Meeting of the NHRC Core group on NGOs and Human Rights Defenders

Date : 13th June 2019
Time : 11.00 A.M
Venue : National Human Rights Commission,
New Delhi

Agenda Notes prepared by

Henri Tiphagne,
Advocate and Executive Director, People’s Watch
and
National Working Secretary, Human Rights Defenders’ Alert-India (HRDA)
and
National Working Secretary, All India Network of NGOs and Individuals working with National / State Human Rights Institutions (AiNNI)
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Please find attached Agenda points for the meeting of Core Group of NGOs & HRDs to be held on 13th June, 2019.

Regards,
Khaleel Ahmad
Deputy Registrar (Law)/Focal Point (HRD)
NHRC
Mob. No. - 9968280750

NATIONAL HUMAN RIGHTS COMMISSION
LAW DIVISION

Dear Sir/Madam,

A meeting of the Core Group of NGOs & HRDs is convened in Room No. 508 at NHRC, Manav Adhikar Bhawan, C-Block, GPO Complex, INA, New Delhi at 1100 hrs on the 13th June, 2019 as per the programme attached. Kindly make it convenient to attend the meeting.

Regards,
Khaleel Ahmad
Deputy Registrar (Law)/Focal Point (HRD)
NHRC
Mob. No. - 9968280750
Agenda Notes

Agenda notes for the meeting of Human Rights Defenders convened at 1100 hrs on 13th June, 2019 in the National Human Rights Commission proposed by

Henri Tiphagne, Advocate and Executive Director, People’s Watch and
National Working Secretary,
Human Rights Defenders’ Alert-India (HRDA) and
National Working Secretary, All India Network of NGOs and Individuals working with National / State Human Rights Institutions (AiNNI)

Agenda Item 1: Role and obligations of HRDs in society.

Agenda Notes 1:

Over the past few years, India has witnessed a rise in the attacks of HRDs which include social activists, journalists, lawyers, RTI activists, students, academicians etc. Dissent, a long cherished constitutional guarantee through Article 19 of the Indian Constitution, has come under direct attack. Government has misused laws and certain vigilante groups have used unlawful means to stifle dissent. While individual activists mostly paid the cost for exercising dissent through either their lives or charged under a series of draconian laws, laws like Foreign Contribution Regulation Act (FCRA), Income Tax Act, etc were used to silence civil society organisations. To provide an overview here and setting a context for this memorandum, I would like to bring to your attention some recent facts.

India is now ranked at 138 out of 180 countries in the World Press Freedom Index. According to 2017 Global Impunity Index by the Committee to Protect Journalists (CPJ), India features on the list of countries having high impunity for the killers of journalists. The data recorded by Committee Against Assault on Journalists in India (CAAJ) shows that between 2014-2018, 17 journalists were killed, 21 charged with fabricated cases and 44 cases of threats personally and online. Between 2014-2018, HRDA has documented and intervened in 402 cases of attacks on HRDs across the country. HRDs are being profiled, harassed, intimidated, ill-treated and subjected to hateful abuse in the media. They are arbitrarily arrested or detained, and a number of cases filed against them, their offices raided and files stolen or confiscated; and in extreme cases, they are tortured, or even killed. In 36% of these cases intervened by HRDA, HRDs are charged with fabricated cases and 11% cases of killings. According to 2017 report by Global Witness (GW), India documented a three-fold increase in land rights defenders murdered and has been placed fourth in global rankings of the worst affected. HRDs using the Right to Information (RTI) have come under
direct attacks by the State and non-State actors. According to the Commonwealth Human Rights Initiative (CHRI), between 2014-2018, 49 RTI activists were killed including 3 deaths by suicide, 68 were assaulted and 66 were harassed or threatened. Between 2014-2018, on three specific instances, HRDs were barred from travelling outside India and engaging with UN and other international bodies. Several activists were barred from entering India on grounds of involvement in ‘NGO Activities’. In addition to attacks on dissent, freedoms of expression and assembly, freedom of association, especially those organisations possessing valid licenses under the FCRA, have come under severe systematic attack from the Indian government. Between May 5 and June 9, 2015, the Ministry of Home Affairs (MHA) cancelled the registration of 4,470 CSOs for violating the FCRA. This action was followed by the cancellation of the licenses of 9,000 CSOs in April 2016. In August 2017, the MHA website says that the FCRA licenses of more than 11,000 organisations were cancelled. Based on the information available in some of the FCRA cases, including my own organisation’s FCRA non-renewal in October 2016, the grounds and/or procedure to cancel or suspend FCRA was arbitrary and unfounded. It is pertinent that the NHRC considers the action plan that was adopted by the participants of the HRDs World Summit held in Paris (29-31) Oct, 2018 (See Annexure 1)

Agenda Item 2: Whether there any need for a separate act/law for protection of human rights defenders on the lines of Whistleblowers Protection Act.

Agenda Notes - 2:

There is a need for a separate Indian law for protection of Human Rights Defenders. When India has nine National Human Rights Institutions and over 160 State Human Rights Institutions dealing with Human Rights, Women, Children, Minorities, Scheduled Castes, Scheduled Tribes, Right to information, persons with disability, and Safai-Karamcharis, it is all the more important that a country now positioning itself in the UN Human Rights Council urgently brings such a law for the protection of the Human Rights Defenders. The International Service for Human Rights (ISHR) has drafted a model law for the recognition and protection of Human Rights Defenders. A draft of the same is enclosed as Annexure-2. (See Annexure 2). An Indian expert was also involved in the drafting of this law in the year 2016 and later in the year 2017, 3 other Indians were engaged on the same ISHR in contributing to an Indian response to this model law.

We recommend therefore that the NHRC appoint a High-Level Committee comprising Hon’ble Members of NHRC as well as representatives of HRD’s from across the country to form a small working committee to draft a law for India which can then be formally approved by the NHRC. HRDA would be willing to even share a draft private members bill that was prepared in the last session of parliament by the TRS Party in Andhra Pradesh. The NHRC can then also formally advocate with the Government for an exclusive law on HRDs.
What is of great matters in addition to a law for protection of rights of HRD’s is the need for a national protection policy to protect Human Rights Defenders. HRDs under attack not only require legal assistance but also require social protection, medical and psychiatric attention and in some cases the need also to shifted their residence to safer areas within the country. The UN Special Rapporteur on Human Rights Defenders who visited in India in the year 2011 specially recommended that such a national HRD protection policy be developed. It is therefore recommended that NHRC constitute to another committee to draft this policy so that the same may be approved formally by the NHRC after discussion at various levels and same may be forwarded to the government for urgently implementation.

While a law is important and a protection policy equally important what is also equally and urgently required in this country is for a dedicated standing committee of our Parliament on Human Rights. Several democracies have a formal committee on Human Rights. It is unfortunate that we do not have one. It is therefore requested that NHRC immediately make this recommendation for a Parliament Standing Committee on Human Rights to the new Government so that Parliament may be engaged in more active participation on matters relating to Human Rights.


Agenda Item 4: Victimisation of HRDs through false cases/accusations.

Agenda Item 5: Role of Focal Point on HRDs and Core Group on NGOs.

Common Agenda Notes for 3.4.5

**NHRC Complaints handling on HRDs:**

Several cases pertaining to the above-mentioned information were brought to the attention of the NHRC. Unfortunately, we don’t have the evidences to congratulate the NHRC for its interventions. I am taking the liberty to mention a few cases highlighting NHRC’s interventions in the same. These are just examples, without dwelling deep into the facts and merits of these cases, but cases of prominent HRDs where NHRC’s interventions would have certainly made positive contribution towards upholding fundamental freedoms and rule of law in India. Just a dozen cases as an handling of complaints on HRDs by NHRC.

1. In the case of Thirumurugan Gandhi, a human rights activist based in Tamil Nadu and one of the founders of the May 17 Movement, he was arrested on May 21, 2017, and later on May 29, 2017, he was further charged with the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982, in shot the Goondas Act. It is a draconian law used against HRDs in the state of Tamil Nadu. In Gandhi’s case, May 17 Movement on May 21, 2017, had called for a candle light vigil in memory of
Tamils killed in Sri Lanka. Over 500 people had peacefully gathered for the vigil. HRDA had sent an urgent appeal to the NHRC on May 30, 2017. NHRC registered this as case no. 1310/22/13/2017 and in its order dated June 3, 2017, noted that this is a case of HRD however transferred to the Tamil Nadu State Human Rights Commission (SHRC). HRDA had written multiple letter to the SHRC but no response until the RTI dated February 1, 2018, was responded by the SHRC on March 23, 2018. The summary response of the RTI stated no action was initiated as the original petition was not received from the NHRC. Gandhi, an HRD, had to spent four months in jail for exercising his constitutional rights and duties, however, both the NHRC and SHRC failed to provide any relief. The case continues to be pending in the SHRC with no information with HRDA about its status. In HRD cases, where the threats are directly from the state agencies, NHRC should abstain from transferring such cases to the SHRC. The UN Working Group on Arbitrary Detention submitted an opinion in Gandhi’s case on January 17, 2018 and this should be an example to be undertaken by the NHRC in HRD cases to commence with. NHRC headed by former Chief Justice of India and other members from Supreme Court and High Courts are capacitated and expert enough to undertake reviews in cases of HRDs, especially in cases where laws public security, goondas, terrorism are cited against HRDs.

2. In another case relating the same Mr. Gandhi, specifically a case of reprisals, he was arrested at the Bangalore Airport on August 9, 2018, after returning from participating in the UN Human Rights Council in Geneva (he had raised the issues concerning Thoothukudi killings). NHRC registered the case as 1804/22/13/2018 and issued notice on August 28, 2018, giving the Tamil Nadu Director General of Police (DGP) four weeks’ time to respond. According to the NHRC’s website, there has been no response till June 1, 2019. Following his arrest at Bangalore Airport, Gandhi was out on bail granted by a Chennai court, however, he was immediately arrested within minutes in another old case. I had the opportunity to personally meet him in the prison where he categorically mentioned about the ill-treatment. NHRC’s technical procedures of first granting time of four weeks in this case and then unending wait for the response had only emboldened the Tamil Nadu police in its act against HRDs. NHRC should ensure that its exercises its powers under Section 12 of the Protection of Human Rights Act (PHRA) and intervene in courts where prima facie acts of reprisals can be established.

3. In the case of Mukunda Kattel, former Director of Asian Forum for Human Rights and Development (FORUM-ASIA), he was deported back from Tiruchirapalli Airport allegedly for involvement in ‘NGO Activities’ on December 20, 2017. NHRC registered the case as 2459/22/36/2017 and issued a notice to the Chief Immigration Officer, Tiruchirapalli, requesting him to immediately furnish the particulars of the
‘Look Out Notice’ against him. This was a much-appreciated immediate step by the NRHC, however, NHRC closed the case citing Foreigners’ Regional Registration Office (FRRO) Chennai, Bureau of Immigration, Ministry of Home Affairs’ response. The response cited Mukunda’s involvement in ‘NGO Activities’ and the NHRC accepting the same closed the case. NHRC further stated that the matter was sub-judice, however, this was only a Habeas Corpus petition having limited jurisdiction. HRDA is of the opinion that **NHRC in such cases should not accept respondent’s at face value, apply its mind and provide the complainant an opportunity to respond. The State, which is the accused in such cases, should not have the last say with the respondent not provided the opportunity to respond.** NHRC’s intervention in the High Court would have only helped the HRD in seeking justice.

4. In the case of Kashmiri HRD Khurram Parvez, on September 14, 2016, he was barred from traveling to Geneva to attend the UN Human Rights Council. On September 15, 2016, on his return to Srinagar, Khurram was arrested under the Public Safety Act (PSA). HRDA’s petition with the NHRC was numbered as 183/9/13/2016, and called for reports within four weeks from the DGP of Jammu and Kashmir (J&K) and the FRRO in New Delhi. The response instead of four weeks’ came after three months. The response was not submitted by the main respondents but by the joint director of the Intelligence Bureau (IB), Ministry of Home Affairs. IB in its response claimed Khurram to be ‘anti-India and pro-separatist’, ‘having close links with pro-separatist leaders’. It is further claimed that Khurram with the ‘intention to internationalise the ongoing disturbance in Kashmir and castigate Indian policies had approached the UN High Commissioner for Human Rights and other UN Special Rapporteurs’, ‘met foreign diplomats and human rights groups in New Delhi’. The IB also cited ‘four pending criminal cases for inciting violence and hence damage would have caused to national interest if Khurram was allowed to go out of the country’. NHRC further ignoring the principles of natural justice, never shared with HRDA the response from the IB and on the sole basis of IB’s report closed the case on April 19, 2017. There were several communications by many UN Special Rapporteurs in this case. **NHRC should ensure that cases are not closed solely based on state’s version and it should undertake independent examination of facts using the services of its Special Rapporteur and its own investigation team. It was ironical that the NHRC accepted the intelligence report which has no legal basis and closed this case despite several orders of the Supreme Court and High Courts on such issues.**

5. In the case of Dr G.N. Saibaba, a 90% disabled professor suffering from several serious medical conditions lodged in Nagpur jail, it can be easily said that the NHRC has literally failed to provide him any relief. HRDA on several occasions had requested the NHRC to intervene as his situation in the prison is posing great threat
and risk to his life. **All Dr Saibaba needs is required medical treatment and attention by a team of specialised and qualified doctors, preferably from the All India Institute of Medical Sciences (AIIMS).**

- On September 18, 2013, HRDA had petitioned the NHRC on the police raid on Dr Saibaba’s residence held on September 12, 2013. The NHRC registered the petition as 6101/30/4/2013 however took no action in this matter and kept the case pending. In the same matter, it also registered another case as 5920/30/4/2013. Later it linked these petitions to the petition filed by his wife Ms. Vasantha, registered as 2850/30/4/2014/FC, pertaining to his arrest on May 9, 2014. **Solely based on the police report sent by SP Gadhchiroli on November 3, 2014, without providing an opportunity to any of the petitioners to respond, the NHRC closed the matter on January 19, 2015.**

There was another petition sent by Mr. K.S. Chalam, the then Special Rapporteur of the Hon’ble Commission for South Zone-II, he as the complainant, regarding the police raid and arrest of Dr Saibaba. This petition was also finally linked to the case 2850/30/4/2014/FC and closed on January 19, 2015. On June 19, 2015, HRDA sent a petition to the NHRC concerning proper medical treatment and food to be provided to Dr Saibaba in the prison. Dr Saibaba protested and completely stopped consuming the food in his demand for proper medical treatment and food in the prison between the period April 11-17, 2015. HRDA had demanded an independent investigation in the medical treatment and food quality provided to Dr Saibaba and an independent prison visit by the NHRC. NHRC registered the petition as 2198/13/17/2015 and dismissed the same in limni citing regulatory restrictions.

