



On the Record: Human Rights Defenders (1998)

Issue 1: December 7, 1998

The Advocacy Project has been invited to produce a series of the e-letter On the Record for the World Summit of Human Rights Defenders that is taking place in Paris, France on December 8-11. Organized by the French branches of four leading human rights organizations – Amnesty International, the International Federation of Human Rights, France Libertes, and Mouvement International Quart Monde (details on these organizations will be included in future On the Records) – this unique event is bringing together over 300 human rights campaigners to commemorate the 50th anniversary of the adoption of the Universal Declaration of Human Rights. The defenders will draw up an action plan to ensure greater protection for those at the forefront of the campaign for HR. They want to shift the focus of the international human rights system from governments to civil society. On the Record will bring you news of the meeting and profiles of key defenders throughout the week. The newsletter will also be posted on our website.

To subscribe send an email with "subscribe" written in the body of the message.

On the Record has been conceived by The Advocacy Project, an informal association that seeks to promote respect for humanitarianism, and support advocates in countries that are either in crisis or emerging from crisis through the use of new information technology. The newsletter will be produced on a daily basis by an experienced international team in Paris, and distributed to subscribers by email.

We welcome contributions and comments, and will make every effort to reproduce letters and guest editorials. On the Record will also try to respond to queries. Contact us by email.

On the Record is editorially independent and responsible for the contents.

Feel free to reproduce the contents of On the Record, preferably with acknowledgment.

We look forward to hearing from you.

Please continue to visit our website for information on our upcoming information projects. Current projects under review include coverage of the Nigerian Presidential elections, Documenting Women's Human Rights Violations Training in Cambodia, and the Hague Call for Peace. Information on past projects is also available.

Contents:

- **Key Defenders from the Seven Regions Profiled**
- **Defenders' Summit Throws Down the Gauntlet, by Iain Guest**
- **Human Rights Defenders – Targeted by Accolades and Bullets by Laurie Wiseberg**

From the AP Editorial Desk

Key Defenders from the Seven Regions Profiled

The four organizations that initiated the Summit are committed to involving human rights defenders working on the ground as full members of and regional representatives on the Steering Committee for the Summit. The seven human rights defenders on the Steering committee are as follows:

Yanette Bautista is a lawyer in Colombia where she has been working for the defense of the "disappeared" for the past 11 years, following the disappearance of her companion and of her own sister, whose son she has adopted. A mother of two, she is the chair of the Latin-American Federation for Families of the Detained and Disappeared, which regroups associations from 11 countries. She has recently received the Shalom Prize from the Working Group on Justice and Peace, which she will dedicate to a foundation in honor of her sister and other disappeared. She has been living in exile in Europe since 1997 because of persistent threats and harassment against her and her family.

Fernando Gomes is a lawyer in Guinea Bissau. The father of two, he is the president of the Guinea Bissau League of Human Rights, president of the Forum of Non-governmental Organisations of Human and Children's rights in Portuguese-speaking Countries, and vice-president of the InterAfrican Union of Human Rights. In 1993, he was imprisoned for several hours, in 1994 his home was forcibly entered by the police, and in 1995 he was subjected to death threats.

Salima Ghezali has been the director of the weekly publication, La Nation in Algeria since 1994, which has been banned since it published a special edition on the country's human rights violations. Earlier, the French teacher and trade unionist was the founding president of the Association for Women's Emancipation, then the founding director of the feminist bi-monthly Nyssa and finally the founding vice president of the Association of European and North African Women. She has just won the Sakharov Human Rights Prize.

Jaribu Hill is a lawyer in the United States specializing in civil rights. In 1996 she organized the first human rights conference in the southern states of the US held in Mississippi, a conference which brought together over 200 campaigners from a coalition of human, civil, and employment rights associations, who had come to study the victims of oppression in the south and throughout the country. She recently started to work on the problem of death row prisoners who are mentally retarded or who were minors when the crimes were committed.

Yavuz Onen is an architect in Turkey where his life is divided between his profession and human rights. He has actively campaigned at the Association of Human Rights since 1986 from which the executive committee formed the Human Rights Foundation in 1989 and of which he has been president since 1990. He was imprisoned for 27 months in 1972. Since then, the father of three has worked at his architectural practice with his wife, who is also an architect. He is also president of the Turkish Union of Engineers and Architects.

