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OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

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

Summary

The Special Representative of the Secretary-General on human rights defenders, Hina Jilani, here presents her seventh report, submitted pursuant to Human Rights Council decision 1/102 in which the Council decided to extend exceptionally for one year the mandate and mandate-holders of all the special procedures of the Commission on Human Rights, of the Sub-Commission on the Promotion and Protection of Human Rights. It follows the report she had submitted to the sixty-second session of the Commission on Human Rights, pursuant to Commission on Human Rights resolutions 2000/61 and 2003/64, which reviewed the six years of implementation of the mandate entrusted to her.

Chapter I of the report gives an account of the activities undertaken by the mandate-holder during the reporting year. It draws the attention of Member States to the 372 communications that have been sent under the mandate during the past year. More detailed information on these communications is contained in addendum 1 to the present report. This chapter also includes some reflections on the participation of defenders and defenders' organizations in the work of the Human Rights Council to date.

Chapter II focuses on the situation of human rights defenders working in the field of economic, social and cultural rights. It gives an overview of the legal context for the activities of these defenders, followed by a description of the different economic, social and cultural rights defenders are currently working to promote. This chapter also highlights violations against the rights accorded to these defenders by the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights (Declaration on Human Rights Defenders).

Chapter III focuses on human rights defenders who are at particular risk and considers the risks involved when defending the rights of indigenous people and minorities, lesbian, gay, bisexual, transgender and intersex persons and women human rights defenders.

In chapter IV, the Special Representative outlines some recommendations to the United Nations, States, intergovernmental organizations, national human rights institutions, non-governmental organizations and defenders, on the situation of defenders working in the field of economic, social and cultural rights.

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I. ACTIVITIES DURING THE PERIOD OF REVIEW

1. The present report is presented pursuant to Human Rights Council decision 1/102 in which the Council decided to extend exceptionally for one year the mandates and mandate-holders of all the special procedures of the Commission on Human Rights, of the Sub-Commission on the Promotion and Protection of Human Rights.

2. The Special Representative would like to remind the Council of her report prepared for the sixty-second session of the Commission on Human Rights and presented to the Human Rights Council at its second session (E/CN.4/2006/95). This report described the development and implementation of the mandate since its creation in 2000 in Commission on Human Rights resolution 2000/61. The Special Representative also brings to the attention of the Council addendum 5 to her sixth annual report, which contained a comprehensive country-by-country compilation of developments in the situation of defenders globally (E/CN.4/2006/95/Add.5).

A. Communications transmitted to Governments

3. Since the establishment of the mandate in 2000 the Special Representative sent more than 1,500 communications. Altogether, these communications dealt with the cases of more than 1,137 defenders and 279 organizations working to promote and protect human rights. During the past year the Special Representative sent 372 communications to 78 countries. At the time of writing, 40 of these countries had provided her with responses to one or more of her 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/4/37/Add.1).

B. Country visits

4. The Special Representative did not carry out any official country visits during the reporting period. An official visit to Serbia was postponed as the dates conflicted with the second session of the Human Rights Council. A proposed follow-up visit to Guatemala was also postponed by the Government which declared it could not receive the Special Representative until 2008.

C. Cooperation with the United Nations system and intergovernmental organizations

5. The Special Representative has continued throughout the reporting period to put emphasis on cooperation with all bodies of the United Nations and other intergovernmental organizations. The Special Representative was invited to participate in conferences, round tables and seminars with several such organizations, on issues related to her mandate. She would particularly like to mention that she established contact with the Secretary of the newly established Peacebuilding Commission in order to draw attention to the role of human rights defenders in building and sustaining peace as outlined in the report she submitted to the General Assembly at its sixtieth session (A/60/339 and Corr.1). She hopes that a recognition and understanding of this role will lead to better utilization of the tremendous potential of the work of human rights defenders in the peace-building initiatives of the United Nations.

D. Cooperation with non-governmental organizations

6. The Special Representative has continued her interaction with civil society at the international, national and local levels. The Special Representative regrets that due to 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 be present she tried, as far as possible, to have one of her staff represent her. These occasions have marked the progress in the building and strengthening of defenders' networks and in developing better understanding of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights (hereafter "the Declaration on Human Rights Defenders") for its effective implementation and a better protection of all human rights defenders.

7. During the reporting year, the Special Representative participated in numerous events organized by non-governmental organizations (NGOs) including the World Social Forum in Karachi, Pakistan, the Carter Center Conference in Atlanta, United States of America, the World Forum of Human Rights in Nantes, France, the First International Conference on lesbian, gay, bisexual and transgender human rights in Montreal, Canada, and the 2nd Human Rights Defenders' Forum in Asia, held in Bangkok.

E. Non-governmental organizations' participation in the work of the Human Rights Council

8. In relation to the participation of NGOs in the work of the Human Rights Council, the Special Representative would like to remind States about the provisions of the Declaration on Human Rights Defenders, and, in particular, of article 1, which provides that "(e)veryone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels", and article 5, which provides that "(f)or the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: (a) to meet or assemble peacefully: (b) to form, join and participate in NGOs, associations or groups; (c) to communicate with non-governmental or intergovernmental organizations".

9. Most NGOs have relayed to the Special Representative their appreciation of the work of the NGO liaison office at the Office of the United Nations High Commissioner for Human Rights (OHCHR) and many have welcomed the practise of "interactive dialogues" with the special procedures after the presentation of their reports to the Human Rights Council. Nevertheless many NGOs have found that their ability to contribute to the deliberations of the Council are affected by a lack of predictability in time and modalities of the debates in the sessions of the Council (such as agenda items, time frames of debates, speaking time for delegates, etc.). They believe that, in the absence of a more suitable distribution of items on the agenda, the benefits of the multiple sessions of the Council could be lost, if NGOs are unable to travel more frequently to Geneva because of financial or other constraints. It is also crucial to retain the opportunity for interaction between non-governmental actors, including human rights defenders, provided by the gathering at the sessions of the former Commission on Human Rights. This issue is of particular concern for NGOs from the South and for several other NGOs that do not have a Geneva office.