- On January 1, 2016, HRDA petitioned again with the NHRC regarding the denial of bail and directions for forced surrender issued to Dr Saibaba by the Nagpur Bench of the Bombay High Court. HRDA specifically demanded the NHRC to intervene in the legal proceedings by using powers under Section 12(b) of the PHRA. NHRC clubbed this petition with another petition registered as 2428/13/17/2015 filed by an individual. The petition 2428/13/17/2015 pre-dates HRDA’s petition even the direction in this petition was issued on November 13, 2015. The petition 2428/13/17/2015 related to inhumane jail conditions already placed before the NHRC by HRDA in case 2198/13/17/2015 which was dismissed in limini as mentioned above. On March 31, 2017, the national coordinator of Defend in India, based in Burdwan, West Bengal, petitioned the NHRC registered as 726/13/17/2017 to intervene in deteriorating health conditions of Dr Saibaba. NHRC in this case also cites of an application from Ms. S Jalaja, NHRC’s Special Rapporteur for
West Zone, following her visit to Nagpur Central prison to meet Dr Saibaba. She in her application dated May 22, 2017, had prayed for an independent medical team from outside the state preferably from the AIIMS to be deputed to assess Dr Saibaba’s medical condition. However, the NHRC cited the petition 2428/13/17/2015, said to have similar allegations, disposed of given no response was filed by the petitioner.

- On the non-response in one petition filed by an individual based on an interview published in Indian Express dated June 26, 2015, the NHRC decided to close another case 726/13/17/2017 which had claimed communication with Ms Vasantha, Dr Saibaba’s wife and a communication by NHRC’s Special Rapporteur. It is also to be noted that both the complaints differed by 21 months. Further, the enquiry by the NHRC in petition 2428/13/17/2015, was solely based on the reports received by DG Prisons, Maharashtra and Superintendent of Central Jail, Nagpur who were the accused in the petition. The enquiry report also has no reference to even efforts undertaken to communicate with Dr Saibaba and get his statement for the same.

6. In the case of Chandrashekhar Azad Ravan, chief and one of the founders of Bhim Army, he was arrested under the National Security Act (NSA) on November 3, 2017. His arrest under NSA came hours within he obtained bail from the Allahabad High Court on November 2, 2017. Interestingly, in this case, NHRC did not register the complaint sent by HRDA on May 4, 2017, and hence were never allowed to intervene and respond at any stage. A complaint from Citizens for Justice and Peace submitted on January 30, 2018, was numbered 4882/24/64/2018 and was disposed with directions to concerned authorities through order dated March 8, 2018. HRDA’s petition was placed on the same file as 4882/24/64/2018 which was a closed case. The same was never informed to HRDA until HRDA obtained its response to an RTI filed on November 2, 2018. Interestingly, after HRDA’s petition dated May 4, 2017, FORUM-ASIA’s petition dated May 25, 2017, was registered as 13766/24/64/2018 and notice was issued to DGP Uttar Pradesh calling for report within four weeks and NHRC’s Director General of Investigation was asked to collect facts over telephone within three days. This was a serious case of imposing NSA on Dalit HRD, prima facie to curb his work in the state which had caught imagination of several people. **NHRC in such cases should visit HRDs in detention and investigate the matter through an independent committee to arrive at logical conclusions. Expert committees should be formed with qualified researchers and academicians to review laws impinging upon civil liberties.**

7. In the case of arrests, allegedly related to the Bhima Koregaon incident, several prominent and globally recognised HRDs are falsely charged under Unlawful Activities Prevention Act (UAPA). In this case, the first raids were conducted on April
17, 2018, and HRDA had petitioned with the NHRC. This case 909/13/16/2018 was disposed of with directions to the concerned authorities. This was followed by another round of raids and arrests on June 6, 2018, and HRDA once again petitioned the NHRC which was numbered 379/90/0/2018. This was also disposed of with directions to the concerned authorities. HRDA on August 28, 2018, once again approached the NHRC on the third set of raids and second set of arrests that took place on August 28, 2018. Nine prominent activists, lawyers, academicians were arrested under the UAPA. Despite HRDA petitioning on August 28, 2018, the NHRC took suo-moto cognizance based on a newspaper article dated August 29, 2018 and was numbered 1618/13/23/2018. This was made known to HRDA after an RTI application seeking the same. HRDA has been kept out of this case and according to the NHRC’s website this case was closed on December 10, 2018, solely based on the submissions by the Maharashtra police and administration. NHRC in suo-moto cases, especially those concerning HRDs, should provide other complainants with an opportunity to respond to the state reports. This case, as available from the website and RTI records, was heard by the NHRC Chairperson and closed on the ground that it was sub-judice in the Supreme Court and High Courts of Delhi and Punjab and Haryana. In cases like these, NHRC should exercise its powers under Sec 12 for intervening in the said court with the permission of the concerned court and creatively undertake actions like trial monitoring of these cases in the local courts.

8. In the case of killing of 15 peaceful protestors and HRDs in Thoothukudi on May 22, 2018, during the anti-Sterlite protests, HRDA was the first to intimate the NHRC on the same day itself with its associates (including myself) on the ground witnessing the events as they unfolded. However, the petition submitted by HRDA and People’s Watch were never numbered and taken on record. In a case of this scale, NHRC initially took suo-moto cognizance and numbered it 907/22/41/2018, despite the fact that HRDA’s brief complaint was already on record submitted on May 22, 2018. After the intervention of the Delhi High Court on May 25, 2018, in a petition by Mr A. Rajarajan, the NHRC ordered to send its own investigation team to Thoothukudi. People’s Watch sent another communication to the Hon’ble Chairperson of the NHRC on May 30, 2018 wherein it was specifically urged that the NHRC should include the petitioners as one of the complainants in this case and opportunity to be given to provide more information in this case. (NHRC Diary No: 95274/CR/2018). Another reminder was also sent on July 31, 2018 to the Registrar on the same. The report of a detailed people’s inquest numbering over 2400 pages in five volumes was also submitted to the NHRC by the members of the inquest team. Ignoring all this, the case was closed on the grounds that ‘normalcy has returned’, that adequate ‘compensation’ has been paid to the families of the deceased and injured, that the CBI had been directed by the Madurai Bench of the Madras High Court to investigate
the case and a one-member judicial commission of enquiry was looking into this case. This is also the case wherein altogether eight UN Special Procedures have jointly issued a public statement on 31st May 2018. **NHRC being a statutory body has a broad mandate and the responsibility to ensure justice in cases of rights violations. It should not close the cases citing reasons which are prima facie objectionable. Further, NHRC should ensure that the reports of its investigation are made public in accordance with its rules and regulations.** In this case, the report is still not made public or shared with the complainants.

9. In the case of Medha Patkar, on August 7, 2017, she along with other protestors, peacefully holding Dharna, were lifted from the protest site and arrested. It was alleged that a police force of over 2000 came down violently on the peaceful protestors in act of intimidation. HRDA filed a complaint with the NHRC on August 8, 2017, which was registered as 1675/12/15/2017. The response was received from the authorities and HRDA responded to the same on July 20, 2018. Not taking the HRDA response on record and stating that in the absence of any response from HRDA, the matter was closed on November 12, 2018, i.e. nearly four months after the response was submitted. This shows major lacuna’s in the NHRC’s complaint handling system which needs attention and rectification. **NHRC, in all cases of HRDs, ought to have a team which assists the Hon’ble Commission and ensure that flaws like these are rectified. Here it is important to refer to the recommendations of the former UN Special Rapporteur on HRDs, Ms Margaret Sekaggya, who after her visit to India recommended the requirement of an expert team to deal with the cases of HRDs and not just one individual. Among the members of the NHRC, specific responsibilities need to be ascertained to handle cases pertaining to HRDs.**

10. In the case of FCRA non-renewal of Centre for Promotion of Social Concerns (CPSC) on October 29, 2016, HRDA had initially sent a complaint and the same was registered as 2302/22/15/2016. Subsequently, the 7th Asian Forum for Human Rights Defenders Forum in Colombo issued a statement raising concerns over the non-renewal of CPSC’s FCRA and was registered as 6259/30/0/2016. NHRC issued a detailed notice to the MHA seeking information on the Case No. 6259/30/0/2016 and after receiving a response from MHA, the NHRC sent yet another notice stating that the response received was not satisfactory and sought yet another response. The NHRC in its last available order in 6259/30/0/2016 stated that since the case is pending before Supreme Court and High Court, it will wait for the orders of the court to act on the matter. This is disastrous since the matter pending in the Supreme Court is one challenging the vires of the FCRA. If such a decision that is completely contrary to the position taken earlier in this matter the NHRC is being unfair to the complainant for passing orders without seeking its opinion - nor the HRDA or the Forum were
formally aware of any steps taken by the NHRC until the above-mentioned order in the case 6259/30/0/2016 appeared on NHRC’s website. The NYRC has lost yet another opportunity of dealing with the FCRA that the UN Special Rapporteur had specifically recommended the NHRC to act upon in the year 2012 in her report after visiting India.

11. In the case of Vaiko, a former Member of Parliament and also an HRD who has worked on a series of human rights issues, was deported from Kuala Lumpur substantial justice had been failed to have been undertaken. Such cases may fall beyond the purview of NHRC due to jurisdictional issues, however, NHRC is associated with its Malaysian counterpart SUHAKAM through the Asia Pacific Forum of NHRIs and the Global Alliance of NHRIs. All that could have been carried out would have also been a support to the HRD in this case, was the NHRC communicating with SUHAKAM and ensuring that they look into the case. SUHAKAM has intervened in such cases in the past. Such matters of regional and sub-regional co-operation are discussed extensively in meetings and regional conferences of NHRIs in Asia but when it comes to actual implementation in concrete cases the opportunities are lost leaving the victim clueless.

12. In the Veeravanallur case from Tamil Nadu, (Case NO. 896/22/37/2010 RAC) where five HRDs were arrested on false charges on August 15, 2010, also cited in the category of ‘important cases’ by the NHRC, NHRC’s initial role was commendable. An independent investigation was undertaken by the NHRC’s investigation team, including a spot visit followed by the NHRC impleading itself in the pending case in this matter in the Madurai Bench of the Madras High Court on the basis of a request made by the complainant before the NHRC. However, after the same, until 2018 the case remained before the Madurai Bench of the Madras High Court and the NHRC had to be requested to send a legal representative in this case. The Madurai Bench was pleased to quash the charge sheet in this case late last year but the NHRC still has its case kept pending with no remedy whatsoever to the victim HRDs in this case till date for the false case that was registered by the police. IT is in such cases that the NHRC should be seen to publicly stand by HRDs and exercise all its powers and even recommend prosecution of the guilty police officers.

Some concrete suggestions for NHRC’s HRD Complaint handing

Taking this submission forward and looking at institutional issues, based on the review of 500 HRD cases submitted before the NHRC only since 2015 and the experience of closely engaging with the NHRC through its complaints handling mechanism, here are some of the suggestions to strengthen the complaints handling system within the NHRC.
1. Using the services of the DLSA/TLSC under the National Legal Services Authority in all allegations of false cases against HRDs

- In important cases relating to HRDs, cases of killings and fabricated charges under draconian laws, including cases of reprisals, NHRC should refrain from following its routine procedure of always issuing notice providing four weeks’ time to the concerned authorities. Such cases require urgent interventions from the NHRC and hence should utilise the services of its own investigation department, Special Rapporteurs or even core groups members to assist in ascertaining the facts in the cases. The NHRC is headed by a former Chief Justice of the Supreme Court who once was the Patron-in-chief of the National Legal Services Authority. He can therefore even in some urgent cases of gross human rights violations where the victims fall within the categories under Sec 12 of the National Legal Services Authorities Act 1987 such as women, or children, or Dalits or tribals, or persons with disabilities or mentally ill, persons in custody or victims of disaster or caste atrocity, or workmen / labourers etc or where authentic reports are urgently required by the NHRC, call upon the Member Secretary of the District Legal Services Authority or even the Chairperson of the Taluk Legal Services Committee to visit the place of occurrence either personally or by constituting a team of competent human rights sensitive lawyers and dispatch a report within a few days if required. If the NHRC is only able to avail their services and obtain speedy credible reports, the quality of its protection mandate to HRDs and as well to other victims of HR violations will multiply several fold. This is a service that is available free for the NHRC to exploit. Asking the same authority, ( usually the police ) which often is directly involved in actions against HRDs to provide reports , unduly affects the process, causes delay and often the HRD and/or their families being more vulnerable.