Dimitrina Petrova runs the European Centre for Romany Rights, a non-profit, international human rights organization based in Hungary. She was formerly president of the Human Rights Project in Bulgaria which also worked on the situation of the Romanies. She is a law and philosophy professor and has also run courses on "human rights and inter-ethnic relations in eastern Europe" and has been a member of the Bulgarian parliament. She has been the official representative for various human rights authorities.

Evelyn Balais Serrano, a social worker involved with human rights in the Philippines since the 70s, is, amongst other things, vice-chair of the Philippine Alliance of Human Rights Advocates, a coalition of over 100 human rights organizations, and secretary of the Task Force Detainees' board, as well as of Amnesty's Philippine Section. A mother of two, whose husband was a political prisoner under Marcos' regime, she headed the Philippine NGO delegation to the Vienna Conference. She has been a consultant for human rights programs in Sudan and in Asia-Pacific, and is currently coordinating the campaign in many Asian countries for Forum-Asia.

Defenders' Summit Throws Down the Gauntlet

by Iain Guest

Defenders to demand greater protection, assert the role of civil society in the international protection of human rights

Human rights defenders from all over the world are meeting in Paris this week to demand improved protection for human rights activists and to reassert the importance of civil society in the international defense of human rights.

The first-ever "defenders' summit" is being organized by the French branches of four leading human rights organizations – Amnesty International, the International Federation of Human Rights, France Libertes, and Mouvement International Quart Monde.

The list of participants features at least three Nobel peace prize winners – Rigoberta Menchu from Guatemala; Amnesty International (winner of the prize in 1977); and the detained Burmese democracy leader Aung San Suu Kyi, who may deliver a message by video to the summit on Tuesday.

The summit is taking place in the Palace of Chaillot, where the Universal Declaration of Human Rights was adopted 50 years ago, this week, on December 10, 1948. But while this establishes a link to the past and underscores the importance of the Universal Declaration in the human rights struggle, the summit will be anything but a conventional anniversary.

The bond that unites these defenders is anger, rather than complacency. Most have been driven to human rights out of conviction, personal tragedy or a deep sense of outrage. Almost all have been harassed, threatened, and jailed at some time for their efforts. Without exception, their stories are remarkable. For example, Jon Cortina, from the Jesuits in El Salvador, would have died with his six Jesuit friends in 1989 if he had not been delayed by a meeting.

To this extent, the defenders "summit" can be seen as a comment on the failure of the international human rights system over the past 50 years, and the need for a dramatic change. Certainly, the conference organizers hope to whittle away at the widely held impression that human rights is the preserve of governments, rather than ordinary people.

This is one of the more unfortunate products of the last 50 years. International human rights law holds governments to account for violating the rights of their citizens. Yet the actual laws – from the Universal Declaration onwards – have been drafted by governments and are monitored by governments through the annual session of the UN Human Rights Commission. (Notwithstanding that many members of the Commission have been condemned for human rights abuses.) This hardly inspires confidence.

On the other hand, the end of the 1990s is also a propitious moment for civil society to demand a greater say in the international human rights movement. The end of the Cold War has seen an extraordinary growth in civic organizations and demonstrated their muscle at the international level. Just this year, an international coalition of groups helped to push through the statute of an international criminal court in the face of vigorous opposition from the United States and China. Fifty-six governments have ratified a treaty to ban landmines in less than a year, under the prodding of the International Campaign to Ban Landmines, a network of over 1,200 grassroots groups. These are proof that personal outrage can translate into effective international campaigns.

In addition, cracks are finally appearing in impunity – long one of the targets for human rights campaigns. Two international tribunals, on Rwanda and the former Yugoslavia, are slowly but surely tracking down war criminals from those two regions. Sixty governments have now signed the statute of the international court. The fact that the former Chilean dictator Augusto Pinochet may be extradited to Spain for disappearances and torture has sent hopes soaring that human rights is finally getting some teeth.

