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COMMISSION ON HUMAN RIGHTS  
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Agenda item 15

PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS  
AT THE NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

Written statement submitted by the International Federation of  
Human Rights, a non-governmental organization in consultative  
status (category II)

The Secretary-General has received the following communication, which is  
circulated in accordance with Economic and Social Council  
resolution 1296 (XLIV).

[18 July 1988]

INTERNATIONAL PROTECTION OF HUMAN RIGHTS ACTIVISTS

1. The International Federation of Human Rights has taken careful note of the draft body of principles and guidelines on the right and responsibility of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms, and the addendum submitted by Mrs. E.I. Daes. 1/
2. The FIDH, which comprises national human rights leagues and associations representing voluntary activists confronted daily with the problems arising from the "universal and effective recognition and observance" of those rights, particularly welcomes the inclusion of this topic in the agenda.
3. Although the activities of NGOs are recognized officially and on an academic level in international forums and by international law experts, they are constantly endangered and jeopardized in the field, at the local and national levels. During the last two years, the FIDH has seen several of these leagues or associations threatened and banned and their activists persecuted, imprisoned and murdered in Algeria, Chile, Colombia, El Salvador, Guatemala, Honduras, Poland, Singapore and Tunisia.

4. While it has not been able to attend all the meetings of the Working Group, the FIDH has followed its activities through the documents issued by the Group. For some time, the FIDH has been studying ways and means for the international protection of human rights activists and wishes to contribute some ideas to these collective deliberations. Individual and collective activities on behalf of human rights come within a precise legal framework, that of international instruments which not only establish their legality but also call for such action. During the past decade these activities have continued to develop among a very wide sector of the population, in a variety of widely differing régimes.

5. Impelled by this, the United Nations human rights agencies have increased the number of organs and procedures for direct access, thus enabling them to deal with individual communications and complaints and, on that basis, to report on the various situations involving violations of human rights. There has thus been steady progress towards a regular system for reporting violations and for monitoring offending States, although no specific measure to protect those individuals who have recourse to those procedures has been adopted. The duty of protecting human rights is becoming a particularly dangerous responsibility for persons who are denied the guarantees of the law. For régimes based on force, the affirmation of the primacy of the law becomes a subversive activity.

6. Usually, the mere fact of alerting, informing or attempting, either through us or directly, to contact United Nations agencies causes those who are helping the victims to become victims in their turn. The various organs of the Commission have been able to verify on a number of occasions that a more selective repression is now directed particularly against human rights activists.

7. It would be dangerously unrealistic at the present time for the Commission on Human Rights to propose to the General Assembly a declaration reaffirming the right of individuals and groups to promote and protect human rights, without itself taking the initiative of guaranteeing the exercise of that right in the context of its own procedures.

8. By way of example, let us recall that since 1969 the European Convention on Human Rights has implemented a "European Agreement Relating to Persons Participating in Proceedings of the European Commission and Court of Human Rights". 2/ This agreement, which is applicable to appellants - whether detained or not - their representatives, barristers, solicitors or professors of law assisting them, witnesses, experts or other persons called upon to take part in proceedings have immunity from legal process in respect of oral or written statements made or documents or other evidence submitted by them. In addition, this agreement prohibits any interference with its implementation by a public authority except such as is in accordance with the law and is "necessary in a democratic society in the interests of national security, for the detection or prosecution of a criminal offence or for the protection of health".

9. In 1971, the Commission on Human Rights instructed a working group to prepare the "Model rules of procedure for United Nations bodies dealing with violations of human rights", 3/ based on a draft prepared by the Secretary-General. 4/ The draft provided model protective measures, in which

the competent organ or the ad hoc organ designated by it have the possibility of requesting any State to extend any assistance needed for the proper performance of its functions. It was specified that such assistance might comprise, inter alia, making the arrangements necessary to ensure that no obstacle prevented representatives and witnesses from attending the meetings of the ad hoc body and assuring, if necessary, any witness or any individual appearing before the organ due protection against any acts of violence or intimidation, any threats or reprisals or any discriminatory measure which might be directed against them because they attend the said meetings and give their testimony, and against any legal proceedings which might be instituted against them because of their testimony. 5/

10. The Working Group did not see fit to adopt these measures and the protection of individuals, in the report adopted, is limited to optional provisions unilaterally dependent on each individual organ and confined to the precautions it is able to take to preserve their identity. Although the set of rules, toned down in this manner, did not subsequently give rise to any decision, the Economic and Social Council merely taking note of the reports of the Group and drawing them to the attention of the organs concerned, 6/ it is interesting to note that the organs assigned to visit countries, with the consent of the State concerned, in order to investigate a particular form of violation or the human rights situation and therefore obliged to work directly with the persons in danger have in their actual practice rehabilitated the provisions that had been set aside. Prior to the mission, these provisions form the subject of a written agreement in which the Government assures the group of its assistance in the protection of the individuals it wishes to meet. 7/

11. These measures which are optional, isolated, temporary, subject to the pleasure of the Powers prevailing at the time, having a special and restricted sphere of application, allow, however, already customary rules to be identified which, if unified and extended, might be adopted by all organs with responsibility for human rights, under conventions or otherwise, in the form of a common set of rules, applicable to any person or group discharging mandates at the national, regional or international levels.

12. The FIDH requests the Sub-Commission to begin work on drafting such rules of procedure. The threat overshadowing the future of human rights through the persecution of their champions is very serious and the time and energy devoted to adopting a declaration by the General Assembly is too precious. Such a declaration should not merely confine itself to an abstract reaffirmation of rights but should, if it is to be effective, reaffirm and strengthen the freedom of association and propose universal rules for its exercise. In the interests of effectiveness, it is vital to have a prior knowledge of the status of the law in that regard. The FIDH requests the Sub-Commission to instruct one of its experts:

(a) To conduct a study on the national legislation regulating the protection of Human Rights advocates;

(b) To prepare model rules for the use of those countries that do not yet provide measures of protection for these persons in their domestic law.

Notes

- 1/ E/CN.4/Sub.2/1985/30 and Add.1.
- 2/ Treaty No. 67.
- 3/ E/CN.4/1086 and E/CN.4/1134.
- 4/ E/CN.4/1021/Add.1.
- 5/ E/CN.4/1134, section VIII: Co-operation with Member States, art. 17, (a) (iii).
- 6/ Economic and Social Council resolution 1870 (LVI).
- 7/ Memorandum of the Ad hoc Working Group to investigate the current human rights situation in Chile (A/33/331, annex VII, C).