2. Transfer of NHRC cases on HRDs to SHRC

- Cases relating to the HRDs should not be transferred to the SHRCs. Situation of the SHRCs in this country is extremely worrisome and several of them are deeply plagued with vacancies or lack of expertise in handling human rights issues. These SHRCs being in close association with the state agencies, put the HRDs in a disadvantageous position and often HRDs have demonstrated comparably more faith in the NHRC than the SHRCs. In some of the cases, especially pertaining to Andhra Pradesh, Telangana and Manipur, cases from NHRC were transferred to these SHRCs, with the NHRC being fully aware that these commissions did not even have a single member functioning on the day the case was transferred. In one of the cases from Andra Pradesh, it has been seen by us that in the absence of a Chairperson and Members in the Andra Pradesh SHRC the Secretary General of the AP - SHRC was conducting case hearings himself and also passing orders – completely against the provisions of the PHRA. Hence, the request that all cases
regarding HRDs are not transferred to the SHRCs and even if they are to be still transferred, the NHRC should be able to ascertain that the said SHRC has a full time Chair and members who could serve for at least another six months.

- **Further** that in cases so transferred from the NHRC to the SHRC, all case papers from the NHRC have to be dispatched by speed post and it is only upon dispatch of the case papers and intimation of the same to the complainant of the said order of transfer of the case and dispatch of the case that the case can then be shown as disposed in the data base of the NHRC. This is because we find in almost all such transfer of cases from the NHRC to any SHRC that the data base of the NHRC is immediately activated and the disposal of one more case shown and also reflected in the monthly newsletter of the NHRC but the actual dispatch of the papers follows several days or even weeks thereafter only. I can demonstrate the same with concrete cases and records that are in our possession.

- The SHRCs which have received such transferred cases from the NHRC should be obligated through a resolution that is passed in the annual meetings of all SHRCs convened by the NHRC that they shall in all such transferred cases from the NHRC provide
  - immediate intimation of the effect of such transfer to the complainant;
  - provide the NHRC a status report on the progress of such cases so transferred periodically once in six months and such reports are also made available on the web site of the NHRC for all to be able to see.

3. **Suo-moto HRD cases by NHRC and other complaints not being ‘tagged on’ as in the past:**

- In suo-moto cases pertaining to the HRDs that have been taken up by the NHRC, if there are also complaints preferred in addition by other colleagues across the country or by family members of the HRDs themselves or lawyers of the HRDs or by HRDs themselves or even by any network of platform working for HRDs across the country or in a region, the NHRC should also make each of them a respondent in such cases. This practice was in vogue in the NHRC till lately and we find that this has been abandoned with no reference to any practice guidelines so far evolved or to the NHRC Regulations in force. Keeping multiple complainants will only ensure that they contribute to the complaint handling process and bring to NHRC’s attention true facts and testimonies. These proceedings before the NHRC in relation to HRDs should never be undisclosed proceedings and victim HRD and their representatives should have all the right to know what is happening and have an opportunity of participating in the same. If the fact that there are too many case numbers is of concern to the NHRC, then this concern can be sorted out by tagging the additional complaints...
received to the main case (as in the past) and assigning the same number but with the alphabets at the end in italics. Eg Case No 1001/22/5/2019 (a), Case No 1001/22/5/2019 (b), Case No 1001/22/5/2019 (c) etc. In addition, the additional complainants should also be intimated as is the main complainant on the progress in each case and communications received from them also posted along with the main case.

- Tagging complaints related to an issue is a common practice, however, while undertaking this exercise, often the most relevant complaint or complainant is left out and the one which arrives the first is made the prime respondent. As a general principle and practice undertaken in courts, opportunity should be provided to all the complainants to respond. All the complainants and their responses should be made available online, unless stated otherwise by the complainant and except in cases requiring discretion.

4. NHRC disposal of HRD complaints with directions without an opportunity to HRD to respond

- A lot of the complaints related to HRDs are either disposed with directions or closed after the NHRC receives a response from the concerned authorities. Complainants in such cases are not provided the opportunity to respond contrary to the NHRC’s existing practice directions. This prima facie is also against the principles of natural justice. NHRC in no situation, solely based on reports from the alleged perpetrator of the attack on the HRD should come to a conclusion in a case.

5. NHRC closure of cases on the ground of ‘sub-judice’

- It is deeply concerning that several cases relating to HRDs are closed by the NHRC stating them to be ‘sub-judice’. If there is a false FIR registered against the HRD by the police, the scrutinising officers of the NHRC’s complaints handling mechanism who incidentally have very little practical experience of human rights on the ground indicate the HRD to be a matter which is sub judice. The mandate of the NHRC in the protection and promotion of human rights should alone be the guiding principle while looking at such cases. In such cases where such false cases are registered against the HRD the NHRC should exercise more actively and effectively its powers provided in Section 12 (b) of the PHRA. NHRC can in all such cases when it is specifically brought to its attention that a false case has been registered against a well-known HRD, the NHRC should engage the services of competent lawyers of the legal service authorities at the District or Taluk level and pass orders directing these lawyers to appear and defend the HRD concerned free of cost and if the HRD has in the meantime even appointed a lawyer of his own choice, mandate the lawyer from the DLSA or TLSC to monitor the criminal case on behalf of the NHRC and report periodically to the NHRC. This will place a lot of stress on police officers who
feel that registration of a false criminal case(s) can keep the HRD away from the scene and also get the NHRC complaint closed. For enhanced protection and promotion of human rights, it is important the NHRC strengthens all available provisions, uses them creatively and stand by the HRD when in need. This will improve the image of the NHRC in the eyes of HRDs across the country.

6. Scrutiny of the HRD cases in NHRC:

- The root cause of concerns pertaining to handling of HRD cases at the NHRC remains in the genesis of the complaint handling system. Complaints are initially scrutinised by a team of consultants, often young law graduates with very limited understanding of the ground human rights situation and the law in practice. Followed by a system of focal point on HRDs which is overburdened and lacking skills and expertise to deal with HRD cases. All cases pertaining to HRDs and democratic spaces (civic space), should therefore be scrutinised by a small team of experts having practical experience and knowledge in working with HRDs, followed by a team of individuals who can bring to the NHRC’s notice the true facts and nature of such HRD cases. The NHRC should direct all such cases related to HRDs to only be placed before the full commission of the NHRC and allow such cases to also be taken up after all preliminary reports have been received from the state authorities to be also heard before a Full Bench of the NHRC, as was the practice in the NHRC several years ago on a specified afternoon of the week. For Eg Thursday afternoons between 3 to 5 PM.

7. Need for compilation of NHRC’s HRD jurisprudence after 25 years:

- The actions taken by the NHRC and orders passed in cases should be made available online. It is now an institution with 25 years of experience behind it and its precedents need to be made available online for the entire world to know its jurisprudence on human rights. The NHRC is a unique institution, headed by the former Chief Justice of India and comprising two other former judges. Several members of the NHRC and its senior staff have global access to laws and policy, and have had international opportunities for capacity building and training in the field of Human Rights provided either by the OHCHR, or the APF or GANHRI. This knowledge should be reflected in the orders/recommendations of the NHRC. The tons of knowledge possessed by NHRC as an institution should be passed on to the domestic courts of our country so that they will then be able to follow this jurisprudence in their own court orders and also hesitate to interfere with recommendations of the NHRC or SHRC from the High Courts as is being done today. NHRC’s interventions in courts in all matters related to HRDs should also be an educative tool on international human rights law for the higher judiciary of this country.
• It is important that the investigation reports in any HRD case intervened by the NHRC are also available online and for easy access of the complainant and victim. In the recent years, it has been observed in a series of cases, despite the closure of the cases, reports are not provided to the complainant, in complete violation of the existing rules and regulations. The case of the Thoothukudi killings is one such case. NHRC should urgently make public all its reports and a copy of the same be placed online and NHRC’s library.

• One of the most critical threats faced by HRDs are that they are charged under fabricated cases through targeted misuse of draconian laws. NHRC should commission a research to experienced human rights organisations and renowned academic centres to determine the constitutional validity of such laws. Such an exercise alone will broaden the debate for a stronger rule of law in India and will be a tool of extreme importance for the parliament and judiciary to rely on.

8. Reprisals & Communications from the UN Special Rapporteur on Human Rights Defenders, Freedom of Association and Assembly, Freedom of Opinion and Expression

The NHRC has to kindly pay attention to the 2018 report on reprisals of the UN Secretary General. The last report was dated 13th August 2018 and has the following portions with reference to India in Para 50,51 & 52. The extract from the report are as follows:-

“50. On 9 November 2017, special procedures mandate holders expressed concern at the use of the Foreign Contribution (Regulation) Act 2010 to restrict the work of NGOs cooperating with the United Nations, for example by a refusal to renew or grant licences, including for Mr. Henri Tiphagne of the Centre for Promotion of Social Concerns (OTH 2/2017 and IND 14/2018). Related issues concerning Mr. Nobokishore Urikhimbam of the Centre for Social Development have also been reported.


52. On 7 June 2018, the Assistant Secretary-General addressed the allegations in writing. On 2 July 2018, the Government responded.”

The Annexure-1 to the said report in Para from Para 60 to 67 deals with several cases from India. The extract from Annexure-1 is as follows:-

“60. On 9 November 2017 two special procedures mandate holders expressed concern at the use of the Foreign Contribution Regulation Act of 2010 to restrict the work of nongovernmental organizations who seek to cooperate with the United Nations, for example, by refusing to renew or grant licenses (OTH 27/2017).
61. They drew attention to the revocation of the license of the Centre for Promotion of Social Concern (also known as People’s Watch) under the Foreign Contribution Regulation Act, which was also addressed by three special procedures mandate holders on 31 May 2018 (IND 14/2018). On 29 October 2016 the Ministry of Home Affairs reportedly refused to renew the organization’s license to receive foreign funding under Article 6 of the FCRA and CPSC’s bank accounts were frozen. The refusal was subsequently upheld by the High Court of New Delhi in January 2017. The case is still pending before the court following a 13 April 2018 hearing, and has been adjourned to 31 August 2018.

62. The Executive Director of the Centre for Promotion of Social Concern, Mr. Henri Tiphagne was accused of using foreign contributions in his international advocacy “to the detriment of India’s image,” including in his engagement with United Nations special rapporteurs to whom he submitted information “portraying India’s human rights record in negative light.” Mr. Tiphagne has also made recommendations to the universal periodic review. The special procedures mandate holders noted that the non-renewal of CPSC’s license is a clear case of reprisal for his cooperation with the United Nations (IND 14/2018).

63. Additionally, on 1 January 2018, it was reported that the Centre for Social Development, which promotes the land and resource rights of indigenous peoples in Manipur, received a six months suspension. According to reports, the suspension was based on claims that the Centre for Social Development violated the Foreign Contribution Regulation Act by using foreign funding for purposes other than intended by the law, including drawing attention to Uranium mining in Meghalaya at “several global platforms.” The Centre for Social Development submitted a report in October 2017 to the United Nations Working Group on Business and Human Rights and to the Committee on the Elimination of Racial Discrimination which included inquiries related to uranium mining and cement factories in Meghalaya. According to the Centre for Social Development, it has submitted nine reports to the United Nations since 2006 concerning violations of the rights of indigenous peoples in northeast India in relation to large-scale development projects, mining operations, and implementation of the Armed Forces (Special Powers) Act. They have requested the Committee’s action under its early warning procedure.

64. It is alleged that the Centre for Social Development has been targeted by Indian authorities since August 2017, when surveillance of its premises and staff’s movements began. The offices of the organization were reportedly visited by the Central Reserve Policy Force and others to question the staff about their work, and staff have been harassed. One staff member was physically attacked on 18 August 2017. In November 2017, one staff member and two volunteers of the organization were called in for questioning by the police.

65. The Secretary of the Centre for Social Development, Mr. Nobokishore Urikhimbam, has been surveyed by military intelligence officials from the State of Manipur as well as those outside of the state at his office premises and at his home in Imphal, Manipur. When he travelled to Shillong, State of Meghalaya in January 2018, the Intelligence Department of Meghalaya contacted the hotel and interrogated its staff about his actions and contacts. The hotel staff was asked to provide detailed information on his activities, including a list of the people he interacted with. These incidents were reportedly brought to the attention of the
Superintendent of Police, Imphal East District and Patsoi Policy Station, Imphal West District, to no avail.