The first order of business in Paris this week will be to improve the protection of those on the front line. Once again, the summit itself is a reminder of the risks they run. Several invitees have been forced to decline either because they were forbidden from leaving – like Aung San Suu Kyi in Burma – or because of crisis at home. One student leader from Indonesia sent a brief apology, noting: "The political situation now here is getting worse and worse. I don't even want to leave the country if at early December the situation still like this."

There has been some progress on defenders at the international level over the last year. After 13 years of debate, the UN Human Rights Commission finally adopted a declaration on defenders, which is due to be taken up by the UN General Assembly next Thursday. The UN's

(independent) human rights sub-commission also passed a declaration this summer condemning violations against defenders.

But human rights monitoring is still a perilous occupation. In a new report issued here last week, the Paris-based monitoring group Observatory condemned "the unprecedented scope, diversity and the gravity of the repression directed against human rights defenders." Over the last year, Observatory issued appeals on behalf of more than 200 defenders in 38 countries. Its new report details 22 common forms of harassment, ranging from disappearances to phone-tapping.

Calling for Better Protection

The summit will issue three main documents, which have all been discussed at length at preparatory meetings in Latin America and will now be put to all of the defenders in Paris.

The first is a "List of Grievances," which detail all the obstacles that defenders face in their work. This will cover six different thematic areas, which will all be discussed by separate working groups here this week: impunity; armed conflict; women; children; extreme poverty; and racism.

Second, the summit will adopt an Action Plan covering the legal justification for human rights defense and setting out concrete ways in which their protection can be improved. This will build on existing approaches, like traditional monitoring, or the use of "urgent actions" by such groups as Amnesty International and Observatory. But it will also make a plea for new and imaginative use of new technology and even diplomacy. Some have even spoken of equipping defenders with alarms which could be activated if the wearer is suddenly attacked or kidnapped.

Many human rights activists would also like governments to offer their embassies as a permanent 24-hour a day refuge. Switzerland's ambassador in Congo has personally visited jails to rescue jailed human rights leaders – exactly the kind of initiative that this summit would like to encourage.

Third, the summit will adopt a declaration which reinforces and spells out the rights of defenders in detail, and calls for greater respect from governments.

It is hoped that these three texts will ensure that the defenders' perspective permeates the human rights debate as fully as possible, and all three will be discussed and reviewed at a series of workshops here. In addition, the four-day summit will feature addresses by Kofi Annan, the UN Secretary-General and Mary Robinson, the UN Human Rights High Commissioner, both of whom have urged greater involvement by civil society in the human rights campaign.

Several other events are planned. Over the last year, Amnesty International has collected over 10 million individual written pledges of support for the Universal Declaration, which will be presented to Kofi Annan. There will also be a concert on Thursday featuring Peter Gabriel, Tracy Chapman, and other celebrities.

Extreme Poverty – Reconciling Political and Economic Rights

The upshot of the summit, say its organizers, must be to win official recognition for the fact that human rights defenders are indispensable players in the struggle for international human rights, alongside governments. One official from Amnesty noted that defenders have no forum at present in which to make their case coherently. He drew a parallel with the annual Davos symposium, at which the private sector shares its concerns with policymakers from governments and the international system.

Reviewing the last 50 years, and the terrible violence of Bosnia, Rwanda, and Kosovo, few would dispute that human rights is badly in need of a shot in the arm as it turns 50. This summit will argue that those on the front line – the defenders – can provide it. Human rights defenders, they will say, embody all of the "core" rights: the right to meet, to expression, to use the law, to form free associations, to be free of torture – and of course the right to life.

Furthermore, they would argue, seeing human rights from the perspective of defenders rather than legal conventions removes many of the artificial distinctions that have thrown up endless legal roadblocks over the last 50 years. One prime example is the distinction between "economic and social" rights on the one hand, and "political and civil rights" on the other. The 1948 Universal Declaration insisted that all human rights are indivisible and universal, and called for freedom from "terror" (political) and "misery" (economic) as being both part of the same challenge. But the differences were reinforced, politicized, and exploited by East and West during the Cold War.

This is now starting to change, thanks to the (widely ratified) Convention on the Rights of the Child. By starting from the practical principle of the "best interests of the child," the Convention shows that abuses like child labor and other forms of exploitation combine "economic" and "political" abuses – and so makes nonsense of the artificial distinctions that have bothered lawyers for the last 50 years. Looking at human rights through the prism of defenders should take this a stage further.