10. NGOs need to be reassured that civil society participation in the work of the Human Rights Council will remain vital and be broadened. The Special Representative urges the Council to give due attention to these issues and to allay any concerns of the civil society stakeholders whose importance and relevance to the functions of the Council cannot be underestimated.

F. Other activities

11. On the invitation of the Office of the High Commissioner in Cambodia, the Special Representative visited Cambodia from 9-12 December to mark Human Rights Day. She participated on a panel discussion on Human Rights and Poverty organized by the Cambodian Human Rights Committee, a coalition of over 20 human rights organizations and was a keynote speaker at an all-day event in the Olympic stadium of Phnom Penh where over 9,000 participants were present. The event was organized by some 30 NGOs.

II. THE WORK OF HUMAN RIGHTS DEFENDERS IN THE FIELD OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

12. The Special Representative has observed that in a significant number of cases brought to her attention, denial of economic, social and cultural rights (ESCR) has spurred action by defenders, that has led to the violation of their human rights. While this reality is more marked in the Asian and the Latin American regions, it is a global trend that has become relevant to any discussion on strategies for the protection of defenders. By focusing this report on the situation of human rights defenders working in the field of ESCR, the Special Representative wishes to emphasize that not only are the rights that these defenders seek to promote inalienable to the international human rights framework, but the activities they conduct in this respect are also fully protected by the Declaration on Human Rights Defenders. This focus is also, in part, her response to questions that have sometimes been raised regarding the status of those promoting ESCR as defenders of human rights.

A. Legal context for activities for the promotion of economic, social and cultural rights

13. The following is a brief overview of ESCR protected by selected internationally recognized human rights instruments and of other provisions of such instruments that have relevance to activities conducted for the protection of these rights. The main instruments are the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and some common articles in the ICESCR and the International Covenant on Civil and Political Rights (ICCPR). Relevant provisions of other human rights instruments are subsequently outlined.

1. Universal Declaration of Human Rights

14. In UDHR articles 16 (rights in marriage), 17 (the right to property), 22 (the right to social security), 23 (the right to work, including the right to form trade unions), 24 (the right to rest and leisure), 25 (the right to an adequate standard of living), 26 (the right to education), and 27 (the right to freely participate in the cultural life of the community and the right to the protection of moral and material interests) deal directly with ESCR.

2. International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights

15. In the preamble to the ICESCR, the States parties recognize that “in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his ESCR, as well as his civil and political rights”. The preamble to the ICESCR further considers “the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms”. The preamble then goes on to state that the States parties realize that “the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant”.

16. The ICESCR and the ICCPR share a common article 1 which provides, inter alia, that “(a)ll peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence”.

17. The economic, social and cultural rights, discussed further in section B below in the context of various activities of defenders, are protected by the following provisions in the ICESCR: article 6 (the right to work); article 7 (the right of everyone to the enjoyment of just and favourable conditions of work); article 8 (the right of everyone to form trade unions and join the trade union of his choice, including, inter alia, the right to strike); article 9 (the right to social security); article 10 (widest possible protection to be accorded to the family; marriage with the free consent of intending spouses; special protection to be accorded to mothers during a reasonable period before and after childbirth; special measures of protection and assistance for all children and young persons); article 11 (the right of everyone to an adequate standard of living, including adequate food, clothing and housing); article 12 (the right to enjoy the highest attainable standard of physical and mental health); article 13 (the right to education); and article 15 (the right of everyone, inter alia, to take part in cultural life). Furthermore, States parties have an obligation to guarantee that all ESCR are exercised “without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (art. 2 (2)) and must be applied equally to men and women (art. 3). It is in the context of this provision that in chapter III below, the Special Representative focuses on defenders who are at particular risk, namely those who defend the rights of indigenous people and minorities; lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and women human rights defenders.

3. Economic, social and cultural rights in other relevant international human rights instruments

18. The economic, social and cultural rights mentioned above are elaborated upon and protected by a number of conventions and declarations in addition to ICESCR. The following is not an exhaustive overview of these and the rights protected in them, but an outline of some of the most important ones.

19. The Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in Vienna on 25 June 1993, which the community of States reaffirmed, inter alia, that “(a)ll human rights are universal, indivisible and interdependent and interrelated”.

20. The United Nations Millennium Declaration adopted by the heads of State and Government on 8 September 2000 includes commitments in relation to peace, security and disarmament; development and poverty eradication; protecting our common environment; human rights, democracy and good governance; protecting the vulnerable; meeting the special needs of Africa; and strengthening the United Nations.

21. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is a relevant instrument in relation to labour rights and trade union activities of migrant workers and those working to promote and protect their rights.

22. The Convention on the Elimination of All Forms of Discrimination against Women guarantees protection against all forms of discrimination against women, also in the field of economic, social and cultural rights.

23. The Convention on the Rights of the Child elaborates on the rights of children and defines these rights in the context of their survival, development, protection and participation.

24. The Declaration of Commitment on HIV/AIDS (2001) is an important document in relation to defenders’ work on this aspect of the right to health. Of particular importance in this regard is its article 33 which acknowledges the “particular role and significant contribution of people living with HIV/AIDS, young people and civil society actors in addressing the problem of HIV/AIDS in all its aspects [...]”.

25. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), and United Nations Declaration on the Rights of Indigenous Peoples adopted by the Human Rights Council in its resolution 1/2 on 29 June 2006 are both important instruments in relation to the protection of ESCR of indigenous peoples and minorities.

26. The Declaration on the Right to Development (1986) states that “the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized” (art. 1).

4. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights

27. In the preamble to the Declaration on Human Rights Defenders, the General Assembly reaffirms the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights “as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms [...]”. The legitimacy of activities for the promotion of ESCR is reflected, two paragraphs later, in the acknowledgement of the “valuable work of individuals, groups and associations” in the elimination of violations

including those resulting from “apartheid, all forms of racial discrimination, [...] and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources”. The reiteration “that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms” has further strengthened the concept that regardless of the immediate objectives in the minds of defenders their activities have an accumulative impact on all human rights. The Declaration on Human Rights Defenders refers to “all human rights and fundamental freedoms” throughout the text. The protection accorded to defenders by the Declaration on Human Rights Defenders is, therefore, not in any way dependent on whether the focus of the work of the defender(s) in question is on civil and political rights or ESCR.