66. On 20 June 2017, Mr. Michel Forst, the Special Rapporteur on human rights defenders expressed his concern about reports of reprisals against a member of the Jammu and Kashmir Coalition of Civil Society, Mr. Kartik Murukutla (IND 4/2017). Mr. Murukutla represents victims of human rights violations before local courts and engages with United Nations human rights mechanisms, particularly the universal periodic review and the special procedures. In September 2016, while traveling to Geneva, Mr. Murukutla was informed that he was subject to a “Look Out Circular,” a measure taken where a case has been registered against an individual by a police authority in order to verify whether a travelling person is wanted by the police. They are used by the police authorities to prevent and monitor the entry or exit of persons who may be required by law enforcement agencies, and there is concern that this measure was taken against Mr. Murukutla as a reprisal for his cooperation with United Nations human rights mechanisms in Geneva. It was reported in May 2018 Mr. Murukutla was not subject to restrictions during his most recent travels, but he had not been informed about the status of the Look Out Circular nor its implications for his future travel.

67. On 7 June 2018 the Assistant Secretary-General for Human Rights addressed the allegations of intimidation and reprisals to the Government of India. On 2 July 2018 the Government responded that the Foreign Contribution Regulation Act of 2010 prohibits acceptance and utilization of foreign contribution for activities detrimental to national interest. It noted that the revocation of the license for the Centre for Promotion of Social Concern before the Delhi High Court, is adjourned until 31 August 2018, and that the Centre for Social Development “needs to conform to the legal framework and the requirements under FCRA.” The Government noted that Mr. Khurram Parvez’s detention is well grounded according to the provisions of the Jammu and Kashmir Public Safety Act (1978) based on his activities prejudicial to public order. At the time of writing, the Government had not responded to the communications by special procedures of 9 November 2017 (OTH 2/2017), 20 June 2017 (IND 4/2017), or 31 May 2018 (IND 14/2018).”

It is seen from the above that all of the cases referred are with reference to HRD’s. Since this is a report from the UN Secretary General on matters relating to reprisals, the NHRC which is wanting to serve in the best interest of Human Rights Defenders and desires upholding international standard in its functioning and needs to look out annually for the report of the UN Sec Gen on reprisals and take suo-moto cognizance of all the cases highlighted by the UN Secretary General in his special report on reprisals and in turn then also provide the UN Sec Gen the NHRC’s own findings in each of these cases.

Communications of the UN Special Procedures with reference to HRDs from India:

The UN Special Rapporteur on the situation Human Rights Defenders, the UN Special Rapporteur on the right to peaceful assembly and association, the UN Special Rapporteur of the right to freedom of opinion and expression and many others send continuous
communications to the Government of India which are also made public thereafter. But unfortunately, the Government of India does not respond to many of these communications received from the any of the UN Special Procedure. Since many of these communications from the Special Procedures to the Government are matters relating to Human Rights violations taking place in the country and in particular to violations of the rights of Human Rights Defenders, it is strongly recommended that NHRC follows a new practice to ensure that every such communication from the UN Special Procedures is suo-moto taken cognizance of by the NHRC when they are made public by the Special Procedure mandate holders and efforts are made to follow-up each of the cases if they have not already handled them and report to the Special Rapporteur based on their suo-moto action. Such a pro-active effort in relations to communications with reference to Human Rights Defenders from the UN SPs will enhance the image of NHRC and allow HRDs from across the country to increasing trust the NHRC in its actions in relation to HRDs.

*(See Annexure 3)*

**Agenda Item 6: Training and Capacity building of HRDs**

**Agenda Notes 6:**

More than HRDs it is all NHRIs and SHRIs and their staff and state authorities of all state government who require urgent training.

The NHRC through its very interesting legislation the PHRA 1993 comprises of five full time members (including the Hon'ble Chairperson) and four deemed members. They are namely, the Chairpersons of the National Commission for Minorities, the National Commission for Women, the National Commission for scheduled castes and the National Commission for scheduled tribes. The meeting of the members and deemed members together is termed as the Commission’s ‘full commission’ meeting.

The Chairperson of the National Commission for Protection on the rights of children is also invited as a special invitee to this ‘full commission’ meetings. It is now suggested that NHRC urgently convene a half day meeting of its Full Commission and invite as special invitees not only chairperson of the NCPCR but also the National Commissioner for persons with disabilities, the Chairperson of Central Information Commission, the Chairperson of the National Commission for Safai-Karamchari and deal with the issues of Human Rights Defenders in this dedicated meeting. The reasons for the same is to ensure that all NHRIs in India also independently develop their own functional mechanism to deal with their respective HRDs working on the thematic engagement that their NHRI deals with. HRDs working with women, working with children, working with minorities, working with Dalits, working with tribals, working with the persons with disabilities, working with RTI activists etc. will thus get protection from these thematic NHRIs in the country. Such a dedicated exercise by the NRC for all these other NHRIs along with a representation of civil society will enhance
this country’s national protection to HRDs and the other statutory NHRI in our country can also be encouraged to forward complaints that relate to Human Rights Defenders to the NHRC for its exclusive handling of these complaints.

In order to create greater National awareness not only of the rights of Human rights Defenders but on the responsibility of State Authorities to Human Rights Defenders and introduce the UN Declaration on HRDs 1998 as well as other UN mechanisms to deal with the rights of HRDs, it is strongly recommended that NHRC kindly consider a series of six regional one day training workshops on the subject of Human Rights Defenders’ protection for all State Human Rights Institution (SHRC, SCW, SCM, SCPCR, SCSC, SCST, SIC, etc.) The country can be divided into the following regions - North (2 regions), one for the South, one for the East, one for the West and one for the North-East) and NHRC can undertake this exercise in these 6 regions in collaboration with the office of the UN Country Representative and other UN bodies in India (Un Women, UNDP, UNICEF, WHO etc ) and Civil Society platforms working with HRDs. Such an exercise will contribute to SHRIs developing a concern for the issues of the Human Rights Defenders across the country and attending to them with professional skills.

**Agenda Item 7: Misuse of NHRC logo by unscrupulous NGOs/CSOs, which weakens credibility of genuine NGOs and other HRDs**

**Agenda Notes 7:**

Would like to discuss the Tamil Nadu Government’s legislation banning the use of the terms ‘Human Rights’ in the title of any human rights organisations. Suo Motto actions also pending before the High Court. Could be happy if NHRC can kindly consider intervention in this matter.

**New Proposed Agenda:**

**NHRC’s accreditation before GANHRI**

Since this is a meeting of the NHRC’s National Core Group on NGO’s it is pertinent that we also raise the issue of the accreditation of NHRC- India by the GANHRI in the year 2018. You will recall that GANHRI granted re-accreditation to NHRCI in the year 2011 and then the NHRCI came up for re-accreditation once again in the year 2016 and thereafter in 2017. The SCA Reports of 2011, 2016 and 2017 are important for this National Core Group of NGO’s to kindly consider the recommendations are as follows:-

(A) SCA Recommendations of 2011: *(See Annexure 4)*

(B) SCA Recommendations of 2016: *(See Annexure 5)*

(C) SCA Recommendations of 2017: *(See Annexure 6)*
It is important to know that the NHRCI has now completed 25 years of its existence and hence it is equally important that the recommendation of SCA of GANHRI of 2016 and 2017 are immediately implemented. GANHRI had accredited the NHRC as an A grade institution on the sole assurance of our NHRC that the Protection of Human Rights Act 1993 would be amended to incorporate all the major recommendations proposed by the SCA.

On 3rd April 2013, the cabinet had approved the draft bill on the Protection of Human Rights Act (Amendment) Bill, 2018. But there had been no consultation process with the public and civil society prior to this cabinet approval of the same. It is also not known whether the NHRC itself had proposed the amendments or this was only those proposed by the Government of India. It is therefore important to note that the amendment bill has not been passed by the previous Parliament and therefore the need for the NHRC to constitute with urgency that this deserves, a high level committee which will include now among others experienced former chairperson or members of the NHRC and civil society representatives in order that a fresh list of amendments to PHRA 1993 is first proposed by the Committee to the NHRC for its kind consideration and thereafter to be sent to the Government for its urgent consideration by Parliament. This is a duty caste upon the NHRC at the time of its accreditation which is almost 18 months earlier and therefore needs to be attended to urgently.

**Annexures:**

2. A Model law for the recognition and protection of Human Rights Defender
3. UN Secretary General’s Report on Reprisals dated 13 August 2018 (A/HRC/39/41)
4. Sub-Committee on Accreditation (SCA) Recommendations of 2011
5. Sub-Committee on Accreditation (SCA) Recommendations of 2016
6. Sub-Committee on Accreditation (SCA) Recommendations of 2017
Human Rights Defenders World Summit 2018

Action Plan
PREAMBLE

We, the participants at the Human Rights Defenders World Summit 2018, held in Paris on the twentieth anniversary of the adoption of the UN Declaration on Human Rights Defenders (hereinafter “HRD Declaration”), assert that this Action Plan we have adopted must be urgently implemented by States, businesses, financial institutions, donors and intergovernmental institutions.

The first Human Rights Defenders World Summit was held in December 1998, at the time of the adoption of the HRD Declaration, which recognised for the first time that everyone – individually and collectively – has the right to defend human rights. The 1998 Summit adopted an Action Plan which over the years has guided the efforts of many human rights defenders.

The global context today is undoubtedly different and the universality of human rights is increasingly challenged. Democratic values are under threat and authoritarianism, unaccountable governments and businesses, systemic corruption, inequality and discrimination, overexploitation of natural resources, religious and political extremism are all on the rise. We see a concerted ideological effort to undermine human rights, systemic repression, discrediting of human rights defenders, and a reduction of the space for critical and independent voices in civil society. These attacks have broadened in scope and have reached alarming levels. Political leaders have unashamedly peddled a toxic rhetoric blaming whole groups of people for social or economic grievances. At the root of this rhetoric lies a dangerous presumption that some people are less human than others. This “politics of demonization” has witnessed countries long committed to human rights, increasingly turning their backs on the very idea of human rights.

Yet we can only attain peace, security, dignity and sustainable development if we advance justice, freedom, and equality for all – and these are the ultimate goals of the Universal Declaration of Human Rights. Those who take a stand to defend human rights are essential actors in bringing these goals about. But to do so, human rights defenders must be respected, protected and able to act in an environment in which it is truly possible and safe to claim rights.
It is everyone’s responsibility to create such an environment. Those of us present at the Summit acknowledge the role that the global human rights movement has in this regard. We commit to continue to fight the patriarchal system, inequality and discrimination of all kinds, and to denounce and stamp out behaviours and language that exclude, harass and oppress, wherever they happen. We commit to strengthen networks of solidarity and support, and to increase our focus on collective and preventive strategies for the protection and promotion of human rights. We consider it is crucial we build a more inclusive movement reflective of our diversity. Thus, we will continue to integrate a gender and intersectional approach, communicate more effectively with public opinion, work closely with grassroots groups and people-led movements, and encourage all individuals and groups in society to be involved in the human rights struggle.

However, those with power, state and non-state actors, must take the lead in creating a safe and enabling environment for those who defend human rights. The UN Special Rapporteur on the situation of human rights defenders has identified key elements of a safe and enabling environment, namely: a conducive legal, institutional and administrative framework; access to justice and an end to impunity for violations against human rights defenders; strong and independent national human rights institutions; effective protection policies and mechanisms paying attention to groups at risk; specific attention given to women human rights defenders; non-state actors that respect and support the action of human rights defenders; safe and open access to international human rights bodies; and a strong and dynamic community of human rights defenders.\(^1\)

This Action Plan outlines what we believe should be the leading priorities for states, businesses, financial institutions, donors and intergovernmental organisations in bringing about a safe and enabling environment for the defence of human rights, as well as stronger and more effective protection of human rights defenders at risk, their communities, organisations and movements. Building on the achievements, developments and challenges that have emerged over the last two decades, these recommendations provide a common basis for all actors who believe that the action of those who defend human rights is essential for achieving peace, justice, equality, dignity, good governance, and sustainable development.

\(^1\) A/HRC/25/55
I. ACTION BY STATES

States have the primary obligation to respect, protect and promote human rights and to implement the HRD Declaration. Given the levels of social, physical, technological, gender-based, and legal attacks on human rights defenders, states must take urgent action to recognise their essential role, protect those at risk, and take concrete measures to foster a safe and enabling environment for the defence of human rights without discrimination.