At the same time, many will be struck by the fact that "extreme poverty" is placed on the summit agenda, along with more traditional issues like impunity, racism, armed conflict, and children. This has been done at the insistence of the International Movement ATD Quart Monde, one of the four sponsoring organizations

ATD Quart Monde was founded in 1957 by Father Joseph Wresinski in a Paris shanty town. Not only does the movement believe that those in extreme poverty are denied all their basic rights, it also feels that that anyone who takes action to better their situation deserves the title of "human rights defender." As a result, Tuesday's opening session will be addressed by a housewife from a depressed village in northern France who took matters into her own hands, speaking alongside Aung San Suu Kyi, the detained democracy leader in Burma.

It is this kind of alliance that the summit hopes to nurture. If it succeeds, then the next four days could kindle a small revolution – and send the international human rights system into the next millennium with a new sense of purpose and priorities.

- **Iain Guest** is a member of The Advocacy Project.

Human Rights Defenders – Targeted by Accolades and Bullets

by Laurie Wiseberg

On December 10, the United Nations General Assembly meeting in New York is expected to adopt the Declaration on the Rights of Human Rights Defenders. The Commission on Human Rights in 1985 had established the open-ended working group that finally reached agreement on the text of the Defenders Declaration. Thus, the Declaration – whose full and cumbersome title is the Declaration on the right and responsibility of individuals, groups, and organs of society to promote and protect universally recognized fundamental rights and freedoms – has been 13 years in the drafting. To adopt it this year, on the 50th anniversary of the Universal Declaration of Human Rights, will be a symbolic act.

The need for such a Declaration, which reaffirms and consolidates the rights of individuals and organizations to fight for the human rights of others, was motivated in part by a number of tragic executions. Individuals, who provided information or testimony to human rights bodies or mechanisms of the United Nations, or to such regional organizations as the Inter-American Commission on Human Rights, were targeted for extermination by those who they exposed as violators. Additionally, in the 1980s, the Conference on Security and Cooperation in Europe (CSCE) – which sought to protect the rights of East Bloc political dissidents and human rights activists – stressed the "right of the individual to know and act upon" human rights, found in Principle VII of the 1975 Helsinki Final Act and elaborated in concluding documents of CSCE meetings. Early proponents of the Declaration included the governments of Canada and Norway, and non-governmental organizations (NGOs) such as the International League for Human Rights, Amnesty International, and the International Commission of Jurists.

On one level, the world of the 1990s has been far more open to the work of human rights organizations and their leaders than ever before. Their contribution has been widely acknowledged by the current UN Secretary-General, Kofi Annan. As he stated in September, 1997, "The positive effects of globalization include the huge growth and development of NGOs, easier access to information, and the free exchange of people and ideas. But the downside of globalization includes these new global threats. To combat them, international civil society must mobilize. That is why we must all – member states, governmental and inter-governmental bodies, and non-governmental organizations – work together in partnership." Similar statements have been made by the High Commissioner for Human Rights, Mary Robinson, and the role of NGOs has been acknowledged in the rhetoric of many governments, even those whose records on human rights are not so laudatory. The importance of human rights NGOs is also concretely recognized in the fact that most of the Special Rapporteurs of the UN Commission on Human Rights, many of the Special Representatives of the Secretary-General, and the majority of the consultants that implement the UN's human rights technical assistance program have been shaped by, or have their roots in, the human rights NGO community.

Nonetheless, states frequently manifest a schizophrenic reaction to human rights NGOs – praising them with accolades in some contexts, while simultaneously doing everything in their

power to undermine their legitimacy, their authority, and their efficacy. This is not surprising, given that human rights NGOs, regardless of what else they do, continue to give primary emphasis to their role in documenting and exposing human rights abuses. Furthermore, because they demand an open or transparent democratic political process, human rights NGOs and human rights defenders have been, and continue to be, targets for repression in many countries. Many governments translate "non-governmental" to mean "anti-governmental" and perceive the role of human rights NGOs as subversive and a threat to their power and legitimacy. If governments are dictatorial and arbitrary in their use and abuse of power, and if NGOs are credible and courageous in documenting such abuses, NGOs inevitably will be considered subversive in this narrow sense.

