role of international networks and organizations that act as interfaces between the mandate and sources on the ground is to be strengthened.

## **Country visits**

**The Special Representative recommends to all stakeholders to regularly report on challenges and achievements in the implementation of the recommendations contained in reports on country visits. The Special Representative can submit this information in a separate report on follow-up to country visits, as the Special Rapporteur on torture does on a yearly basis, in the communications report, or in updates of the report on country profiles submitted in 2006.**

## **Thematic reports**

**The Special Representative opened some lines of research, such as the enjoyment of defenders of the rights set forth in the Declaration or the situation of defenders at particular risk or less recognized. The Special Representative recommends this analytical work be continued and expanded to enrich knowledge and understanding of the Declaration and the challenges and achievements related to its implementation. The high number of communications sent by the mandate provides now, and every year more so, a solid caseload that can serve as a basis for a wide range of thematic analysis and monitoring.**

**The Special Representative recommends a more active engagement of stakeholders in the preparation of and the follow-up to her thematic reports, and refers to the practical suggestions and recommendations in this area put forward in paragraphs 72 to 74 above.**

**101. Capacity-building activities on the Declaration and the mandate of the Special Representative should be developed and strengthened, those implemented by NGOs as well as by the United Nations system, in particular OHCHR, and other international and regional organizations.**

**102. The Special Representative recommends that the situation of human rights defenders be one of the elements to review in the UPR process of the Human Rights Council.**

**103. The Special Representative encourages the intensification of collaboration and joint initiatives among existing international and regional mechanisms for the protection of human rights defenders, with a view to strengthen the overall system for the protection of defenders by building on complementarities.**

**104. Finally, the Special Representative wants to pay tribute to human rights defenders, for whose recognition and protection she has been working all these years, and encourages them to continue their struggle for the promotion and protection of human rights worldwide.**

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