We demand that all states urgently adopt national action plans ensuring a safe and enabling environment for human rights defenders, with their full and effective participation. Such plans should, as a matter of priority:

1. Explicitly recognize the right of everyone to protect and promote human rights and publicly support the important action of defenders, acknowledging their contribution to the advancement of peace, justice, equality, dignity, good governance and sustainable development. Including:

   a) Develop and implement human rights education programmes that reach children and adults, as well as public awareness campaigns about the right of everyone to protect and promote human rights, the important action of human rights defenders and the HRD Declaration.

   b) Acknowledge the challenges faced by defenders who are affected by inequality, exclusion, and intersecting forms of discrimination including on grounds of ethnicity and race, language, religion or belief, gender, gender identity, gender expression, sex, sexual orientation, sex characteristics, disability, age, location, occupation, nationality, statelessness, migratory status and class, or any other grounds, and ensure they are able to act in an environment free from violence and discrimination;

   c) In particular, counter discrimination against and social stigma of women and defenders with diverse sexual orientations, gender identities, gender expressions, and sex characteristics (SOGIESC) such as LGBTIQ defenders as well as of those who defend the rights to sexual and reproductive rights, including services such as safe and legal abortion and the human rights of sex workers, and the rights of those with disabilities, the rights of migrants and refugees, the rights
of Indigenous peoples and ethnic minorities by recognizing the vital contributions these defenders make to promoting human rights, social inclusion, sustainable development, and participatory democracy.

d) Publicly and unequivocally condemn attacks, threats and intimidation against all human rights defenders without discrimination and refrain from using language that stigmatizes, abuses, disparages or discriminates against defenders including by characterizing them as criminals, “foreign agents”, terrorists or extremists, undesirables or of being morally corrupt, threats to security, development or so-called traditional values;

e) States that have expressed support to all human rights defenders without discrimination in third countries should continue to do so, and states in all world regions should be encouraged to speak out in support of defenders.

2. Ensure a safe and enabling environment in which human rights defenders are effectively protected and where it is possible to defend and promote human rights without fear of punishment, reprisal or intimidation. In particular:

a) Adopt necessary measures to address the root causes of threats and attacks against defenders, including lack of human rights and environmental protections, lack of respect for collective rights to lands, territories and resources, marginalization and discrimination, lack of access to justice, corruption, lack of transparency and democratic accountability, and impunity.

b) Stop all threats, harassment, intimidation, surveillance, physical attacks and criminalization of human rights defenders, including attacks against women defenders and defenders with diverse SOGIESC such as LGBTIQ defenders, and those who defend the rights of sex workers, of persons with disabilities, of the rights of Indigenous peoples, ethnic minorities, and migrants.

c) End impunity for such attacks by thoroughly, promptly and independently investigating them and bringing the perpetrators to justice and providing effective remedies and adequate reparation.
d) Ensure that domestic laws on the rights to freedom of association, peaceful assembly and expression are in full compliance with international human rights standards and facilitate rather than hinder the exercise of these rights, including:

   I. allowing and facilitating access to domestic and international sources of funding, ensuring administrative requirements are not burdensome, repealing requirements to register as foreign agents if in receipt of international funding, and allowing informal groups to operate.

   II. decriminalizing defamation, including laws shielding public officials, avoiding broad definitions in counter-terrorism and incitement laws, and laws restricting whistle-blowers;

   III. stopping the use of criminal and administrative law in such a way as to dissuade people from taking part in demonstrations as a means of expressing their views, or otherwise to stifle criticism of those in power.

e) Repeal or amend any other legislation that may hinder the legitimate activities of human rights defenders and civil society, including laws infringing privacy, in particular those governing surveillance and interception of communication, laws on national security and terrorism, as well as laws criminalising same-sex relations, sex work, reproductive rights and union organizing, and restrictive laws targeting and criminalising transgender defenders.

f) Establish effective mechanisms for access to publicly held information, and effective and equal public participation, including the development of national laws, public policy and government initiatives and decisions, and facilitate and support the participation of human rights defenders and civil society, in particular for individuals and groups affected by decisions being made.

g) Strengthen independent national human rights institutions and provide them with the necessary human and financial resources to carry out their duties effectively, including having a specific mandate covering the protection of human rights defenders and the promotion of the right to defend human rights.
h) Ensure that the justice system is not misused to target or harass HRDs and refrain from bringing criminal charges, civil proceedings or administrative measures against them for engaging in the defence of human rights.

i) Ensure the full and immediate implementation of the judgements of the international and regional courts as well as other internationally recognised judicial and quasi-judicial bodies on violations of fundamental rights and freedoms.

j) Sensitise law enforcement agencies on human rights and the importance and rights of human rights defenders such as training on how to investigate attacks against defenders thoroughly and sensitively, and on how to police assemblies in accordance with human rights standards and best practice.

k) Adopt and implement legislation to give full force and effect to the HRD Declaration, ensuring defenders, in all of their diversity, are recognized and protected. This should include a national focal point to champion the right of civil society. States that have adopted laws on the recognition and protection of human rights defenders should share their example, offer technical assistance and encourage other states to adopt similar pieces of legislation. They should also ensure periodic reviews of the implementation of the law and the situation of defenders.

l) Establish, with the participation of HRDs and civil society organizations, national protection mechanisms for defenders at risk. Such mechanisms should incorporate preventative, collective, gender-sensitive and intersectional approaches, should be adequately resourced and should be equipped to address the root causes behind the targeting of defenders.

m) If a pattern of extreme violence and killings of defenders emerges, develop specific national action plans to address violence in connection with the implementation of commitments under Sustainable Development Goal 16,
n) Ensure that national development finance institutions and investment plans adopt or include effective requirements for the protection of human rights, respect and protect the right to free, prior and informed consent for Indigenous Peoples, the facilitation of an enabling environment for public participation, due diligence in the assessment, prevention, and mitigation of reprisals against defenders, as well as remedy for harms linked to development activities.

3. Take concrete actions in the context of their foreign policy, both at bilateral and multilateral level, to protect human rights defenders and civil society space. Including:

a) Fully co-operate with the different UN and regional human rights mechanisms, including by extending an open invitation to the UN Special Rapporteur on the situation of human rights defenders, and other thematic and regional experts, to conduct visits without restrictions on duration or scope and ensure they are allowed to meet with HRDs without hindrance, including in detention.

b) Take all necessary measures to prevent and deter acts of intimidation and reprisals against human rights defenders in relation to their communications and interactions with international and regional organizations.

c) Ensure the effective access and participation of civil society organisations to the works of intergovernmental human rights organisations.

d) Support international initiatives which would greatly reduce risk for environmental and land defenders, such as the draft treaty on business and human rights and the Escazú Agreement (“Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in LAC”).

e) Include the protection of defenders as a priority in foreign policy, ensure policy coherence and adopt national guidelines instructing diplomatic representatives to support human rights defenders in third countries, following the examples of those already adopted by several countries.
f) States that have adopted such guidelines should ensure adequate training for diplomatic representatives and regular review of implementation. Such states should also initiate awareness raising campaigns of these guidelines in third countries, with the participation of human rights defenders and civil society.

g) Ensure the rapid issuance of visas to human rights defenders who are forced to temporarily leave their habitual place of residence. States should consider establishing a specific facilitated visa procedure for human rights defenders, issue long term multiple-entry visas and encourage the establishment of support schemes by local authorities. States should also ensure the free movement of defenders within and beyond their borders and meet their commitments under the Refugee conventions.

h) Adopt or amend laws to exercise universal jurisdiction over perpetrators of attacks against human rights defenders.

i) Establish the legal basis for and apply sanctions to those responsible for imposing arbitrary restrictions on human rights defenders.

j) Ensure that business enterprises domiciled in country or subject to its jurisdiction are held fully accountable for human rights violations they commit in their operations overseas.

4. Put in place regulations to ensure that technological advancements foster respect for human rights and are not used as a tool to silence human rights defenders and civil society. Including:

a) Regulate the sale, supply, transfer and export of dual-use items, including surveillance and cyber-surveillance equipment, technology or software, restricting the trade of those goods to countries or situations where their use may lead to human rights violations, and specifically to spy on, inhibit and control the legitimate activities of defenders and civil society.

b) Ensure secure communications by protecting the right to privacy online and by providing strong protections for encryption and anonymity, and refrain from interfering with their use, including through hacking.
c) Prohibit the intentional prevention or disruption of access to information online, including measures such as Internet “kill switches”, or measures to block or take down websites, in particular those relating to human rights, including through denial of service attacks.

d) Adopt clear ethical principles and adequate regulations that ensure transparency, monitoring and accountability in the development and application of emerging technologies such as facial recognition, personal data collection systems, and artificial intelligence so that its use fully respects the rights enshrined in the Universal Declaration on Human Rights.
II. ACTION BY BUSINESSES

Business enterprises have a significant role to play in ensuring that human rights defenders, community leaders and those they represent are protected from harm, particularly when business interests clash with the enjoyment of the fundamental rights of communities affected by projects, such as the right to a healthy and clean environment, labour and housing rights and the right of Indigenous peoples to free, prior and informed consent.

We demand that business enterprises:

1. Implement and support robust, transparent and effective human rights due diligence processes, including as set out in the UN Guiding Principles on Business and Human Rights, to ensure that the human rights of individuals and communities, including human rights defenders, affected by activities of companies, their subsidiaries, subcontractors, suppliers or business partners, are respected. Gendered human rights impact assessments should specifically cover the potential risks for human rights defenders who may oppose their business activity, paying special attention to the impacts to women defenders who are generally disproportionately affected.

2. Adopt a policy of zero-tolerance towards acts of violence, threats or intimidation committed against defenders opposing or expressing their views about the company’s projects, whether committed by company employees, private security companies, contractors or any other person or entity affiliated with the company, or law enforcement forces acting to protect business interests. Should such incidents take place, press state authorities to take effective action to investigate and protect defenders; if incidents continue, suspend implementation of the project until a safe environment for defenders is guaranteed.

3. Make public statements on the important role of human rights defenders and civil society, publicly condemn attacks, threats and intimidation against them and refrain from making statements or expressing views that discredit, denigrate, discriminate against or stigmatize them.

4. Comply with the principle of free, prior and informed consent of affected communities, in particular Indigenous peoples and conduct meaningful consultations and meetings with human rights defenders and local
communities at critical phases of project planning and implementation and disclose at the onset all relevant information about business projects, including potential impacts on human rights, in formats and languages which are accessible to human rights defenders. Publicly report on how input from consultations with affected communities is acted on.

5. Fully cooperate with the state authorities in the investigation of any attack, threat or intimidation perpetrated against HRDs because of their work in supporting communities affected by business activities.

6. Information and communication technology companies whose products perform the function of community forums, social media networks and similar spaces, should review their policies to ensure that the freedom of expression and other rights of human rights defenders as enshrined in international human rights law are fully protected, including by allowing users access to transparent and effective complaints and remedy mechanisms for incidents of harassment, privacy violations, defamation, and threats.
III. ACTION BY FINANCIAL INSTITUTIONS

Recent tragic killings of human rights defenders in the context of investment projects have brought to the fore the responsibility of the financial institutions that fund such projects as well as how many such institutions are ill-equipped to deal with social conflicts arising out of their projects.

We demand that all financial institutions, governmental, intergovernmental or non-governmental:

1. Adopt a policy commitment on human rights, including zero tolerance of reprisals and requiring human rights due diligence to identify and mitigate human rights and reprisal-related risks. This should include an assessment of the enabling environment for human rights defenders and for public participation, and specifically the potential risks for individuals, groups and communities due to their participation in, scrutiny or criticism of, or actual or perceived opinions related to a development activity.

2. Screen portfolios for human rights defenders-related risks and establish early warning systems to detect potential conflicts related to projects at an early stage and put in place effective mitigating measures.

3. Independently verify that projects have secured and maintained the free prior and informed consent of indigenous peoples and good faith broad community support of other communities. Independently verify that consultation processes are meaningful and free of intimidation or coercion. Identify human rights defenders as a key stakeholder for consultation.

4. Adopt a protocol for responding to threats and attacks against human rights defenders in the context of development activities, including consulting with the target of the threats and attacks and any reference organization to develop an assessment of ongoing risk and a plan of response acceptable to the defender. Possible response measures should include issuing directives to the client that it takes all necessary measures to prevent and mitigate further harm, pressing state authorities to take effective action to investigate harm and protect defenders, issuing public statements in defence of the defender, utilizing influence with other lenders, sanctions and compliance measures, and suspension of funding until a safe environment for defenders is guaranteed.
5. Include contractual provisions in all project contracts requiring respect for human rights, and requiring reprisal prevention measures, as well as investigation and prosecution of reprisals in the case of public sector loans. Violation of the covenant should result in an immediate investigation and potential invalidation of the contract, debarment or other sanctions.

6. Systematically monitor projects for reprisal risks and ensure that communities have access, without fear of reprisal, to project level grievance mechanisms as well as independent accountability mechanisms within financing institutions that meet the UN Guiding Principles’ effectiveness criteria for non-judicial grievance mechanisms.

7. In research, lending policy, public statements, and technical assistance, reiterate the importance of an enabling environment for safe and meaningful public participation in development activities and the positive role that human rights and human rights defenders play in sustainable development, especially lifting up the most marginalized and vulnerable.
IV. ACTION BY DONORS (GOVERNMENT AND PRIVATE)

We demand that donors, both government and private:

1. Substantially increase funding for HRD protection, the protection of civic space and the creation of an enabling environment, in correspondence with the significant resources allocated by those who try to silence defenders and close civil society space, without undermining the funding provided to strengthen the work and organizations of the HRD.

2. Consider the intersecting identities and contexts of defenders requiring support, including their ethnicity and race, language, religion or belief, gender, gender identity, gender expression, sexual orientation, sex, sex characteristics, disability, age, location, occupation, nationality, statelessness, migratory status, and class in their funding proposals;

3. Given the increasing number of restrictions in several countries on access to funding from international sources, explore alternative and flexible strategies to ensure the delivery of financial support to human rights defenders, including particularly marginalised sections of civil society whose voices are increasingly being silenced, and oppose governments’ attempts to make funding only available through their channels.