But governments and political elites, especially those unschooled in and unconcerned about the democratic process, tend to see their own good as the public good and to equate all opposition and criticism with treason. They brandish the term "subversive" to delegitimize and attack NGOs precisely because they cannot control them. The most vulnerable are local or national NGOs and defenders on the front lines, particularly in countries where abuses are egregious. However, regional or international NGOs have by no means been exempted from attack and NGOs and defenders have been the objects of repression even in countries with relatively good human rights records. Canada's pepper spray treatment of those protesting at the APEC summit in Vancouver last year is a case in point.

The Tools of Repression

The methods used to silence such NGOs and defenders have ranged across a broad spectrum – from the most brutal to the most subtle.

When it is the individual who is the target, tactics have included, inter alia:

- assassinations (extra-legal executions, often by death squads or paramilitary forces controlled or condoned by governments)
- "disappearances," of which the government usually denies all knowledge
- detention or imprisonment, sometimes without trial or due process, and sometimes through "kangaroo" courts, military tribunals, or manipulation of a legal system in which the judiciary has no independence and the defendant has no rights or legal safeguards
- incarceration in mental institutions or in re-education or forced labor camps
- torture, both physical and psychological
- defamation or slander of human rights activists (by labeling them as Communist, subversive, terrorist, drug lord, or whatever name evokes a strong negative stereotype and could contribute to their ostracism or marginalization)
- threats or harassment of endless variation, including: death threats
- embroiling defenders in legal suits
- getting them fired from their jobs
- denying them access to education or health care
- having them followed
- tapping their phone
- opening or not delivering their mail

- having their house or office searched
- or calling them into the police for questioning
- denying them freedom of movement by sending them into internal exile or refusing them visas or passports to travel abroad
- depriving them of their citizenship and expelling them from their own country
- demolishing their homes or depriving them of their land
- banning or censoring their writing
- taking away their civil or political rights (e.g., the right to vote).

The methods of repression (including an enormous variety of torture techniques) are limited only by the human imagination. Many of these same tactics can and have been used against a human rights defender's family or friends, which is sometimes more effective than striking directly at the activist.

Any and all of these tactics can and have been used to undermine human rights NGOs by targeting their leaders, their staff, or their members. There are also particular methods of repression directed at organizations (as opposed to individuals), which are employed in political systems where the government attempts to project an image of legality and plurality. We are talking here of tactics that are more subtle than the use of brute force, in situations where the government professes to uphold democratic principles.

Subtle Manipulation

In the current political climate in which there are many pressures for governments to become – or at least to be perceived as becoming – more democratic, such tactics will increasingly be used. For governments, these lessen the risk that a country will be condemned as a gross violator and have its economic aid terminated or be "blacklisted" by the UN Commission on Human Rights.

Six tactics merit particular attention, specifically, controlling NGOs: (1) through laws of association including registration requirements; (2) by monitoring and restricting access to funding; (3) by restricting their ability to publish, including access to the Internet to disseminate information; (4) by undermining their credibility through defamation; (5) by creating government-organized non-governmental organizations (GONGOs) and national institutions to challenge NGO reporting; and (6) by the invocation of "States of Emergency" or "National Security" legislation, which may include the outright banning of human rights NGOs. Not all are mutually exclusive, and a government may employ several methods simultaneously.

(1) Control Through Laws of Association and Registration

Freedom of association is not an absolute right. The International Covenant on Civil and Political Rights specifies (in Article 22, paragraph 2) that: "No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a

democratic society in the interests of national security or public safety, public order, the protection of public health or morals of the protection of the rights and freedoms of others."

Many democratic societies do not require formal registration (or incorporation) of organizations, although such registration may be necessary to engage in certain types of activity: for example, to conduct business, to solicit funds from the public, to open a bank account in the name of the organization, etc. In Canada, there are thousands of groups, which operate informally because they see no specific advantage to incorporation. Such groups can meet or organize public meetings; lobby parliamentarians or other government officials; hold demonstrations; publish magazines, books or other literature; and hold bake sales or garage sales to raise money without formal incorporation.

