ORAL STATEMENT OF MARGARET SEKAGGYA
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Mister President,
Excellencies,
Distinguished delegates,
Ladies and Gentlemen,

I am pleased to address the Human Rights Council for the fifth time on issues relating to my mandate as Special Rapporteur on the situation of human rights defenders.

Today, in addition to my annual thematic report, I shall present the reports relating to my country visits in 2012 to Honduras, Tunisia and Ireland. I would like to express my gratitude to the Governments of these three countries for inviting me and for their excellent cooperation during the visits. I shall also present my report with observations on communications I have sent during 2012.

For my fifth thematic report (A/HRC/22/47), I have chosen to focus on the role of national human rights institutions in the defence and promotion of human rights as well as in the protection of human rights defenders.

National human rights institutions are in a unique position to guide Governments on their human rights obligations and to ensure that international human rights principles and standards are adequately incorporated into national law and mainstreamed and implemented in public policymaking. For this reason, national institutions can be key actors in the fight against impunity.

I am very thankful to those States, national institutions and NGOs who responded to the questionnaire I sent out. This has given me considerable insight into the challenges that these institutions face but also into the opportunities they can create. In order to capitalize on these opportunities, I have identified a number of good practices in this report which I hope will be useful for relevant stakeholders. In particular, my hope is that the report will facilitate knowledge and practice sharing among national institutions.

Excellencies, Ladies and Gentlemen,

I believe that national institutions complying with the Paris Principles, their members and staff, can be considered as human rights defenders as they strive to promote and defend human rights. Interaction between these institutions and human rights defenders is essential in order to monitor the human rights situation on the ground. Also, national institutions can play a vital role in providing protection for defenders when needed.

However, these institutions face diverse challenges while conducting their work. Challenges and constraints reported to me relate to the mandate of the institutions; the composition and selection of members and staff; the conditions of tenure; and the availability of resources. Violations reported against national institutions, their staff and members range from attacks, threats and intimidation, to harassment and stigmatisation in connection to their human rights work. I am
concerned that such challenges and constraints can seriously undermine their independence, efficiency, credibility and impact.

In my report, I also emphasize that national human rights institutions can play a substantive role in the protection of human rights defenders. This can be done in a number of ways, but I believe that the protective role of such institutions is certainly strengthened if they have a robust mandate with competence to receive and investigate complaints and to provide effective protection when needed. I also strongly recommend that national institutions have a designated focal point for human rights defenders with responsibility to monitor their situation, including risks to their security and legal and other impediments to a conducive work environment for defenders.

Other ways for national human rights institutions to contribute to the protection of defenders include advocacy and awareness raising activities in favour of a conducive environment for defenders; offering public support when violations against defenders are committed; visiting defenders in detention and providing legal aid in this context; and strengthening the capacity of defenders to ensure their own security.

Mister President,

National human rights institutions can be considered as human rights defenders. But in order for them to be credible and effective, they should have a broad and solid mandate and be properly resourced to be able to operate independently. They must be autonomous from the influence of the Government and ensure pluralism in their composition. Their role in defending and promoting human rights should be publically acknowledged by the authorities and their members and staff should be protected by law when discharging their functions.

National institutions should also be able to effectively protect human rights defenders. In this respect, good practices that I have identified in this report include formal complaints mechanisms with powers of investigation; and established focal points and units specifically dedicated to human rights defenders. However, these types of initiatives should be supported with the necessary resources so that national institutions can react promptly and adequately to violations reported.

Finally, in order to ensure the credibility of the work of national institutions, Governments must be responsive to their recommendations and ensure adequate follow up and implementation. This is particularly important given that most of these institutions have advisory functions. Rarely do Governments have legal responsibility to implement recommendations put forward by national institutions. Governments should therefore work proactively to implement these recommendations promptly and effectively, and follow-up should be tracked and evaluated. A number of Governments have gone about creatively to ensure this, and I encourage Member States to consult the good practices mentioned in the report in this regard.
Visit to Honduras

I conducted a country visit to Honduras from 7 to 14 February 2012 and I would like to thank the Government of Honduras for extending the invitation and for excellent cooperation throughout the mission.