28. The Declaration on Human Rights Defenders entrusts States with the prime responsibility to adopt such steps to create political as well as social and economic conditions as may be necessary for the enjoyment of “rights and freedoms in practice” (art. 2). Article 8 provides for the right to draw attention to any aspect of the work of governmental bodies “that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms” and confides to civil society a responsibility for promoting the right of everyone to “a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized” (art. 18). State policies that undermine social rights and result in social conflict, or those that deprive the population of their economic rights, are a contravention of the obligation to create the social and economic conditions referred to in article 2. Activities of defenders to draw attention to the failure of the State in this respect are within the scope of protection provided by the Declaration on Human Rights Defenders.

29. Social action for the realization of rights is increasingly manifested through collective and public action. As described later in the report, this form of protest or resistance to violations has become most vulnerable to obstruction and repression. Collective action is protected by article 12 of the Declaration on Human Rights Defenders, which recognizes the right to participate, individually or in association with others, in “peaceful activities against violations of human rights and fundamental freedoms” and entitles those “reacting against or opposing” actions that affect the enjoyment of human rights to effective protection under national law. Read together with article 5, recalling the right to freedom of assembly, and article 6 providing for freedom of information and its dissemination, peaceful collective action is a legitimate means of drawing public attention to matters concerning human rights.

30. This form of public action, when taken in connection with ESCR, is also a means of promoting awareness of these rights. Article 14.1 of the Declaration on Human Rights stresses the responsibility of the State to take all “appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights” (art. 14.1). The State is, therefore, obliged to encourage initiatives taken by all interested actors to promote this understanding through means recognized in the Declaration on Human Rights Defenders.

5. Relevant general comments of the Committee on Economic, Social and Cultural Rights

31. In its general comments, the Committee on Economic, Social and Cultural Rights (CESCR) has elaborated on the precise nature of States parties' obligations under the Covenant. For instance, the first two paragraphs of general comment No. 3 (1990) make it clear that while States' obligations are recognized as being subject to available resources, article 2.1 imposes immediate obligations, which include undertaking to guarantee ESCR without discrimination of any kind and to take positive steps towards the realization of all ESCR.

32. Similarly, general comment No. 9 (1998) on "The domestic application of the Covenant" recognizes in its first paragraph that the Covenant adopts a broad and flexible approach in the fulfilment of States' obligations which enables the particularities of the legal and administrative systems of each State, as well as other relevant considerations to be taken into account. The CESCR, however, emphasizes in the following paragraph that "this flexibility coexists with the obligation upon each State party to use all the means at its disposal to give effect to the rights recognized in the Covenant".

33. In light of these general comments, defenders who work for the implementation of ESCR should be seen as a force in inducing States parties to take positive steps towards ratifying and implementing the Covenant and the rights it recognizes.

34. Additionally, general comment No. 3 (1990) on "The nature of States parties' obligations" emphasizes in the concluding paragraph that "international cooperation for development and thus for the realization of economic, social and cultural rights is an obligation of all States". This relates both to the work of defenders in "developed countries" as well as those working in "developing" countries. Both use their advocacy to insist on modes of cooperation that assure availability of resources and their proper utilization for development that is conducive to realizing the ESCR.

35. The CESCR, in general comment No. 10 (1998) on "The role of national human rights institutions in the protection of economic, social and cultural rights", notes, in paragraph 3, that "it is essential that full attention be given to economic, social and cultural rights in all of the relevant activities of these institutions". The Committee goes on to suggest a list of activities that can be undertaken, such as: "(c) providing technical advice, or undertaking surveys in relation to economic, social and cultural rights, including at the request of the public authorities or other appropriate agencies" and "(f) monitoring compliance with specific rights recognized under the Covenant and providing reports thereon to the public authorities and civil society [...]".

B. Human rights defenders and their work on economic, social and cultural rights

36. The Special Representative, since the establishment of the mandate, has sent at least 368 communications to Governments concerning defenders promoting ESCR. Defenders and their families have been threatened verbally, in writing and through the use of symbolic acts, such as deliveries of funeral wreaths to their families. Defenders have been attacked in demonstrations, meetings, and other kinds of assemblies. Both defenders and members of their

families have been physically attacked, kidnapped, tortured and even killed. These violations have allegedly been perpetrated both by the State or its agencies, and non-State entities.

37. The following seven subsections deal with the activities of defenders within specific areas of ESCR. In each section, the activities of defenders within this specific area is analysed through cases of violations against the rights of defenders in this area. These cases are based on communications sent to Governments by the Special Representative since the establishment of the mandate, and the geographical focus of violations is identified only with reference to these communications. The next section provides a general overview of the challenges faced by defenders working across the spectrum of ESCR and the violations of the rights recognized by the Declaration on Human Rights Defenders.

1. Land rights, natural resources and environmental issues

38. On the issue of land rights and national resources, article 1 (2) of ICESCR stipulates that “All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.” This comes in addition to the previously mentioned article 17 of the UDHR on the right to property. Section IV of the Millennium Declaration is devoted to “Protecting our common environment” and the Member States reaffirm their “support for the principles of sustainable development [...]” and resolve to “adopt in all our environmental actions a new ethic of conservation and stewardship [...]”.

39. Since the establishment of the mandate, the Special Representative has sent 81 communications dealing with violations of the rights of defenders working on issues of land rights, natural resources such as oil, gas, forests and water, environmental issues such as pollution and waste-dumping and related issues.

40. Defenders working on land rights, natural resources or environmental issues seem to be particularly vulnerable to attacks and violations of their rights under the Declaration on Human Rights Defenders in countries of Latin America and in parts of Asia. The Special Representative has sent a high number of communications to the Governments of Brazil (12 cases) and Guatemala (9 cases). Forty-five communications were sent to Governments in South America and 23 cases were sent to Governments in Asia.