Nonetheless, nearly all governments have legislation that regulates the behavior of private associations to ensure that they do not impinge upon the rights of others. Nonetheless, the scope for abuse is enormous because governments can interpret "what is necessary for national security or public safety, public order..." so broadly that it leaves the right an empty shell in many countries.

In Malaysia, for example, although the Constitution states that "all citizens have the right to form associations, the Societies Act has been used extensively to prevent the emergence of human rights organizations. To legally exist and operate in Malaysia, an organization must be registered, and this requires approval by both the Registrar of Societies and the Minister of Home Affairs.

The law stipulates that the Registrar may not register any local society "which in the opinion of the Minister is likely to affect the interests of the security of the Federation or any part thereof, public order or morality," and that the registrar shall refuse to register a local society where "it appears to him that such local society is unlawful under provisions of this Act or any other written law or is likely to be used for unlawful purposes or any purpose prejudicial to or incompatible with peace, welfare, good order, or morality in the federation."

Given that the grounds on which registration may be denied are so sweeping, and the registrar has total discretion interpreting these provisions (e.g., "peace, welfare, good order, or morality"), it is not surprising that this law can be used to block the legal registration of any group of which the government disapproves. Nor is there any time limit set in which the registrar must render his decision; hence, he can procrastinate for months, leaving organizations in limbo. And in denying an application, the Registrar is not required to state his grounds for denial.

As amended in 1983, the Societies Act denies an organization access to the courts if its request for registration is turned down. A society that is dissatisfied with a decision of the Registrar can appeal only to the Minister, who is also not required to state his grounds for denial. Yet the Minister's decision remains final and conclusive. By denying societies explicit recourse to the courts, the government has placed them in great jeopardy. A decision motivated by bureaucratic arrogance or political expediency cannot be checked by the judiciary. This is made worse by the fact that the Registrar continues to exercise wide powers. The Registrar can cancel the registration of a society, refuse to register a society, refuse to approve the change of name or place of business of a society, or amendment of its rules, and prohibit affiliation, connection,

communication or other dealings with any society outside the Federation. At the same time, the Registrar can order a society to amend its rules or constitution, make a provisional order for the dissolution of a society and refuse to grant permission to an office-bearer of a society whose registration has been canceled, to hold office in any other society.

Throughout the 1970s and 1980s, not a single human rights organization was able to register as such in Malaysia, although several tried. Groups had to use the subterfuge of registering as a social movement or a consumers association to get registration. In the late 1980s, the Act was more liberally interpreted, permitting several human rights groups to get legal recognition. In Singapore, however, where a very similar Societies Act is in place, it has been so stringently interpreted that even today, not a single human rights NGO is registered.

In Taiwan, during the 1970s and 1980s, a highly imaginative approach was taken to justify the refusal to register human rights organizations. The government argued that it was not in the public interest (because it was wasteful of resources and too confusing to the population) to have more than one private association organized for any single social purpose: environmental protection, development, child welfare, women's rights, etc. The strategy, therefore, was to preempt the space by creating for every issue an organization that the government could trust and then deny all others registration on the grounds that this was unacceptable duplication. Thus, in late 1978, when professors, journalists and opposition party members intended to establish a Taiwan Human Rights Committee, the government encouraged its faithful supporters to form the Chinese Association for Human Rights (CAHR), which was immediately registered by the appropriate government bureau. When the Taiwan Human Rights Committee subsequently applied for registration, it was told that it could only operate if it affiliated itself to CAHR. The creation of such GONGOs has been a commonplace phenomenon.

One additional example of this method of control is provided by the Tunisian government's actions in the 1990s to control the Tunisian League for Human Rights, then oldest human rights NGO in the Maghreb, an affiliate of the International Federation of Human Rights (FIDH), and an NGO that had been tenacious in monitoring and denouncing human rights violations in Tunisia for more than 15 years. The LTDH had maintained its autonomy and independence by, inter alia, limiting its membership to a self-imposed ceiling of 4,000 and to those pledged to adhere to the Universal Declaration of Human Rights; it also had a Board carefully balanced to represent all political parties, as well as trade unions, lawyers, journalists, doctors, and intellectuals. By the early 1990s, the League had become a thorn in the flesh of the Tunisian government, refusing to accept that, to control the fundamentalist threat, the government could imprison people without trial or torture them. Since the Tunisian Government was attempting to project a "democratic posture," it would have been difficult to ban the League. Instead, the government amended the law of association to require that an association "of a general type" (which was what the League was classified as) had to have a totally open membership policy, while no elected political party official could serve on its board. This made it possible for the government to infiltrate and overwhelm League membership – gaining effective control of the organization – at the same time that it destroyed the carefully crafted political balance of the LTDH's board. Moreover, the amended law of association remains on the books as a weapon to wield against other recalcitrant NGOs.