4. Provide support to existing civil society-led protection initiatives and networks, especially those led by communities at risk and vulnerable groups and encourage the establishment of new protection initiatives in particular in countries where such initiatives do not exist. While funding should be made available for all protection activities including relocation, systems that ensure in-country support should be prioritised.

5. Ensure that support for protection initiatives covers both immediate and emergency security needs, with a gender perspective, as well as longer term support aimed to building resilience, including after-crisis support, organizational strengthening, support for dependants and the return of relocated defenders.

6. Simplify calls for proposals and reporting requirements so as to minimise the administrative burden imposed on grantees and broaden the pool of defenders who may be able to apply. Ensure that entities that are not
legally registered, including grassroots groups and movements, are able to access funding, either directly or through intermediaries.

7. Provide multi-year general support to grantees, including core operating costs, sufficient staffing levels and investment in training and upskilling, to strengthen the sustainability and resilience of the organisation, groups and movements committed to advancing human rights.

8. Encourage grantees to consider the security implications of projects applied for and include budget lines dedicated to protection support to minimise those risks.

9. Ensure that staff members communicating with defender are trained in digital security, and encourage defenders to adopt secure methods of communication.

10. Encourage grantees to consider psychosocial implications of their work context and activities and include budget lines dedicated to ensuring the availability of psychosocial support, self-care and collective wellbeing measures for staff, volunteers, collaborators and family members.

11. Given the context of closing civic space, provide support for networking and convening to create spaces of exchange, discussion and mutual support between defenders as a strategy to counteract the fragmentation of civil society.

V. ACTION BY INTERGOVERNMENTAL ORGANISATIONS

Protection, respect and promotion of human rights are among the core principles of the United Nations, and of regional intergovernmental organizations such as the Organization of American States, African Union, Council of Europe, the Organisation for Security and Co-operation in Europe, the Arab League, Association of Southeast Asian Nations and their bodies, and of other intergovernmental initiatives such as the Community of Democracies, Open Government Partnership and the Extractive Industries Transparency Initiative. As such they play an important role in enabling progress towards the realisation of human rights and offer a key forum and platform for human rights defenders to relay their concerns to the international community, be heard at national and international levels and demand accountability.

We demand that intergovernmental organisations, whether through their political, technical or expert bodies:

1. Reaffirm the right of every person, individually or in association with others, to defend and promote human rights in accordance with the HRD Declaration, including women human rights defenders, and defenders with diverse SOGIESC such as LGBTIQ defenders, indigenous rights defenders, migrants’ rights defenders and other marginalized human rights defenders.

2. Continue to make repeated public statements about the crucial role and legitimacy of the activities carried out by human rights defenders and improve the speed and efficiency of the systems designed to protect them both at headquarters and country level.

3. Take stock of the developments in normative frameworks related to the protection of defenders since 1998 and further develop and deepen the norms contained in the HRD Declaration with the view to afford enhanced protection.

4. Monitor the implementation of states’ obligations regarding the protection of human rights defenders, paying particular attention to those defenders who are affected by inequality and intersecting forms of discrimination including those based on ethnicity and race, language, religion or belief, gender, gender identity, gender expression, sexual orientation, sex, sex characteristics, disability, age, location,
occupation, nationality, statelessness, migratory status and class or on any other grounds;

5. Formulate policies and strengthen mechanisms to prevent and address acts of intimidation or reprisals against human rights defenders who communicate and interact with international and regional mechanisms and ensure that the crucial information received from them does not place them at risk.

6. Prioritise the situation of human rights defenders, in particular, indigenous rights defenders, women human rights defenders, defenders with diverse SOGIESC such as LGBTIQ defenders, and other marginalised defenders, in their work, create a standing agenda item on human rights defenders in their formal sessions, and mainstream this issue including in fora that may be not explicitly human rights related.

7. Devise a system to sanction those members who do not cooperate with its human rights mechanisms and ensure that states with patterns of extreme violence against defenders are not eligible for membership of human rights bodies.

8. Ensure human rights defenders are enabled to access and have a voice in international fora on human rights and development without any reprisals. To this end, ensure that defenders and their organisations may formally contribute to official sessions with adequate speaking time allocated to them; ensure the issuance of observer status (or its equivalent) to allow for their formal participation, without discrimination of any kind as to the issues they work on.

9. Ensure the inclusion of HRDs and civil society representatives in relevant governance and advisory boards to help ensure better protection of HRDs and to promote enabling environments for them to carry out their activities.

10. Systematically and regularly engage in proactive and meaningful consultations with diverse groups, including women human rights defenders, defenders with diverse SOGIESC such as LGBTIQ defenders, indigenous rights defenders, migrants’ rights defenders, and other defenders facing discrimination and exclusion across all relevant
mandates, and integrate their experiences, challenges, strategies, and recommendations into thematic reports and statements.

11. Ensure that the protection of human rights defenders and the promotion of the essential nature of their work are prioritized at the highest level of the organization and not only through concerned bodies and experts.
This action plan has been adopted by the participants of the Human Rights Defenders World Summit 2018, held in Paris on 29, 30, 31 October, 2018, under the auspices of a coalition of eight international human rights organisations, in consultation with more than 30 human rights organisations and networks from all over the world.

www.hrdworldsummit.org
A MODEL LAW
FOR THE
RECOGNITION
AND
PROTECTION
OF
HUMAN RIGHTS DEFENDERS
NOTE ON TRANSLATIONS

This Model Law is currently available in three languages (English, French and Spanish). ISHR welcomes translations of this document into other languages. However, in order to ensure the integrity and relevance of the information contained herein, please contact us in advance if you plan to translate this document or contribute to its translation.

This version was published in January 2017.

Please visit www.ishr.ch for any updates.
INTRODUCTION AND PURPOSE OF THIS MODEL LAW

This Model Law is intended to guide and assist States and other actors to ensure the full and effective implementation of the ‘Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms’ (the UN Declaration) at the national level.

The legal recognition and protection of defenders is crucial to ensuring that they can work in a safe, supportive environment and be free from attacks, reprisals and unreasonable restrictions. The legal recognition and protection of defenders also contributes to the broader goals of upholding human rights, and promoting democracy, good government, sustainable development and respect for the rule of law. Human rights defenders serve and pursue the interests of rights holders, victims of violations, and society as a whole.

States have the primary responsibility to ensure defenders are able to conduct their work freely and in a safe and enabling environment. In recent years, a wide range of UN experts and mechanisms – including Special Procedures, treaty bodies, the Human Rights Council and the Office of the High Commissioner for Human Rights – together with regional human rights bodies and experts, have called on States to implement laws that explicitly guarantee the rights reaffirmed in the Declaration, and to review and amend laws which restrict, stigmatise or criminalise the work of defenders.

Despite this, only a few States have incorporated the Declaration comprehensively into national law, while many States continue to implement legislation restricting the exercise of fundamental rights and freedoms; rights which are critical for defenders to carry out their legitimate work. In those countries where specific laws or policies for the protection of defenders have been developed, lack of resourcing or political will are impediments to their effective implementation.

In this context, this Model Law serves three primary objectives:

• to assist and provide technical guidance to States to develop laws, policies and institutions at the national level to support the work of defenders and protect them from reprisals and attacks;

• to provide a tool for defenders advocating for stronger legal recognition and protection of their important work; and

• to provide both States and defenders with a tool against which to measure and assess the coverage and effectiveness of existing laws and policies.
Process for development of Model Law

This Model Law is endorsed by 28 high-level experts. It was developed by the International Service for Human Rights over a three year period informed by the following key inputs:

• comparative legal research identifying both good practices and restrictive practices in the recognition and protection of defenders covering almost 40 national jurisdictions from all regions;¹

• face-to-face consultations with over 500 human rights defenders from more than 110 States from all regions, sub-regions and legal traditions;²

• a monitoring mission and comparative literature review;³ and

• extensive engagement with high-level human rights experts and jurists in drafting the model law, including a two-day meeting to finalise the draft.⁴

This Model Law was also prepared with substantial expert and pro bono assistance from Freshfields Bruckhaus Deringer.

How to use this Model Law

The Commentary on this Model Law is intended to act as a guide to aid legislators and defenders in the development of a law for the recognition and protection of human rights defenders. It is not intended to form a part of any such law.

This Model Law is intended to be used by a range of actors in a range of ways:

• by legislators and policy makers as a source of technical assistance to inform the development of a national law for the recognition and protection of human rights defenders or to review the scope and effectiveness of existing laws; and

• by defenders and other civil society actors to inform and guide the development of proposals for a national law for the recognition and protection of human rights defenders and as a checklist and accountability tool for contributing to the development and review of such laws and policies.

This Model Law is intended to be as comprehensive as possible, while recognising that it will require adaptation to national contexts, and national legal and constitutional frameworks.

Substantive provisions in this Model Law are intended, at a minimum, to provide a base line and to give full force and effect to relevant provisions of the UN Declaration. A range of provisions have also been incorporated or informed by good practice that may go beyond obligations or standards included under the UN Declaration or other international instruments.

This Model Law could be adopted in a range of ways, depending on the national legal context and tradition, including through a combination of legislation and regulations, or legislation and presidential or executive decree, or legislation and policy.

It is imperative that any national law on the protection of human rights defenders be developed and implemented in close consultation with defenders and other civil society actors and apply a gender perspective and a sensitivity to the particular situation and protection needs of women human rights defenders and other groups or categories of defenders who are exposed or at risk.

It is also imperative that any law for the protection of human rights defenders enjoy high-level political support and be accompanied by adequate resources for full and effective implementation.
The overall framework for the protection of defenders

It should be recognised that a specific law for the recognition and protection of human rights defenders based on this Model Law is a necessary, but not itself sufficient element of the framework for a safe and enabling environment for defenders. As well as endorsing the notion of specific laws for their protection, defenders consulted for this Model Law highlighted the need to review and amend any law and policy restricting their work. Further, while a law for the protection of defenders was considered essential, defenders at the consultations maintained that, for such a law to guarantee a safe and enabling environment for their work, it must be complemented and reinforced by a range of other measures. The main elements necessary for defenders to be able to operate in a safe and enabling environment are highlighted in the December 2013 Report of the former Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, and include:

- conducive legal, institutional and administrative framework;
- fight against impunity and access to justice for violations against defenders;
- strong, independent and effective national human rights institutions;
- effective protection policies and mechanisms, including public support for the work of defenders;
- special attention for risks and challenges faced by women defenders and those working on women’s rights and gender issues;
- non-State actors’ respect and support for the work of defenders;
- safe and open access to the United Nations and international human rights bodies; and
- strong, dynamic and diverse community of human rights defenders.

4. From 10 to 11 May 2016 a group of high-level human rights experts and jurists from all over the world met in Bossey, Switzerland to discuss, comment and amend the draft Model Law.
SIGNATORIES TO THE MODEL LAW

At an Expert Meeting on 10 and 11 May 2016, the following human rights experts and jurists endorsed this Model Law in their personal capacities:

Alice Mogwe, Director, Ditshwanelo – The Botswana Centre for Human Rights.

Andrea Rocca, Head of Protection, Front Line Defenders.

Chris Sidoti, International human rights consultant, Board Member of the OHCHR Voluntary Fund for Technical Cooperation in the Field of Human Rights, and former Australian Human Rights Commissioner.

Claudia Virginia Samayoa, Founder and Coordinator of Unidad de Protección de Defensoras y Defensores de Derechos Humanos Guatemala - UDEFEAGUA (Human Rights Defenders Protection Unit in Guatemala).


Gerald Staberock, Secretary General, World Organisation Against Torture.

Guadalupe Marengo, Deputy Director, Head of Global Human Rights Defenders Team, Amnesty International.

Hassan Shire Sheikh, Chairperson of DefendDefenders.


Kamala Chandrakirana, Member of the UN Working Group on Discrimination Against Women in Law and in Practice, and former Chairperson and Secretary General, Indonesia’s National Commission on Violence Against Women.

Luis Enrique Eguren Fernandez, Board Member, Protection International.

Margaret Sekaggya, Executive Director of the Human Rights Centre Uganda, former UN Special Rapporteur on the Situation of Human Rights Defenders, and former Chairperson of the Uganda Human Rights Commission.

Mauricio Angel, Head of Policy, Research and Training Unit, Protection International.

Michael Ineichen, Programme Manager (Corporate Accountability) and Human Rights Council Advocacy Director, International Service for Human Rights.

Michel Forst, UN Special Rapporteur on the Situation of Human Rights Defenders.

Navi Pillay, former UN High Commissioner for Human Rights.

Olga Abramenko, Expert, ADC Memorial.

Olivier de Frouville, Professeur de droit public, Directeur du C.R.D.H. Université Panthéon-Assas, and Member of the UN Human Rights Committee.

Patricia Schulz, Member of the UN Committee on the Elimination of Discrimination Against Women.


Sir Nicolas Bratza, former President of the European Court of Human Rights.

Vrinda Grover, human rights lawyer and activist, Board Member of the Fund for Global Human Rights, and Bureau Member of South Asians for Human Rights.