41. Land rights and natural resources is an area where a large part of the defenders come from indigenous populations and minority groups. These populations are often working to secure their right to utilize and live on the land they consider to be theirs. The Special Representative provides more information on the challenges they face in chapter III, section A, below, dealing with indigenous peoples and minority groups.

42. Women as a group are particularly vulnerable concerning issues of land rights and, in particular, inheritance rights. Defenders are working against discriminatory inheritance laws and customary practices that deprive women of their equal rights to own, inherit and control property, including land and housing. The Special Representative provides more information on the challenges they face in chapter III, section C, below, on women human rights defenders.

43. The Special Representative has acted on cases of violence and threats against journalists who have been highlighting the issue of land rights and natural resources in their work. In November 2006, the Special Representative sent a communication to the Government of Russia concerning the alleged attack on a journalist active in covering the issue of land rights in the context of the seizure of farmland. The journalist was allegedly attacked while attending a meeting on this issue.

44. The work of environmental activists is often carried out in close connection with issues of land rights and natural resources. Additionally it has close links, *inter alia*, to the rights to health, food and water. This issue has been addressed through several communications and in many of the reports of the Special Representative in relation to her official country visits. Following her visit to Kyrgyzstan in 2001, the Special Representative expressed concern at the plight of defenders who had denounced the dumping of nuclear waste and its impact on the environment (see E/CN.4/2002/106/Add.1).

45. According to the statistics of communications sent by the Special Representative, the second most vulnerable group when it comes to the danger of being killed because of their activities in the defence of human rights, are defenders working on land rights and natural resources. The Special Representative has sent communications on at least 35 defenders who have been allegedly killed for this reason since the establishment of the mandate. In the Philippines alone, more than 14 defenders working on issues of land rights and agrarian reform have reportedly been killed during 2006.

46. Defenders working on land rights often organize themselves in the form of social movements. These are usually broad grassroots-based movements with a more horizontal organizational structure than for instance most NGOs. These movements and the defenders who are actively involved in those movements have faced several specific challenges. Two that should be mentioned include accusations of not being properly registered and therefore deemed illegal, whereas the reason behind the non-registration often is that the movements do not have the organizational structures that are needed to enable registration with the authorities, such as a permanent headquarters or a secretariat. Another challenge continues to be that defenders engaged in social movements are accused of “forming criminal gangs” and the like.

47. In October 2006, the Special Representative sent a communication to the Government of Brazil concerning a case where a defender working with the Landless Workers’ Movement (MST) was arrested and allegedly accused of “forming a criminal gang” and “inciting crime”. Concerns were expressed that the defender had been arrested and detained because of his activities in defence of workers’ ESCR. In March 2005, the Special Representative sent a communication, to the same Government, regarding a defender who had been killed, allegedly as a direct result of her work on defending the rights of rural workers and on land reforms in Brazil.

2. Labour rights, including trade union activities

48. Article 6 of ICESCR provides that States parties “recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right”. The Covenant further deals with the right of everyone to “the enjoyment of just and favourable conditions of

work [...]” (art. 7) and the right of everyone to “form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests [...]” (art. 8).

49. The question of labour rights is the most prevalent issue when it comes to alleged violations against defenders working on ESCR (115 cases). The alleged violations are very serious and include summary executions, torture, violent repressions and death threats.

50. Repression of defenders working on labour rights, especially to those working on this issue through trade unions, is prevalent in a large number of countries. During each of her official country visits, the Special Representative has met with trade union activists who have reported violations of the rights recognized by the Declaration on Human Rights Defenders. However, with respect to cases reported to the Special Representative, it is in Latin America that most threats to the physical integrity of trade union activists have been reported.

51. Defenders working on labour rights remain the most vulnerable group and 190 communications have been sent concerning defenders who have been killed because of their work in this field. Over a period of 10 months from January through October 2001, the Special Representative has received reports of 112 trade union activists assassinated in Colombia alone. She was also informed of 11 cases of assassinations in the Philippines in 2006. These figures do not include unsuccessful assassination attempts or death threats.

52. The majority of the defenders who work on labour rights do so within the framework of trade union work. Many Governments are not willing to view trade union activists as defenders of the right to work and all the rights connected to it, such as the right to form trade unions and the right to strike. In the majority of the cases where the Special Representative has sent communications to Governments on attacks or threats against trade union members, the authorities are alleged to have been behind these threats and attacks. After her visit to Nigeria in 2005, the Special Representative reported that raids by security forces against unions appeared to be a common practice (see E/CN.4/2006/95/Add.2).

53. The Special Representative has addressed cases where journalists are working to promote the rights of workers through investigative journalism. One example is the case of a correspondent for the newspaper *La Tribune* in Lumumbashi, Democratic Republic of the Congo, who reportedly published an article on 5 June 2003 on the poor working conditions of miners in Likasi. Subsequently, the journalist was sentenced to five years in prison for “criminal defamation”.

3. Marriage, mothers and children

54. Article 10 of the ICESCR is primarily concerned with protecting children and affords the widest possible protection and assistance to the family particularly while it is responsible for the care and education of independent children. It also provides protection to children and young persons from economic and social exploitation. Children’s rights are most comprehensively set forth in the Convention on the Rights of the Child (CRC), which enjoys almost universal ratification.

55. Although article 10 of ICESCR refers only to women in a limited context as either wife, mother or child, it nevertheless offers important protection by saying marriage must be entered into with free consent of intending spouses and providing special protection to mothers during a reasonable period before and after childbirth. The Special Representative has acted on cases concerning defenders raising issues related to article 10, such as the trafficking of women and forced marriages, as well as forced abortion and/or forced sterilization of women.

56. Women's right to non-discrimination is most comprehensively set forth in the Convention on the Elimination of All Forms of Discrimination against Women, which enjoys near universal ratification (185 countries), although a number of States have entered extensive reservations to articles 2 and 16 on cultural or religious grounds. Cultural relativism still presents a formidable challenge for defenders fighting for women's rights to equality and a dignified life where violence is not tolerated.

57. The Special Representative has sent 36 communications to Governments, since the establishment of the mandate concerning defenders raising issues besides those already mentioned above, such as child labour, sexual exploitation of children, children in prison and human rights education for children.