(2) Control by Financial Monitoring and Restricting Access to Funding

It is not unreasonable for a government to monitor, and to some extent regulate, sources of NGO funding – e.g., private associations in Western democracies are required to file annual tax returns or reports. For organizations, which are tax-exempt, there may be additional auditing requirements. The justification governments most frequently express about regulating funding, especially foreign monies, is that the funds can be used for political ends that have nothing to do with human rights. This may be a legitimate concern in many cases. At the present time, for example, a number of democratic governments in Africa and Asia are worried about a foreign influx of large sums of money to support fundamentalist movements which could ultimately undermine their democratic processes. Nonetheless, this regulatory power has frequently been used simply to control or destroy human rights NGOs.

For example, in Bangladesh and India, as in many countries, legislation requires that there be government approval of all projects funded with foreign money; NGOs are prohibited from accepting any foreign funds without prior government approval. In Bangladesh, where every human rights and development NGO is almost totally dependent on funds from abroad, this is a very effective tactic for keeping NGOs in line. The government need not go so far as to prohibit a project; it can procrastinate about giving approval; it can procrastinate about releasing money already approved; and it can subtly or blatantly threaten to cut funding if the NGO is posing a serious challenge to the government.

It is not surprising that the right of NGOs to solicit and receive foreign funding for their human rights work was a major bone of contention in the Defenders Working Group. There were those who wanted all reference to the right to receive funding to do human rights work expunged from the text. Others felt that, if there were no reference to funding, the right to receive funding could be inferred from other recognized rights. The text finally agreed to (Article 13) states: "Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms, through peaceful means, in accordance with Article 3 of this Declaration." Article 3 imposes a general limitation on all the work of NGOs. It states, specifically, that: "Domestic law, consistent with the United Nations Charter and other international obligations in the field of human rights and fundamental freedoms, is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed, and within which all activities referred to in this Declaration ... should be conducted."

(3) Controlling NGOs by Restricting Their Right to Publish and Their Right to Receive and Disseminate Information

Many governments attempt to control NGOs by restricting their right to freedom of expression and the press and, specifically, by making it difficult or impossible for them to publish or broadcast. The latter is particularly easy if all television and radio is controlled by the government.

In many countries, the publication of a newspaper or magazine and even of a bulletin or newsletter may require governmental permission. (This is why one frequently sees "For Private

Circulation Only" on many NGO serial publications.) Sometimes, the government can prevent publication simply by requiring that the publisher post a high bond as surety against possible liability damages. In other cases, it can limit freedom of expression or the press by controlling access to paper or to printing presses.

Article 19, in its World Report 1988, has an appendix which discusses censorship methods including: press laws; prior restraint; post-publication censorship (closures, banning of organizations, banning of individuals); economic pressures; media concentration and ownership; self-regulatory methods; controlling the supply of information to media and news agencies; and imposing restrictions on imparting information (through control of newsprint, typewriters, photocopiers, and restrictions on circulation). Today, we would have to add to this list attempts to control access to computers and, especially, Internet access.

The communications revolution, and especially the availability of the Internet on a worldwide basis, including the possibility of sending email through satellites and, therefore, by-passing standard telephone lines, has heavily undermined the capacity of governments to maintain their control over information flowing into and out of their countries. The response of governments has varied widely from attempting to strictly regulate access to the Internet by regulating the providers of Internet services, by regulating who may own computers (reminiscent of the futile attempts of the Communist regimes to require the licensing of typewriters, which did little to stem the flourishing samizdat of Eastern and Central Europe), and by meting out harsh punishments to those identified as sending "seditious" information abroad, as has been the case with both China and Cuba. The fact that such measures amount to little more than the proverbial Dutchman putting his finger in the dyke to stem the flood, does not appear to deter some governments.