Wilder Tayler, Secretary-General, International Commission of Jurists.

Yanghee Lee, UN Special Rapporteur on the Situation of Human Rights in Myanmar.
LAW FOR THE RECOGNITION AND PROTECTION OF HUMAN RIGHTS DEFENDERS

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PART I. GENERAL PROVISIONS

Section 1

Purposes

The purposes of this Law are:

(a) to recognise, respect, protect, promote and fulfil the right of everyone, individually or 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;

(b) to affirm, promote and protect human rights and fundamental freedoms in [country’s name];

(c) to affirm [country’s name]’s commitment to the effective implementation of the UN General Assembly Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms; and

(d) to affirm [country’s name]’s commitment to the effective implementation of [relevant regional instruments and documents on the protection of human rights defenders].

Commentary

Subsection (a) is adapted from Article 1 of the UN Declaration:

Everyone 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.

Subsections (b) and (c) are adapted from the statement of objects contained in the New Zealand Bill of Rights Act 1990.


Section 2
Definition of human rights defender

For the purposes of this Law, a “human rights defender” means any person who, individually or in association with others, acts or seeks to act to promote, protect or strive for the protection and realization of human rights and fundamental freedoms, at the local, national, regional and international levels.

Commentary


‘Human rights defender’ is a term used to describe people who, individually or with others, act to promote or protect human rights.

Similar definitions appear in domestic instruments, including the Article 2(1) of the Brazilian Bill and Article 2(a) of the Nepalese Bill.

The phrase “at the local, national, regional and international levels” was added to make clear that human rights defenders may act to promote or protect human rights within the State in which they are based (whether at the local, regional or national level) or beyond it. Language to this effect also appears in other instruments, such as in Article 1 of the UN Declaration:

Everyone 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.

See also Inter-American Commission on Human Rights, Second Report on the Situation of Human Rights Defenders in the Americas (2011), p 4:

…every person who in any way promotes or seeks the realization of human rights and fundamental freedoms, nationally or internationally”.

A number of domestic instruments contain a definition of “human rights defender” that is more detailed than that contained here. See, for example, Article 3(a) of the Philippines Bill and Article 5 of the Congolese Bill.

A less detailed definition is suggested in this Model Law to address the concerns expressed during the regional consultations and the expert meeting that a more detailed definition could be used as a basis for excluding persons from classification as a “human rights defender”.

During the regional consultations, it was suggested that no definition of “human rights defender” should be included in the Model Law. The drafters of the Model Law decided that some form of definition should be included to provide guidance for the interpretation and application of a law for the recognition and protection of defenders. Consistent with views expressed in the regional consultations, the drafters of the Model Law considered that the inclusion of a definition will also make it harder to arbitrarily exclude anyone from classification as a “human rights defender”. To the extent that there is concern that the definition of “human rights defender” requires further clarification, additional detail could be included specifying a non-exhaustive list of the types of individuals who could fall within the definition of “human rights defender”. Such a provision is found in Article 2(a) of the
Nepalese Bill. Those types of individuals could include:

(a) human rights advocates;
(b) human rights activists;
(c) legal practitioners and justice operators;
(d) judicial representatives
(e) journalists and media workers;
(f) trade unionists;
(g) social workers; and
(h) health workers.

The category of “human rights advocates” has been included above to make clear that “human rights defender” includes persons who publicly support or recommend change, as well as those who actively campaign for change (“human rights activists”).

Should a State preparing a law for the recognition and protection of defenders wish to include a more detailed definition, the following language could also be added “human rights defenders can work or carry out their activities on a full-time or part-time basis, they can act on a paid or voluntary basis, and can act as part of their profession/occupation, but need not do so.

It is important that the status of a human rights defender does not require any form of registration. Similarly, as set out in A/HRC/20/27, unregistered associations should be able to operate.

The definition of “human rights defenders” does not include the words “through peaceful means”, as those words do not appear in Article 1 of the UN Declaration. It should be noted however that other sections of the UN Declaration and the Model Law do include such a requirement. Article 12(3) of the UN Declaration states that:

Everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Further, Article 13 of the Declaration provides that:

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 the present Declaration.
PART II. RIGHTS OF HUMAN RIGHTS DEFENDERS AND RESPONSIBILITY TO DEFEND HUMAN RIGHTS

General Commentary to Part II

Part II draws on Articles 1, 3, 5-13 and 17 of the UN Declaration, as well as rights recognised in other international instruments.

Some existing domestic instruments include provisions addressing rights that go beyond those identified in the UN Declaration. Sections of this Model Law draw on such provisions.

At the same time, some rights that appear in existing domestic instruments have not been incorporated into the Model Law. For example, section 14 of the Philippine Bill includes a “right to establish sanctuaries for any human rights violation victim and/or their immediate families”. The drafters considered the detail in this provision to be too specific for inclusion in the Model Law.

Section 3

Right to promote and protect human rights and fundamental freedoms

Everyone has the right, individually or in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms, at the local, national, regional and international levels.

Commentary

This Section sets out a general right that encompasses, but goes beyond, the more specific rights that follow in Section 4 to Section 18.

The Section draws on Article 1 of the UN Declaration, which provides that:

*Everyone 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.*

The phrase “at the local, national, regional and international levels” was added to make clear that human rights defenders may act to promote or protect human rights within the State in which they are based (whether at the local, regional or national level) or beyond it.

See also Inter-American Commission on Human Rights, Second Report on the Situation of Human Rights Defenders in the Americas (2011), p 4:

*Every person who in any way promotes or seeks the realization of human rights and fundamental freedoms, nationally or internationally.*
Section 4  
Right to form groups, associations and organisations

(1) Everyone, individually or in association with others, has the right to form, join and participate in groups, associations and non-governmental organisations, whether formal or informal and whether registered or unregistered, for the purpose of promoting and striving for the protection and realisation of human rights and fundamental freedoms.

(2) The groups, associations and organisations referred to in subsection (1) include:
   (a) groups, associations and organisations in [country’s name];
   (b) groups, associations and organisations in other countries; and
   (c) groups, associations and organisations in multiple countries or at the regional or international levels.

(3) The groups, associations and organisations in [country’s name] referred to in subsection (2)(a) have the right to engage with:
   (a) groups, associations and organisations in [country’s name] and in other countries or at the regional or international levels; and
   (b) coalitions or networks of groups, associations or organisations referred to in subsection (2), whether formal or informal and whether registered or unregistered.

Commentary
This Section draws on Article 5 of the UN Declaration, which provides in relevant part that:

For 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:

... (b) To form, join and participate in non-governmental organizations, associations or groups.

The use of the language “groups, associations and organisations, formal and informal” referred to in subsection (1) includes community groups, minority groups, a collective of indigenous peoples, or people that come together to defend or advocate for human rights. The right to freedom of association equally protects associations that are registered and unregistered. Individuals involved in unregistered associations should be free to carry out any lawful activities, including the right to hold and participate in peaceful assemblies, and should not be subject to criminal sanctions (A/HRC/20/27, p 14, para 56).

Subsection (2) was added for the purpose of making clear that a human rights defender is not only entitled to form, join or participate in groups that are established, based or operating within the relevant State but that they are also entitled to form, join or participate in groups established, based or operating in other States or several States.

Subsection (3) was added to make clear that groups formed within the relevant State can become affiliated with groups established, based or operating in other countries. Subsection (3) was inspired by Article 6 of the Burkinabe Bill.

Subsection (3) also draws on the wording of Article 5 of the ILO Convention concerning
Freedom of Association and Protection of the Right to Organise:

Workers’ and employers’ organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

Section 5
Right to solicit, receive and utilise resources

Everyone, individually or in association with others, has the right to solicit, receive and utilise resources, including from domestic and international sources, including governmental, intergovernmental, philanthropic and private sources, for the express purpose of promoting and striving for the protection and realisation of human rights and fundamental freedoms.

Commentary

This Section draws on Article 13 of the UN Declaration, which provides that:

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 the present Declaration.

Article 3 of the UN Declaration provides that:

Domestic law consistent with the Charter of the United Nations and other international obligations of the State 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 the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

The reference to Article 3 of the UN Declaration was omitted from Section 6, in the same way that it has been omitted from Article 4(17) of the Honduran Law and Article 6 of the Burkinabé Bill.

In line with a suggestion made during the regional consultations, the phrase “including from domestic and international sources” was added to make clear that this right includes a right to solicit, receive and utilise resources from international organisations, inter-governmental organisations and foreign sources (both governmental and private sector). This clarification is important given that in a number of countries there are laws which restrict access to foreign.

This section also draws on Human Rights Council Resolution A/HRC/RES/22/6 which calls upon States to:

…ensure that reporting requirements placed on individuals, groups and organs of society do not inhibit functional autonomy, and that restrictions are not discriminatorily imposed on potential sources of funding aimed at supporting the work of human rights defenders other than those ordinarily laid down for any other activity unrelated to human rights within the country to ensure transparency and accountability, and that no law should criminalize or delegitimize activities in defence of human rights on account of the geographic origin of funding thereto.


Section 6
Right to seek, receive and disseminate information

(1) Everyone, individually or in association with others, has the right:
   (a) to know, seek, access, obtain, receive and hold information about all human rights and fundamental freedoms, including information regarding how those rights and freedoms are given effect in the legislative, judicial and administrative systems of [country’s name];
   (b) to know, seek access, obtain, receive and hold such information from business enterprises as may be necessary for exercising or protecting, or assisting to exercise or protect, human rights or fundamental freedoms;
   (c) to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
   (d) to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other means, to draw public attention to those matters.

(2) The right in subsection (1) may be exercised orally, in writing, in print, in the form of art or through any other media, whether online or offline.

Commentary

This Section draws on Article 6 of the UN Declaration, which provides that:

Everyone has the right, individually and in association with others:

   (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
   (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
   (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Subsection (1)(b) has been added to ensure that information related to human rights can be obtained from business enterprises and other relevant private actors where it is necessary for the exercise or protection of human rights and fundamental freedoms. The importance of being able to access information from private actors was raised in the regional consultations. This Subsection was incorporated based on Principle 21 of the Guiding Principles on Business and Human Rights which provides:

[... Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should: (a) Be of a form and frequency that reflect an enterprise’s human rights impacts and that are accessible to its intended audiences; (b) Provide information that is sufficient to evaluate the adequacy of an enterprise’s response to the particular...]

human rights impact involved; (c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.

This was also reiterated in recent Human Rights Council resolution 31/32 on the protection of human rights defenders addressing economic, social and cultural rights. A similar provision is found in Section 32(1) of the South African Bill of Rights and in the Sierra Leone Access to Information Act of 2013.

The importance of access to such information from businesses enterprises as is necessary to promote and protect human rights or to pursue accountability for violations is also recognised in paragraph 86 of the March 2016 Report of the United Nations High Commissioner for Human Rights entitled “Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned”, which provides that:

Member States should:

(a) Enact clear laws, regulations and policies that guarantee the proactive disclosure of information held by public bodies, including those exercising public functions, and provide a general right to request and receive such information, subject only to clearly and narrowly defined exceptions in accordance with international human rights law and standards, guarantee the right to access information held by private bodies where it is essential to the exercise or protection of human rights; and provide a right to appeal to an independent body for any refusal to disclose information;

(b) Provide training for public officials on the implementation of the right of access to information and disseminate information to the public on the right to access and the processes for achieving it.

States drafting a law for the recognition and protection of human rights defenders may consider extending this provision to other private actors (as well as business), such as media organisations and other organisations.

In relation to subsection (1)(c), the words “as provided for in human rights and other applicable international instruments” have not been retained in the Model Law, given that they could be interpreted as words of limitation on the right to disseminate information. These words have similarly been omitted in a number of domestic instruments. See, for example, Article 3 of the Ivorian Law; Article 11 of the Congolese Bill; Article 4(7) of the Honduran Law.

In relation to subsection (1)(d), the word “appropriate” was omitted from the Model Law given that the term enables a subjective, and potentially arbitrary, decision to be made regarding whether or not a particular means chosen to draw attention to an issue of human rights and fundamental freedoms is suitable.

Subsection (2) was added to make clear that human rights defenders have the right to receive, provide and disseminate information in any form. The language of subsection (2) is based on Article 19(2) of the International Covenant on Civil and Political Rights (the ICCPR), which provides that:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Section 7
Right to develop and advocate for human rights ideas

Everyone, individually or in association with others, has the right to develop and discuss new ideas and principles which relate to human rights and fundamental freedoms, and to advocate their acceptance.
Commentary

This Section draws on Article 7 of the UN Declaration, which 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.

Although Article 7 simply refers to “human rights”, the expression “human rights and fundamental freedoms” has been used in Section 8 for consistency with the remainder of the Model Law.

The reference “new ideas and principles that relate to human rights” are those that have developed and been recognised since the UN Declaration. Such rights include rights based on a person’s sexual orientation and gender identity. This includes the rights in the Yogyakarta Principles - a set of international principles that apply international human rights law to sexual orientation and gender identity.5

Section 8

Right to communicate with non-governmental, governmental and intergovernmental organisations

Everyone, individually or in association with others, has the right to freely communicate with non-governmental, governmental and intergovernmental organisations, including subsidiary bodies, mechanisms or experts with a mandate relevant to human rights and fundamental freedoms, as well as with diplomatic representations.