58. The majority of those communications were addressed to countries in Asia (12) and in the Middle East (10).

59. In May 2004, the Special Representative sent a communication to the Government of Peru concerning a case in November 2003 when almost 150 street children of Lima, along with some adults accompanying them, were allegedly victims of excessive force on the part of the police during the repression of a demonstration organized by associations committed to the cause of street children. In February 2005, a communication was sent to the Government of Nepal concerning the arrest of a defender combating child labour and trafficking.

60. Since September 2005, the Special Representative has sent six joint communications to the Government of China concerning a blind human rights lawyer and his wife who investigated villagers' claims that the city authorities were employing extensive violence in implementing government birth quotas, such as forced sterilizations and/or abortions. The lawyer has been recently sentenced to over four years' imprisonment for "gathering crowds to disrupt traffic" and "intentional destruction of property" and his wife faces similar charges. Their lawyers have also suffered numerous and serious human rights violations.

4. Housing rights and forced evictions

61. The right to adequate housing has received wide recognition as a fundamental human right. In article 11 of ICESCR, States parties recognize the "right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions". In its general comment No. 4 (1991) on "The right to adequate housing", CESCR has concluded that forced evictions are *prima facie* incompatible with the requirements of the Covenant and, in its general comment No. 7 (1997) dealing more specifically with forced evictions, the Committee has sought to define what amounts to an unlawful eviction.

62. Since the establishment of the mandate, the Special Representative has sent 24 cases concerning defenders working on housing rights.

63. The Special Representative has received information from all regions including Cambodia, China, India, the Philippines and South Korea; Angola, Sudan and Zimbabwe; Argentina, Ecuador and Guatemala; Israel; Turkey and Croatia.

64. Defenders working on the right to adequate housing also advocate for non-discrimination against minorities in securing housing. They campaign against illegal or forced evictions in relation to projects such as dam building, the construction of highways and railway lines, gas pipelines and different kinds of “urban development” projects, including “city beautification” or the preparations for the Olympic Games. They also work against collective punishment by forced evictions and the rights of internally displaced persons. After her visit to Thailand in 2003, the Special Representative expressed concern over violence and other acts allegedly committed against defenders protesting against a gas pipeline project and a dam (E/CN.4/2004/94/Add.1). In June 2006, the Special Representative issued a joint statement with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context expressing concern regarding the action of the Government of Cambodia to prevent access to human rights defenders to monitor the forced eviction of over a thousand Bassac residents in Phnom Penh.

65. The Special Representative has acted on at least 12 cases where defenders have been killed because of their work on housing rights.

66. In her mission report on her visit to Israel and the Occupied Palestinian Territory, the Special Representative refers to individual defenders and groups who campaign against house demolitions (see E/CN.4/2006/95/Add.3, para. 13). The Special Representative reiterated her concerns regarding the killing of Rachel Corrie who was run over by an Israeli army bulldozer in Rafah refugee camp while attempting to stop the levelling of houses on 16 March 2003. The situation of human rights defenders engaged with the right to housing is also reflected in her mission report to Angola (E/CN.4/2005/101/Add.2).

5. The right to food and water

67. The right to food is also a component of article 11 of ICESCR.¹ Similarly, the right to water is clearly included in this category, since it is “one of the most fundamental conditions for

¹ According to paragraph 2 of article 11, the States parties, recognizing the “fundamental right to everyone to be free from hunger”, “shall take, individually and through international cooperation, the measures, including specific programmes, which are needed: (a) to improve methods of production, conservation and distribution of food [...] and (b) taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need”.

survival”² as it is also inextricably related to the right to health (art. 12.1) and to the right to life contained in the ICCPR. CESCR provides the most detailed account of the right to water in international law in general comment No. 15.

68. Since the establishment of the mandate, the Special Representative has sent five communications concerning defenders working on the right to food or the right to water. One communication was sent to the Government of China in September 2005 concerning the arrest of a defender working to provide food and shelter to starving North Korean refugees. Another communication was sent to the Government of Colombia concerning the killing of an Embera indigenous leader who had been working to secure the right to land, food and health for indigenous communities.

6. The right to health

69. Article 12 of ICESCR stipulates the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health” which is “closely related to and dependent upon the realization of other human rights, as contained in the International Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement”.³

70. Since the establishment of the mandate, the Special Representative has sent 36 communications on defenders working on the right to health. Some of these communications are also included in some of the other sections, in particular the section on the family and labour rights (see paragraphs 48-60 above).

71. Communications concerning defenders working on the right to health have been sent to countries of all regions. Ten communications were transmitted to the Government of Israel and concerned cases where personnel from the Palestinian Red Crescent Society or other Palestinian or international organizations working to promote and protect civilians right to health in the Occupied Palestinian Territory have been attacked or threatened.

72. In this context, the Special Representative recalls a case transmitted to the Government of Israel in 2003, concerning a report from 2002 indicating that the head of the Palestinian Red Crescent Society emergency medical service in the city of Jenin had been killed in an attack on his ambulance while he was attempting to rescue a 9-year-old girl.

73. Many defenders who promote the right to health are working on issues connected to combating HIV/AIDS. The Special Representative is aware of the fact that such defenders are faced with challenges in terms of having their work recognized as human rights work in addition to the stigma attached to this health issue.

² General comment No. 15 (2002), on “The Right to Water (articles 11 and 12 of the Covenant).”

³ General comment No. 14 (2000), para. 3.

74. In July 2004, the Special Representative wrote to the Government of China concerning husband and wife defenders, who were both HIV-positive and wanted to protest about the inadequate health care and services for those infected with HIV/AIDS in Shangqiu city. They were allegedly arrested whilst trying to petition the National Health Department about this issue. In August 2004 a communication was sent to the Government of Nepal concerning members of the Blue Diamond Society, an NGO that provides outreach work for LGBTI persons and campaigns to combat HIV/AIDS. A private writ had been filed to close down the organization on the grounds that it “promoted homosexuality” and 39 members were arrested on the street without charge and held without food or water for 15 hours. Three members were alleged to have been beaten and raped by the police. In December 2005, a communication was sent to the Government of Jamaica, concerning Lenford “Steve” Harvey who was killed allegedly because of his activities in the defence of the rights of marginalized people in Jamaican society, including persons living with HIV/AIDS. In August 2006, a communication was sent to the Government of Myanmar concerning 11 members of Friends with Red Ribbon who were alleged to have been detained on the grounds that they had failed to report that they would be staying in a monastery overnight and planning an event to commemorate those having died of HIV/AIDS.