(4) Undermining the Credibility of NGOs through Defamation

When an NGO does its work well, and a government cannot attack "the facts" of alleged abuses, a favorite tactic is to try to impugn the credibility of the fact-finder. Just as individuals are labeled "Communist, Capitalist, Fascist, Terrorist," so too are organizations. Over the years, Amnesty International has been accused of every type of bias imaginable, and any error that Amnesty may make from time to time is guaranteed to be exploited to the fullest by a rights-violating state. The most vulnerable to such charges are, of course, the grassroots national NGOs. This slandering of bona fide human rights NGOs has been a favorite tactic of governments as disparate as India, the Philippines of Marcos, or Colombia today. Labeling human rights groups as subversive can often lead to tragic results, giving license to vigilantes or paramilitary to target human rights defenders for extermination. As well, such labeling can create a climate of fear amongst members and sympathizers, leading to the emergence of cracks within the organizations. As Harsh Seti of India pointed out in a 1987 article, repression not only alienates the human rights groups from their normal constituencies, it puts groups on the defensive. In the process of defending and explaining themselves, views harden, internal debate suffers, and democratic functioning receives both a practical and theoretical setback. Each of these tendencies feeds into and strengthens the other, further isolating and marginalizing the groups.

(5) GONGOs and National Institutions that Challenge NGO Reporting

If the government does not want directly to challenge the "facts" of an NGO report, and if it does not want to challenge the bona fides of a human rights organization, there is another tactic that it can use: an indirect attack through misinformation. One manifestation of this strategy is the GONGO.

A GONGO is an organization that is created in the guise of an NGO, but that is really controlled by the authorities...One must, of course, be careful about casual labeling. There are, in fact, numerous examples of organizations created as GONGOs, which have, nonetheless, demonstrated a very considerable amount of independence, frequently at considerable risk to their leadership. In such cases, one would want to welcome them the fraternity of human rights defenders. Nonetheless, governments have shown themselves nimble in creating and/or recognizing NGOs when it has been in their interest to do so. Before almost each of the international conferences of the 1990s, a plethora of new NGOs were fielded for accreditation by governments.

In a similar fashion and for similar reasons, governments have been encouraged to create Human Rights Commissions or Ombudspersons. While in some cases, these have adhered to the Paris Principles and shown real independence in investigating and reporting on the human rights situation in their country, in other cases such national institutions have simply been fronts for governments, putting out misinformation to challenge the human rights reporting of grassroots or national human rights NGOs.

(6) "States of Emergency" or "National Security Legislation"

Finally, a word needs to be said about then government's use of "states of emergency" or "national security legislation" to deal with dissent. While there are certain threats to national security which may justify emergency or national security legislation, as the International Commission of Jurists has pointed out, "there is a tendency of some governments to regard any challenge to their authority as a threat to the 'life of the nation' This is particularly true of regimes which do not provide any lawful means for the transfer of political power and which in consequence are inclined to regard any criticism of government as an act subversive of public order." In many cases, human rights NGOs are banned outright, or their political activities are banned. Yet, this is precisely the moment when the society most needs human rights monitors.

Conclusion

All of this illustrates the extent to which human rights monitors in all regions of the world are still at risk and still remain under threat, despite the anticipated adoption this Thursday of the Defenders Declaration. Over the next few days, in Paris, human rights defenders will be able to share their experiences, discuss common problems, and strategize on what needs to be done to transform the Defenders Declaration from a piece of paper into a protective shield, enabling the defenders to better carry out the unenviable tasks and burdens they have assumed. The object is, in part, to ensure that defenders – in protecting and promoting the human rights of others – are at the receiving end of accolades and not of bullets.

This article draws heavily upon, but updates, information in a 1993 publication of the author, "The Importance of Freedom of Association for Human Rights NGOs," published by the International Centre for Human Rights and Democratic Development (ICHRDD), Montreal, available in English and French.

- **Laurie S. Wiseberg** is Executive Director of **Human Rights Internet**. 8 York St., Suite 302, Ottawa, ON K1N 5S6 Canada.