In my report I highlight some of the positive initiatives that the Government has taken for the promotion and protection of human rights but I call attention to the level of institutional weakness, increased vulnerability of human rights defenders and the excessive polarisation in society.

Defenders in Honduras face many and serious challenges. These include the pervasive culture of impunity, the lack of protection measures, the lack of institutional capacity and coordination, and the stigmatization of their work.

Moreover, defenders in Honduras are at risk of suffering extrajudicial executions, arbitrary arrest and detention, torture and ill-treatment, death threats, harassment, and stigmatization. After my visit, I was shocked to learn about the killing of Antonio Trejo Cabrera, a well-known lawyer whom I met while I was there, and who worked for the rights of the peasant communities in the region of Bajo Aguan.

Defenders in Honduras need protection. In this regard, I take note of the consultations held by the Government with civil society in November last year on the draft legislation for the protection of human rights defenders, journalists and workers in the justice system, as well as on the National Action Plan for the protection of human rights defenders.

I strongly encourage the Government to swiftly enact legislation and put in place the necessary programmes to provide effective protection to human rights defenders and ensure full accountability for violations against them.

Visit to Tunisia

I conducted a country visit to Tunisia from 27 September to 5 October 2012. This was a joint visit with the Special Rapporteur of the African Commission on Human and Peoples’ Rights and I would like to thank the Government of Tunisia for the invitation and for the good cooperation during the mission.

Following the January 2011 revolution, a new Constitution has been drafted and sparked heated debate across Tunisian society. I am pleased to note that the latest draft has addressed most of the recommendations I put forward after my visit, although there are still some elements to be improved, especially around Tunisia’s international obligations.

I was concerned to hear that the security situation for human rights defenders, including women human rights defenders and journalists, has become more unpredictable in the aftermath of the revolution. The responsiveness of law enforcement authorities to violations perpetrated against defenders appeared unsatisfactory, and people’s confidence in them with regard to providing security
was reportedly low. The lack of independence of the judiciary also constitutes a considerable obstacle in this regard. More generally, I am concerned about limitations on freedom of expression affecting human rights defenders in Tunisia.

I am concerned about the considerable polarization I observed in Tunisian society between secularists and Islamists, including so-called Salafists, a divide which also transpires to civil society. All stakeholders, including the international community, should work together to ensure dialogue, understanding and respect between different parts of society. Human rights defenders have a particularly important part to play in this process.

**Visit to Ireland**

I visited Ireland from 19 to 23 November 2012 and I would like to thank the Government for the excellent cooperation during the visit.

Although more efforts could be made to raise awareness about the UN Declaration on human rights defenders at the national level, the Government and other authorities in Ireland are open and supportive towards the defence and promotion of human rights.

I must commend Ireland for its proactive role in the protection of defenders at risk in other countries under the European Union Guidelines on human rights defenders. I also take note with appreciation of the Government’s efforts in integrating the protection of defenders through its development aid. Ireland has a number of good practices in this regard that could serve as inspiration to other countries.

But I must also highlight the challenging situation faced by Irish Human Rights Commission due to the delay of the on-going merger with the Equality Authority. I have called on the authorities to expedite the introduction of the draft legislation on the Irish Human Rights and Equality Commission (IHREC) Bill, 2012. I trust that the legislation will be enacted shortly in order to establish a strong, independent and adequately resourced institution capable of a credible and impartial scrutiny of the State’s human rights activities.

The environment in Ireland is conducive to the defence and promotion of human rights, but in my report I underline the specific challenges faced by certain groups of human rights defenders, including environmental rights activists; defenders working on sexual and reproductive rights; those working for the rights of Travellers; whistle-blowers and others reporting wrong-doing and corruption; and asylum-seekers and refugees working for the rights of their communities.

