

OSCE SUPPLEMENTARY HUMAN DIMENSIONS MEETING
Human rights defenders and National Human Rights Institutions.

Keynote Address by Hina Jilani

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Ambassador Geerkens, Ambassador Strohal, distinguished delegates, ladies and gentlemen,

It gives me great pleasure to participate in the Supplementary Human Dimension meeting on human rights defenders and National Human Rights Institutions. I greatly appreciate the initiative taken by ODHIR to focus on the importance of the work of human rights defenders.

Human rights defenders are fundamental actors in any effort to implement the overall international human rights framework. Establishing, promoting and sustaining democracy, maintaining international peace and security and providing or advancing a people oriented agenda for development cannot be accomplished without the contributions that human rights defenders make. Civil society actors have played a significant role in inducing recognition of the concepts of participatory democracy, transparency and accountability.

This was not easily done. Human rights defenders operate at great risk to their safety and many times the safety of their families. They have suffered harm and face grievous threats to their life, liberty, security, independence and credibility. State apparatus, oppressive laws and other tools of repression continue to be used against defenders in attempts to deter them from the valuable work they contribute to the promotion of human rights. In many parts of the world defenders are subjected to assassinations, disappearances, illegal arrest and detention, and torture. A number of human rights defenders are living in self-imposed exile after having to flee their country to safeguard their lives or liberty. Reprisals and repressive measures have been taken against individuals and groups who have reported human rights abuse to international bodies, including

the United Nations human rights mechanisms. They are targeted in their professional capacity as lawyers, journalists, and doctors, as NGOs working on different fields of human rights, as students conducting human rights activities and as relatives of victims of human rights abuses. Even civil servants working as judges, ombudsmen, prosecutors and members of national human rights institutions have been targeted for their work in the defense of human rights.

Defenders whose work challenges social structures, economic interests, traditional practices and interpretations of religious precepts face greater risks. Women human rights defenders, in particular, are targeted by various social and private actors, such as religious groups and institutions, community or tribal elders, or even members of their own family. They become particularly vulnerable to prejudice, to exclusion and to public repudiation, not only by State forces but by social actors as well when they are engaged in the defence of women's rights. State force has frequently been used to repress popular movements and quell the voices of protest against the violation of rights. Leaders of indigenous and other minority communities, leaders of movements of the poor, environmental and anti-globalisation activists, trade union leaders and defenders of the rights of displaced persons, migrants and refugees are increasingly being targeted. These trends could lead to a further increase in violations and a future crisis of human rights could well emerge. Attention must, therefore, be given to ensuring respect for the right to react peacefully to economic, social and cultural rights concerns. New approaches should take into consideration the role and responsibilities of private sector corporations, including multinationals, for respecting human rights standards.

Weakening of the rule of law in many countries has heightened the prospects for serious human rights violations, especially in countries with little or no space for citizen participation in governance, and without accountability or transparency. National laws in many countries do not provide a suitable legal framework for the full realisation and enjoyment of human rights. The freedom of association is increasingly being infringed in many countries through laws and regulations that impose a wide range of restrictive conditions on the registration, management, operation and financing of non-governmental organisations. Such practices and restrictive laws have been applied to selectively deny legal status to NGOs critical of government policies and have forced defenders to continue their work without legal protection, to terminate their activities and, in some cases, even to flee their country.

Restrictions placed on the freedom of information, expression and assembly have limited the access of human rights defenders to information or to sites of violations. Access to information is indispensable for the work of human rights defenders. The UN Declaration on Human Rights Defenders seeks to protect the monitoring and advocacy functions of defenders by recognizing their right to obtain and disseminate information relevant to the enjoyment of human rights. In many states provision of laws on counter terrorism, internal security, official secrets and sedition, amongst others, have been used to deny the freedom of information to defenders and to prosecute their efforts to seek and disseminate information on the observance of human rights standards.

In several countries armed conflict, struggles for the right of self-determination and movements for democracy form the backdrop for the work of human rights defenders. In the current security dominated climate, upholding human rights and fundamental freedoms is being portrayed in a number of countries as a threat to national and international security. The worst affected are pro-democracy activists or those organizing or taking part in peaceful public action asserting their right to independence and self-determination. With the rise in the threat of terrorism security has become a declared priority on many international and national agendas, to the extent that security legislation is called upon for application in a widening number and range of situations. In an increasing number of countries national security laws have been activated with renewed vigour.

There are grave apprehensions that increase in powers of the intelligence and security forces, with the simultaneous limitations placed on oversight and monitoring measures has raised the level of risk to the safety of human rights defenders. Intelligence structures of the State are being used to harass defenders, interfere with their efforts to seek and disseminate information on violations, and to prevent any action to draw public attention to these violations. Communicating human rights abuse to concerned international agencies has, in particular, become the reason for surveillance and crack down against human rights groups and individuals. Many human rights defenders have been subjected to interrogation, investigations and placed on intelligence files for defending the right to due process and fair trial, offering legal defense or demanding conditions of detention compatible with human rights standards.

In an environment in which formal guarantees of human rights protection have decreased,

defenders play an important role in monitoring and exposing deviations from human rights norms. They find themselves addressing a range of violations by state and non-state actors in a political context that is generally less sympathetic to their concerns. National Human Rights Institutions have a major role in the human rights protection system and protection of human rights defenders is inherent in their mandates. As national legislative watchdog it is their function to ensure not only that human rights norms are preserved in the laws, but also to raise the alarm when these are threatened by any legislative action. In this context public debate on proposed legislation must be emphasized as an essential requirement of democracy. These institutions must engage more actively in the process of law-making by building stronger links with parliaments and advising them on legislative measures to strengthen the protection of human rights in the domestic juridical framework. It is well within the competence of national human rights institutions to submit references to courts on existing legislation that does not comply with constitutional guarantees and the international standards of human rights.

A consistent engagement with the civil society is critical for such institutions so that they remain well informed of issues related to human rights and can share the broader responsibility of their protection and promotion. National Institutions must only become the forums which human rights defenders can use for complaints but must also use human rights defenders as a conduit for information on the human rights situation and violations that need to be addressed.

The Declaration has given the civil society a “role and responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes”. Human rights defenders can only fulfill this responsibility effectively if they have a secure and enabling environment in which to function. Protection of human rights defenders is a shared responsibility of States, the civil societies and the international community. Some countries have taken initiatives to give due significance to the activities of human rights defenders. The adoption of the guidelines on human rights defenders by the European Union is a positive action that promises support for them in policies of the member states and in more practical ways for their safety and security. National level initiatives to strengthen access to justice and to ensure judicial independence, creation of complaints mechanisms and procedures and programs to impose more accountability on law enforcement agencies also promise more benefits for the work of defenders. However, the impact

of many of these initiatives is yet to be seen.

The OSCE participating States are at different phases of democratic development and the institutional arrangements for the respect of human rights. The OSCE as body must construct strategies suitable for impact and effectiveness according to the complexities of the political, economic and social conditions that states and civil society are called upon to address. Countries in transition need stronger emphasis on implementation of newly articulated constitutional principles, peace agreements and commitment to the strengthening of institutions. The international community must not be satisfied with the minimum and give due regard to the voices of defenders and respect their aspirations to achieve the maximum in order to bring about real and genuine change.