7. The right to education

75. States parties recognize “the right of everyone to education” in articles 13 and 14 of ICESCR.

76. The Special Representative has sent communications on 12 cases of defenders working to promote and protect the right to education. Many of the defenders working to promote and protect labour rights are also active in teachers’ unions and unions for university employees.

77. In June 2004, the Special Representative sent a communication to the Government of Iran concerning a defender who had been arrested, allegedly because of his work on educational projects for children from the Arab minority in Khuzestan.

C. General summary of violations of the rights of defenders active in the field of economic, social and cultural rights and challenges they face

78. According to the information received by the Special Representative, defenders working in all of the fields mentioned in the section above, face violations of their rights by the State and/or face violence and threats from non-State actors because of their work. Violations of their rights seem to take all the forms that violations of the rights of defenders working in the field of civil and political rights take. There are some differences though, perhaps the most important being that defenders working in the field of ESCR often have a harder time having their work accepted as human rights work. This might have several effects, including difficulties attracting funding, a lack of coverage from the media to violations of these defenders’ rights, and a lack of attention paid to these violations and a hesitation in seeking remedial measures at the domestic or international level.

79. Even when they do not experience active repression, defenders working on ESCR often report that they receive no response from the authorities to concerns they express regarding these rights. Again this is often a consequence of the above-mentioned misconception that defenders working in the field of ESCR are not “real” human rights defenders.

80. Often the national legal framework is weak in terms of regulating ESCR. The Special Representative noted after her visit to Nigeria in 2005 that land laws, especially tended to protect the interests of the oil and gas companies over community interests (E/CN.4/2006/95/Add.2, para. 77). This is one of the factors that can lead to defenders working in any field of ESCR, being seen as challenging the economic or social policies adopted by States as a model for development, rather than being seen as defenders aiming for the implementation of international commitments and internationally recognized human rights.

81. Furthermore, the Special Representative has been informed that there is often a lack of redress mechanisms available to defenders and communities to ensure the effective protection and justiciability of their ESCR. This makes the work they do to promote and protect these rights even more valuable and important.

82. As described in some of the above subsections, defenders have been the victims of different sorts of attacks and threats from State authorities and non-State groups. Since the establishment of the mandate, the Special Representative has acted on cases of at least 241 defenders working for ESCR who have been killed. Most of these incidents have taken place in countries of Latin America, notably in Brazil, Colombia, and Mexico. In the report after her visit to Guatemala in 2002, the Special Representative noted that it was alleged that members of private security firms, with the participation or acquiescence of the National Civilian Police (PNC), were responsible for some of the killings of defenders active in the work to promote and protect land rights and labour rights (E/CN.4/2003/104/Add.2, para. 43). Also in her report on her visit to Thailand, the Special Representative expressed deep concern over numerous cases of alleged or attempted murder of defenders representing hill tribes and labour rights movements (see E/CN.4/2004/94/Add.1).

83. In several communications and in her reports after official country visits, the Special Representative has expressed concern over alleged collusion between local or national authorities and the private sector, which have led to violations against defenders working on ESCR. In her mission report on Thailand, the Special Representative expressed concern over such collusion in attacks and threats against defenders addressing environmental issues, labour rights and land rights (E/CN.4/2004/94/Add.1). Also, in her report on Guatemala, the Special Representative reported that defenders had told her that there were indications that clandestine groups were involved in attacks against defenders. It was alleged that these groups were linked to the security forces, in particular military intelligence (E/CN.4/2003/104/Add.2, para. 85).

84. The Special Representative would like to refer to her report to the sixtieth session of the General Assembly, which dealt with the right to freedom of association in relation to the activities of human rights defenders (A/60/339 and Corr.1), and to her report to the sixty-first session of the General Assembly, which dealt with the issue of freedom of assembly in relation to the work of defenders (A/61/312), and she would like to emphasize that the conclusions and recommendations contained therein, as well as in all her other reports, should be considered as equally applicable to all human rights defenders, including those working to promote and protect ESCR.

III. DEFENDERS AT PARTICULAR RISK

A. Defending the rights of indigenous peoples and minorities

85. On 29 June 2006, the Human Rights Council in its resolution 1/2 adopted and recommended to the General Assembly for adoption the text of the United Nations Declaration on the Rights of Indigenous Peoples, which welcomes the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement. The preamble also acknowledges that “the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm the fundamental importance of the right to self-determination of all peoples”, while article 3 specifically provides that “Indigenous people have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” Furthermore, the preamble of the Declaration on Human Rights Defenders stresses that human rights and fundamental freedoms apply to all “without distinction of any kind” and acknowledges mass, flagrant or systematic violations such as those resulting, inter alia, from colonialism, foreign domination or occupation and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise sovereignty over its wealth and natural resources.”⁴

86. Since the establishment of the mandate, the Special Representative has sent 80 communications on defenders working to promote and protect the rights of indigenous peoples and minorities. Several of these communications have been sent jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. Included in this section are defenders from indigenous peoples and minorities who are active in all fields of ESCR. Following from this, their cases are also included in other subsections above. The majority of these kinds of cases are concerned with indigenous peoples involved in struggles over land rights and rights to use and to free disposal of their natural wealth and resources. This trend is also supported by the findings of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people.

87. The majority of such cases are reported from countries in Latin America (39 cases). The region with the second largest number of defenders from this group is Asia (19 cases).

⁴ Other relevant instruments are the Vienna Declaration and Programme of Action (in particular Part I, para. 19 (minorities) and para. 20 and Part II, paras. 28 to 32 (indigenous)). Article 19 reaffirms, inter alia, the “obligation of States to ensure that persons belonging to minorities may exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law in accordance with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”. Article 20 further recognizes the “inherent dignity and the unique contribution of indigenous people to the development and plurality of society and strongly reaffirms the commitment of the international community to their economic, social and cultural well-being and their enjoyment of the fruits of sustainable development. States should ensure the full and free participation of indigenous people in all aspects of society, in particular in matters of concern to them. [...]” (art. 20).