I would also like to thank the Governments of the Republic of Korea, Mongolia and Turkey for accepting my requests to visit these countries.
Observations on Communications report

In the report with observations on the communications sent and responses received from States, you will see that during the reporting period, I have transmitted 252 communications to 83 States and received 127 replies. This indicates a 50.3 per-cent response rate. While I wish to thank the Governments which have sent replies to my communications, I would like to urge all States to respond in a timely and substantive manner.

In the past year, the amount of communications to the Middle East and North Africa has been consistent with the high volume sent in recent years. I am particularly concerned about countries in the Gulf region, notably Bahrain, Saudi Arabia and the United Arab Emirates. Arrests of defenders peacefully exercising their rights to express themselves assemble and associate, defamation campaigns in the media and deprivation of citizenship are some of the serious violations that have been reported to me.

I am seriously concerned about recent developments in Egypt. The considerable violence suffered by peaceful protesters, including gender-based violence against women human rights defenders, points to a situation that is getting out of hand. Recent legislative developments, even if they are still at the drafting stage, are not favourable to the rights to freedom of peaceful assembly and of association, and I urge the Government to ensure that these fundamental rights, which have occupied such an important place in Egypt since the revolution in January 2011, are secured in law and respected.

I have received information from the Islamic Republic of Iran in recent months which points to an increasingly difficult environment for human rights defenders in the country. A number of human rights defenders, including prolific lawyers and journalists, remain in prison for having exercised their fundamental rights. I am seriously concerned about this.

The Philippines is another country of particular concern to me. I have received a significant amount of reports of killings and threats against defenders, particularly those working on indigenous peoples’ rights and land and environmental rights. Non-State actors appear to have perpetrated a number of these violations. While I commend the Government for recent steps taken to address the climate of insecurity, I would have liked to see more engagement from the Philippines in relation to my mandate, calls for which have so far gone unanswered.

Regarding the Latin American region, I am alarmed at the prevailing levels of impunity that surround violations against human rights defenders, as investigations are excessively protracted and perpetrators rarely held accountable. Moreover, I am very worried about the reported attacks, killings and stigmatisation of defenders working against impunity, seeking justice for violations committed by State security forces, and working for rights of victims, including reparation and non-recurrence.
Excellencies, Ladies and Gentlemen,

Once again, I am very concerned at the information I have received about cases of reprisals against defenders who have cooperated with UN and regional human rights mechanisms. In some instances, these incidents have happened here in Geneva during sessions of the Council, including during the UPR.

I said this publically last year and wish to reiterate once again: these acts are unacceptable; States should resist from harassing those who attend the Council sessions; and perpetrators must be held accountable. The vital cooperation between civil society and the UN and regional human rights mechanisms should be unrestricted and safe, and States should refrain from harassing and stigmatising those who collaborate with us.

A related trend of profound concern to me is that both in law and in practice, a number of Governments are restricting and even criminalizing interaction and information sharing with international bodies. Last year at this forum, I raised concern about legislative moves and enforcement of existing laws that have led to increased criminalization and stigmatisation of human rights work in different countries. This is an issue of great concern for my mandate, and I announced that I would look closely into it.

In this connection, I would like to point to the thematic report that I prepared for the General Assembly 2012 where I review various types of legislation affecting the work of human rights defenders as well as the most common restrictions applied to their activities. From anti-terrorism and other legislation relating to public security to legislation governing registration, functioning and funding of associations; from defamation and blasphemy legislation to legislation relating to public morals; from access to information legislation to official-secret legislation, I am concerned about a trend of misuse or selective use of different types of legislation to restrict, criminalize and stigmatize the work of human rights defenders in all parts of the world.

States should ensure proper consultation processes when new legislation is being discussed by involving civil society, national human rights institutions and other stakeholders. States, including legislators, should be open to assessing the impact of existing legislation. This requires close cooperation, openness and frank discussions with civil society and national human rights institutions.

I urge States to recall the minimum standards for legislation enshrined in international law, notably the principles of legality, necessity, proportionality and non-discrimination. These should serve as a way of human rights proofing national legislation, meet their obligations and create a conducive and enabling environment for human rights defenders to carry out their work.

Thank you for your attention.

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