

Attacks on Lawyers, Judges and Human Rights Defenders: The Urgent Need for Protective Measures

Background

The March 2010 report of Margaret Sekaggya, Special Rapporteur on the situation of human rights defenders identified the need for NGOs (and governments) to immediately work to provide both first-response protective measures (PM) to prevent irremediable harm, and long-term PM to ensure that attacks on human rights defenders are prevented and when they occur are promptly and properly investigated and the perpetrators tried and punished. The long term solutions are obviously ones that must ultimately be accomplished by states. However, effective PM in the short term can often be provided best by national or international NGOs. On the role of NGOs, Ms Sekaggya, “[e]ncourages national and international NGOs to:

- create and strengthen national, sub-regional and regional coalitions, and networks to enhance the protection of defenders and
- disseminate training tools on the protection of human rights defenders.” (para. 114 fllg)

General Discussion

Short-Term Measures

Discussion of some protective measures identified as in use by NGOs.

Discussion of NGO cooperation on the use of one or more PM.

- *Internal and international dislocation:* taking the threatened HRD out of the country for 3-6 months and up to 1 year when necessary. This is considered a last resource to be used in extreme cases such as death threats. Lawyers, judges and human rights defenders tend to regard this measure as tantamount to abandoning the cause and the community to which they are dedicated, and therefore as a defeat. Leaving family behind is also a problem.

- *Police protection:* can be valuable if the police can be trusted. Lawyers, judges and human rights defenders are often not willing to have police protection either because the police are considered untrustworthy or because police presence compromises or curtails their human rights advocacy. Two of the human rights defenders consulted were granted precautionary measures by the Inter-American Commission on Human Rights but refused to accept protection from the government. One said (s)he would feel like a criminal walking with police around, and that the only way (s)he can really feel safe is when the crimes are investigated and those responsible identified and punished. The other reported that accepting police protection might serve to provide police with information that could be used for more effective attacks. Both stated that PM should focus the attention of the international community and the offending government on the person under attack, thereby increasing the political costs of further attacks.

- *Emergency legal assistance:* in cases of detention and (threatened or actual) prosecution or disciplinary proceedings, jurists can provide legal briefs and submissions, assist defense counsel, provide money for the defense, meet with and lobby government officials to adhere to the applicable international laws and standards, monitor trials and hold watching briefs, communicate with state officials, meet and strategize with local bar associations.

- *Secure the work environment:* install security systems at offices, such as cameras, electronic gates, and alarms. Adopt digital security strategies to avoid government surveillance of e-mails and data (for digital security strategies see: <http://www.tacticaltech.org>)

- *International pressure against impunity:* send letters to governments calling for effective investigations of attacks and prosecutions of the perpetrators.

- *Urgent appeal system/campaigns for lawyers, judges and human rights defenders in danger:* develop a fast communication system that can distribute urgent appeals for help to the international community; information about attacks should be spread to several actors at the same time (national

and international NGOs and media, UN mechanisms and regional systems for the protection of human rights), asking for each actor to take the necessary action—according to capacities and competencies. Publicizing the attacks and campaigning for the lawyers, judges and HRDs in danger also increase the political costs of carrying out threats.

- *Embassy protection*: seek protection from friendly embassies, especially in the context of a civil war or internal conflict. Embassies can dialogue with local authorities and try to solve the issue diplomatically. They could also be asked to issue urgent visas to lawyers, judges and HRDs in great danger.

- *Provide physical and psychological help*: pay for medical care if lawyers, judges or human rights defenders were injured or ill-treated, provide psychological assistance if necessary.

Long-Term Measures

- *National protection mechanisms*: use witness and HRDs national protection programs if they are reliable, and collaborate as much with NGOs, HRDs and state officials to improve them.

- *Networking*: build a strong network of NGOs at the international and national levels to act collectively in response to attacks and address the needs of lawyers, judges and HRDs.

- *International monitoring*: International NGOs should not stop at sending one letter, but should keep the pressure on government and track the situation until the problem is solved.

- *Reporting*: produce and distribute reports illuminating the human rights situation of the country and the specifics of attacks on lawyers, judges and HRDs in order to draw international attention and to create pressure for remedies.

- *End of impunity*: promote national and international campaigns to combat impunity, pressure governments to promote access to justice and repeal amnesty laws that perpetuate impunity; use national, regional and international legal systems to eradicate amnesty laws; pressure states to ensure effective investigations, prosecutions of suspects and punishment of perpetrators. In the face of impunity for violators, lawyers, judges and HRD cannot work in safety and independence.

- *Training*: train lawyers, judges and HRDs on the best ways to protect themselves in day-to-day activities. See for instance Front Line's *Protection Manual for Human Rights Defenders* (http://www.frontlinedefenders.org/files/en/2312_Protection%20Manual%20for%20Human%20Rights%20Defenders.pdf)

- *Financial resources*: provide national NGOs and lawyers, judges and HRDs with financial resources to enable them to work independently and safely.

- *Media*: Develop a media strategy; media contacts (virtual and actual media outlets serving countries, regions and interest groups that will publish articles); a distribution system in order to provide information and updates on attacks and situation of lawyers, judges and HRDs that could benefit from media exposure.

- *National legislation and policies*: Work with governments to improve national laws and policies on human rights, to implement the Declaration on HRD and prevent legislation restricting the work of lawyers, judges and HRDs. Help create and/or improve national programs for the protection of witness and lawyers, judges and HRDs that can function independently from other government agencies responsible for the oppression and attacks.

- *Use extensively the UN and regional mechanisms for the protection of human rights to denounce attacks* (Special Procedures, UPR, complaint mechanisms of treaty bodies, regional commissions and courts of human rights).

Defend Defenders around the World

Sign up to do research, provide protective measures, network with other NGOs and develop a data base of NGOs able to provide PM nationally, regionally and internationally, and participate in further planning and discussion.

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