88. Since May 2004 the Special Representative has sent several communications to the Government of Chile concerning the matriarchal leader of a Mapuche community in the municipality of Cunco de la IX Region. Both the defender and members of her family, including her mother and grandmother in the past, have been victims of physical attacks because of her work to defend the human rights of her community and for protesting against illegal logging. In June 2004 her house was completely destroyed by a fire. The body of her uncle, who was the leader of a neighbouring community, was later found in the burnt-down house, where it was thought the body had been placed after he had been killed in another location. No investigation has been carried out, even after the events were reported to the national police and the Regional Prosecutor. In May 2004, the same defender, who was pregnant, was allegedly beaten by policemen causing her to miscarry. In August and October 2006, communications were sent concerning the arrest of her son who has been charged under “anti-terrorism” legislation. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples has referred to Chile as one of the three countries where the most violations against defenders of human rights of indigenous people are taking place, in addition to Colombia and the Philippines.

89. In June 2006, the Special Representative sent a communication to the Government of China concerning the arrests and ill-treatment of the sons of a prominent defender working on the rights of the minority Uighur community in the north-west region of Xinjiang. In December 2006 the Special Representative sent a communication to the Government of China concerning a Tibetan teacher and author of an unpublished manuscript entitled “The Restless Himalayas”, which discusses political and social issues such as sovereignty, religion, history and geography and who was planning a project addressing women’s rights in Tibet. He was reportedly sentenced in September 2005 to 10 years’ imprisonment for “endangering State security” and his sentence was upheld on appeal.

90. In cases of violations of the rights of indigenous defenders, it is sometimes alleged that private companies or landholders are responsible for attacks or threats against the defender(s).

91. Defenders from indigenous groups, in particular in some countries in Latin America and Asia, are vulnerable to serious attacks and killings. In the large majority of the cases where defenders from indigenous or minority groups have been killed, no investigation has been carried out by the authorities.

92. In February 2005, the Special Representative transmitted a communication to the Government of Honduras concerning members of the Indigenous Council of the Olominas Community who were attacked by armed men. One defender was killed and death threats were later made to the surviving defenders and thereby witnesses to the killing.

B. Defending the rights of lesbian, gay, bisexual, transgender and intersex persons

93. Both ICESCR (art. 2 (2)) and ICCPR (art. 2 (1)) contain non-discrimination clauses, and article 7 of the Declaration on Human Rights Defenders specifically provides that “everyone has the right, individually and in association with others to develop and discuss new human rights ideas and principles and to advocate their acceptance”. The 1993 Vienna Declaration and Programme of Action confirmed that “(a)ll human rights are universal, indivisible and

interdependent and interrelated. [...] While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms” and thus, to ensure that the protection of international human rights norms is universally applied.

94. Since the establishment of the mandate, the Special Representative has acted on 36 cases of alleged attacks and threats against defenders of LGBTI rights in all regions.

95. Communications have been sent to Belarus, the Holy See, Latvia, Moldova, Poland, Russia, Turkey, Nigeria, Uganda, India, Nepal, Argentina, Chile, Ecuador, Honduras, Jamaica and Iran. Defenders have been threatened, had their houses and offices raided, they have been attacked, tortured, sexually abused, tormented by regular death threats and even killed. A major concern in this regard is an almost complete lack of seriousness with which such cases are treated by the concerned authorities.

96. In numerous cases from all regions, police or government officials are the alleged perpetrators of violence and threats against defenders of LGBTI rights. In several of these cases, the authorities have prohibited demonstrations, conferences and meetings, denied registration of organizations working for LGBTI rights and police officers have, allegedly, beaten up or even sexually abused these defenders of LGBTI rights. The authorities have generally attempted to justify action against these defenders by arguing that “the public” does not want these demonstrations to take place, or these organizations to be registered, or that “the people” do not want LGBTI people in their community. The Special Representative recalls articles 2 and 12 of the Declaration on Human Rights Defenders to remind States of their responsibility for protecting defenders against violence and threats. States are also responsible for, inter alia, ensuring that all programmes for training of law enforcement officers and public officials include appropriate elements of human rights teaching (art. 15).

97. In December 2004, the Special Representative communicated her concerns to the Government of Jamaica regarding published comments of the Police Federation’s Public Relations officer condemning the role of “so-called” human rights organizations and dismissing concerns regarding violence against LGBTI defenders, stating that “the Government and police cannot be held responsible for ... the cultural responses of the population ...”.⁵ In January 2006, the Special Representative sent her concerns to the Government of Nigeria concerning a draft bill which would, if approved, introduce criminal penalties for public advocacy or associations supporting LGBTI rights. In June 2006, a communication was sent to the Government of Poland concerning the Director of the National In-Service Training Centre who was dismissed by the Minister for Education, allegedly for his involvement in the publication and dissemination of a Council of Europe manual on human rights education for young people, which included issues in relation to sexual orientation.

⁵ This was allegedly in response to Human Rights Watch’s publication “Hated to death: Homophobia, Violence and Jamaica’s HIV/AIDS epidemic” (16 November 2004).

C. Women human rights defenders

98. Legal basis: In article 7 of the Convention on the Elimination of All Forms of Discrimination against Women, States agreed to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, to ensure to women, on equal terms with men, the right: ... (c) to participate in NGOs and associations concerned with the public and political life of the country.

99. The Special Representative has consistently reiterated that women defenders are more at risk of certain forms of violence and restrictions and become vulnerable to prejudice, exclusion and public repudiation by State forces and social actors especially when engaged in the defence of women's rights (see E/CN.4/2002/106, paras. 80-94).⁶ In 2002 the Special Representative spearheaded a three-year international campaign culminating in the World Conference on Women Human Rights Defenders, held in Sri Lanka, which brought together leading gender experts and women human rights defenders from over 70 countries in the world.⁷ In her report to the sixty-second session of the Commission, the Special Representative emphasized that there is no better protection for women human rights defenders than the strength and support of their own movements and recommended that additional protection measures are therefore needed to provide women's rights defenders with a secure environment for their work (E/CN.4/2006/95, para. 10). In her 2006 report to the General Assembly, she reiterated that those defending LGBTI rights and women defenders face particular challenges (A/61/312, paras. 71-73).

100. Since the establishment of the mandate, the Special Representative has acted on 449 cases of violations of women human rights defenders concerning 1,314 defenders. Sixty-five of these communications have been sent jointly with the Special Rapporteur on violence against women.

101. The Special Representative has acted on alleged attacks and threats against women human rights defenders in all regions. More than four communications each have been sent to the Democratic Republic of the Congo, Ethiopia, the Sudan and Zimbabwe; Argentina, Brazil, Chile, Colombia, Ecuador, Guatemala, Haiti, Honduras, Mexico, Peru and Venezuela; Azerbaijan, Belarus, the Russian Federation, Turkey, Turkmenistan and Uzbekistan; Cambodia, China, India, Indonesia, Malaysia, Maldives, Nepal, Pakistan and the Philippines; Iran, Israel and Tunisia.

102. Killings of women human rights defenders: The Special Representative has sent communications on 43 cases where women human rights defenders have been killed. In

⁶ The report focuses on women human rights defenders and the specific violations they face in the course of their work because of their sex and gender.

⁷ Held in Colombo, Sri Lanka from 29 November to 2 December 2005. The conference focused on identifying and developing new strategies for protecting women defenders against a range of sources and types of abuse by States, non-State actors, families and communities, and sexual and sexuality-based attacks. The website www.defendingwomen-defendingrights.org continues to be a resource tool for women's rights defenders.

July 2006, the Special Representative wrote to the Government of the Philippines concerning the killing of Annaliza Abanador-Gandia, a pro-democracy activist and leader of a women's rights organization who had been followed by two unidentified men and shot dead. In October 2006, the Special Representative wrote to the Government of Iraq concerning the alleged shooting by 10 men of Faliha Ahmed Jabori, head of the women's rights organization, Maternity and Childhood, and to the Government of Russia concerning the murder of Anna Politkovskaia, a prominent human rights defender and journalist.

103. In numerous cases from all regions, police, military or government officials are the alleged perpetrators of violence, including sexual violence and death threats against women human rights defenders. In February 2006, a joint communication was sent to the Government of China concerning a housing rights activist and cyber dissident who was arrested by police. In March and April 2006, joint communications were sent to the Government of the Sudan concerning two cases where a humanitarian organization assisting women who have suffered gender-based sexual violence as a result of the conflict in Darfur and an organization offering legal aid to women were obstructed by the Humanitarian Aid Commission, a government agency. In the first instance the organization was ordered to hand over all its assets and close its health and nutrition centres and its food distribution unit. In the second case, the organization's assets were declared frozen because they had applied for funding from the European Union. In April 2006, a joint communication was sent to the Government of Zimbabwe concerning a 65-year-old human rights defender and former Chairwoman of the Porta Farm Residents' Committee, who spoke out against forced evictions that took place in 2004 and 2005. She received death threats and was allegedly threatened with expulsion from the community if she continued to interact with human rights groups.

104. In her report on her visit to Brazil (A/HRC.4/37/Add. 2), the Special Representative has reported on the plight of widows of rural workers who are now leading a movement. She was deeply distressed at the allegation that elements opposing their work had resorted to labelling them as prostitutes in an attempt to undermine their social credibility in communities where they live and work.

IV. CONCLUSIONS AND RECOMMENDATIONS

105. The progressive achievement of economic, social and cultural rights (ESCR) or the obligation of the State being dependent on the availability of resources should not be misunderstood as allowing States to adopt policies that violate these rights or negate the probability of their realization. The Special Representative recommends appropriate guarantees in national constitutions that give full legitimacy and recognition to activities for the promotion and protection of these rights.

106. Where ESCR are expressed as principles of State policy in the national constitution and not as fundamental rights, States must ensure that these principles are not deviated from and that civil society actors have the full opportunity to participate in discussions of social or economic policies or projects. In particular they must have the opportunity to monitor the effects of such policies and projects, to register their objections and to receive responses from the State with regard to any action that undermines the right to strive for attaining these rights.

107. **Judiciaries must, in particular, be vigilant and consistent in upholding the right to peaceful action for attaining social and economic rights. This becomes extremely important considering the mounting pressure on defenders of judicial prosecution for carrying out activities protected by the Declaration on Human Rights Defenders.**
108. **In line with the preamble of the Declaration on Human Rights Defenders, where it is stressed that “the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State”, the Special Representative urges States to adopt appropriate measures to disseminate and to ensure full observance of the Declaration on Human Rights Defenders by all State authorities in order to make sure that all defenders come under the protection of the Declaration on Human Rights Defenders, including those working in the area of ESCR.**
109. **The Special Representative recommends that States show increased tolerance for criticism and see human rights defenders working in the field of ESCR as a resource and make use of the often specialized knowledge of defenders in order to achieve the realization of all ESCR.**
110. **In relation to the above, the Special Representative urges Governments to improve access to information for human rights defenders, as well as access to authorities, also at the local level, and to public meetings in order to express their concerns and recommendations and to participate in assessing the impact of State policies on the realization of ESCR and the actions of private actors in the field of ESCR.**
111. **The Special Representative suggests that the Committee on Economic, Social and Cultural Rights, as well as Governments, as a part of their support for the work of defenders, encourage defenders and defenders’ organizations to submit shadow-reports to the Committee on the implementation of the International Covenant on Economic, Social and Cultural Rights.**
112. **The Special Representative encourages Governments to combat impunity for attacks and threats against human rights defenders working in the area of ESCR, as well as in all other areas, in accordance with article 9 of the Declaration on Human Rights Defenders.**
113. **The Special Representative reminds Governments of their commitments through the Millennium Declaration. She urges them to facilitate human rights defenders’ activities that contribute towards achieving the goals of the Millennium Declaration.**