Commentary

This Section draws on Article 5 of the UN Declaration, which provides that:

For 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:

... (c) To communicate with non-governmental or intergovernmental organizations.

For clarity, language has been added to Section 9 which specifies that the right to communicate with intergovernmental organisations includes communication with subsidiary bodies and human rights mechanisms or experts of such organisations. Additionally, language has been added to recognise the right to communicate with diplomatic representations, such as is envisaged by the EU Guidelines on Human Rights Defenders.

Section 9

Right to access, communicate with and cooperate with international and regional human rights bodies and mechanisms

In accordance with applicable international instruments and procedures, everyone, individually or in association with others, has the right to unhindered access to, and to

5 Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity.
communicate and cooperate with, international and regional human rights bodies and mechanisms, including treaty bodies and special procedures or special rapporteurs.

Commentary
This Section draws on Article 9(4) of the UN Declaration, which provides that:

To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

See also Article 7 of the Ivorian Law.

Note Section 15 deals with the separate but related issue of protection from intimidation or reprisal.

Section 10
Right to participate in public affairs

(1) Everyone, individually or in association with others, has the right to participate effectively in the conduct of public affairs, including participation on a non-discriminatory basis in the government of his or her country, regarding human rights and fundamental freedoms.

(2) The right in subsection (1) includes the right:

(a) to submit to any public authority, or agency or organisation concerned with public affairs, criticism on or proposals for improving its functioning with respect to human rights and fundamental freedoms;

(b) to make recommendations to any public authority regarding legislative or regulatory changes relating to human rights and fundamental freedoms;

(c) to draw to the attention of any public authority any aspect of its work that may hinder or impede the promotion, protection and realisation of human rights and fundamental freedoms;

(d) to draw to the attention of any public authority any action or omission by any actor, private or public, that may involve or contribute to a violation of human rights or fundamental freedoms; and

(e) to freely publish, impart or disseminate to others any information submitted to any public authority in the exercise of the rights set out in this Part II.

Commentary
This Section draws on Article 8 of the UN Declaration, which provides that:

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.
The right to participate in the conduct of public affairs is a right held by all human rights defenders under the jurisdiction of a particular State developing a law for the recognition and protection of defenders, and thus it is the overarching right set out in subsection (1).

Subsection (2)(b) was added as the drafters considered that the ability to make recommendations regarding necessary legislative or regulatory changes is an important part of the work of human rights defenders which should be explicitly mentioned.

Subsection (2)(d) was drawn from Article 3(5) of the Nepalese Bill.

Subsection (2)(e) was included to clarify that information submitted to public authorities may be freely published and disseminated.

Given the potential for communications submitted in the exercise of the right contained in Section 10 to be disregarded by governmental bodies, the drafters considered whether a further subsection should be added stating that “any governmental body which receives a communication of the type referred to in this Section shall confirm its receipt in writing within 10 business days”. It was concluded that such a provision should not be included in the Model Law for two reasons. First, such a requirement would likely be too onerous for countries with limited public resources. Second, without such a provision, the “right to participate in the conduct of public affairs” could be interpreted more broadly (for example, as including a right to have governmental bodies to consider and respond to the proposals put to them).

Section 11
Right to peaceful assembly

(1) Everyone, individually or in association with others, has the right to meet or assemble peacefully as well as to participate in peaceful activities concerning human rights and fundamental freedoms, free from interference that is arbitrary or unlawful by public authorities and private actors, at the local, national, regional or international level.

(2) The right in subsection (1) includes the right to plan, organise, participate in and disseminate information regarding peaceful activities concerning human rights and fundamental freedoms, including demonstrations, protests, seminars and meetings, whether conducted in a public or private place.

Commentary

This Section draws on Articles 5 and 12 of the UN Declaration. Article 5 provides in relevant part that:

For 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;

Article 12 provides that:

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and
fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

The UN Declaration does not explicitly state that human rights defenders have the right to hold demonstrations or protests. Some domestic instruments do include such a reference, such as Article 6 of the Burkinabe Bill and Article 3(5) of the Nepalese Bill.

The phrase “free from interference by public authorities and private actors” in subsection (1) makes clear that public authorities must not interfere in, and should prevent others from interfering in, the exercise of this right.

To address concerns about existing laws that may restrict the ability of human rights defenders to hold public demonstrations and protests, subsection (2) makes clear that the right to meet and assemble peacefully includes the right to plan, participate in and disseminate information regarding peaceful demonstrations and protests.

The drafters discussed that despite the positive relationship between an enabling environment for civil society and the interests of national security, counter-terrorism measures are increasingly being developed and used to target, restrict and criminalise the work of human rights defenders. Such regressive developments come despite the Council’s calls in Resolutions A/HRC/22/6 and A/HRC/25/18 for States to ensure that:

..measures to combat terrorism and preserve national security ... do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights.

Principles set out in these resolutions should be kept in mind when developing a law for the recognition and protection of human rights defenders.

This provision should be interpreted and applied consistently with the 2016 report of the Special Rapporteur on freedom of peaceful assembly and association and the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66) which provides practical recommendations for the management of assemblies, as well as the 2012 (A/HRC/20/27) and 2013 (A/HRC/23/39) reports of the Special Rapporteur on freedom of peaceful assembly and association which state that in a free and democratic society, no authorisation should be required to assemble peacefully. In accordance with these resolutions and reports, the exercise of the right to freedom of peaceful assembly, should be:

..governed at most by a regime of prior notification whose rationale is to allow State authorities to facilitate this exercise and to take measures to protect public safety and order and the rights and freedoms of others.

Section 12
Right to represent and advocate

(1) Everyone, individually and in association with others, has the right to assist, represent or act on behalf of another person, group, association, organisation or institution in relation to the promotion, protection and exercise of fundamental rights and freedoms, including at the local, national, regional and international levels.

(2) The right in subsection (1) includes the right:

(a) to complain about the policies and actions of public authorities with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to domestic judicial, administrative or legislative authorities or any other competent authority;
(b) to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms; and

(c) to attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and human rights and fundamental freedoms; and

(d) to submit communications and information of the type referred to in Section 9.

**Commentary**

This Section draws on Article 9 of the UN Declaration which provides in relevant part that:

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person’s rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, inter alia:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

Subsection (2)(c) reflects the importance of trial monitoring to the work of many human rights defenders. A similar provision can be found in Article 4(14) of the Honduran Law.

### Section 13

**Right to freedom of movement**

(1) Everyone lawfully within the territory, or subject to the jurisdiction, including the power or effective control, of [country’s name] shall, within that territory or place of jurisdiction, have the right to liberty of movement and freedom to choose his or her residence and the right to carry out his or her human rights activities in the entire territory or place of jurisdiction.

(2) No-one lawfully within the territory of [country’s name] shall be expelled, by means of an individual measure or a collective measure, from the territory of [country’s name] wholly or partially on account of his or her acts as a human rights defender.

(3) No one shall be deprived of the right to enter or leave the territory of [country’s name] on the grounds of or in association with his or her status, activities or work as a human rights defender.
Commentary

The right to freedom of movement is not addressed in the UN Declaration. A provision relating to freedom of movement was included in the Model Law as concerns relating to this right were raised in a number of the regional consultations.\(^6\)

Subsection (1) draws on Article 12(1) of the ICCPR:

\begin{quote}
Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
\end{quote}

The words of Article 12(1) have been expanded upon to reflect the Human Rights Committee’s General Comment No. 27, which provides an authoritative interpretation of that Article.

In addition to the above, the drafters considered it important to add provisions specifying that human rights defenders are not be expelled from or refused entry to or leave from countries wholly or partially on account of their activities as human rights defenders.

Section 14

Right to privacy

(1) Everyone, individually or in association with others, has the right to privacy.

(2) The right in subsection (1) includes the right of a human rights defender to protect his or her privacy, including through encryption, and be free from intrusion and interference that is arbitrary and unlawful in his or her family, home, places of work, possessions and correspondence, both online and offline.

(3) “Intrusion and interference” within subsection (2) includes any form of surveillance, recording, search and seizure in association with his or her legitimate activity or work as a human rights defender.

Commentary

This Section draws on Article 12 of the Universal Declaration of Human Rights, which provides that:

\begin{quote}
No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.
\end{quote}

This formulation is largely replicated in the following - Article 17(1) of the ICCPR:

\begin{quote}
No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
\end{quote}

Article 16 of the Convention on the Rights of the Child:

\begin{quote}
No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
\end{quote}

Article 14 of the International Convention on the Protection of All Migrant Workers and Members of Their Families:

No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, correspondence or other communications, or to unlawful attacks on his or her honour and reputation.

The facets of life in respect of which a human rights defender has the right to privacy have been expanded to include possessions and places of work.

The phrase “attacks upon his honour and reputation” was not included in this section as these interferences are addressed in Section 16 (Right to freedom from defamation and stigmatisation). The phrase “both online and offline” draws on the UN Resolution on the right to privacy in the digital age, which “[a]ffirms that the same rights that people have offline must also be protected online, including the right to privacy”.7

Subsection (3) specifies some forms of interference which may be impermissible. The drafters considered this necessary in light of examples given in the regional consultations of situations where human rights defenders had been blackmailed after their private relations had been taped.8

### Section 15

**Freedom from intimidation or reprisal**

No person shall be subjected, individually or in association with others, to any form of intimidation or reprisal on the grounds of or in association with his or her status, activities or work as a human rights defender.

### Commentary

This Section draws on Article 12(2) of the UN Declaration and on UN Human Rights Council (HRC) resolutions on the issue of intimidation and reprisal, together with the San Jose Guidelines adopted by the UN Human Rights Treaty Body Chairs.9 Article 12(2) provides that:

*The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.*

The text of the provision has been simplified by making reference to the defined term “intimidation or reprisal”. It should be noted that the definition of “intimidation or reprisal” includes action taken against a human rights defender’s family members, representatives or associates, or a group, association or organisation with which the human rights defender is associated. It should also be noted that the definition restricts “intimidation or reprisal” to action or omission “related to a human rights defender’s status, work or activity as a human rights defender”.

This Section also draws on Section 11 of the Philippine Bill.

This Section is one of the foundations for Section 26 of the Model Law.

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In light of the definition of “intimidation or reprisal” in Section 38(2), the right in this section for every person to be free from intimidation or reprisal includes intimidation or reprisal against a group, association, organisation, community or network, whether formal or informal, with which that human rights defender is associated. This means that an organisation also has standing to file a complaint relating to the intimidation or reprisal (see Section 18(3)).

Further, given the definition of “intimidation or reprisal”, this Section would also capture situations such as the revocation of a visa for a non-national.

Section 16
Freedom from defamation and stigmatisation

No person shall be subject to any form of defamation, stigmatisation, or other harassment, whether offline or online, and whether by public authorities or private actors, in association with his or her status, activities or work as a human rights defender.

Commentary

This Section was included in response to comments made in the regional consultations that stigmatisation is one of the key challenges facing human rights defenders and can lead to a loss of support for the work of human rights defenders.10

No article in the UN Declaration addresses defamation and stigmatisation of human rights defenders. However, provisions addressing the issue are found in domestic instruments, such as Section 11 of the Philippine Bill and Article 12 of the Burkinabe Bill.

Section 17
Right to exercise cultural rights and to development of personality

(1) Everyone, individually or in association with others, has the right to the unhindered exercise of his or her cultural rights in his or her activities and work as a human rights defender and to the free and full development of his or her personality.

(2) The right in subsection (1) includes the right to challenge and change traditional customs and practices that violate human rights and fundamental freedoms.

Commentary

This section draws on Article 18(1) of the UN Declaration:

Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.

The right set out in this section includes the right to:

(1) freely participate or not to participate in the cultural life of communities;
(2) freely develop multiple cultural identities;
(3) access cultural heritage, as well as that of others;
(4) retain and use traditional languages and cultural institutions, land, sites and goods;
(5) contribute to the creation, critiquing and development of culture; and
(6) exchange cultural traditions and practices with people of other cultures.

This right should be protected with particular concern for the distinctive cultural rights of disadvantaged and marginalised groups, including women, children, older persons, persons with disabilities, ethnic and religious minorities, migrants, indigenous peoples and persons living in poverty.

**Section 18**

**Right to effective remedy and full reparation**

(1) Everyone, individually or in association with others, has the right to an effective remedy and full reparation in the event of a violation of the rights in this Part II or a breach of obligations under Part III of this Law.

(2) Anyone whose rights have been violated or who has been adversely affected by a breach of obligations has the right to apply to a court or tribunal of competent jurisdiction to obtain such effective remedy and full reparation.

(3) Any of the following may file a complaint at the [competent court or tribunal] relating to the violation of rights under Part II of this Law or a breach of obligations under Part III of this Law:

   (a) a human rights defender;
   (b) an associate of the human rights defender;
   (c) a legal or other representative of the human rights defender appointed to conduct the affairs of or to otherwise act on behalf of the human rights defender;
   (d) a family member of the human rights defender;
   (e) a group, association or organisation with which the human rights defender is associated;
   (f) any person acting in the public interest and consistently with the purposes of this Law; or
   (g) the Mechanism established under Part IV of this Law.

**Commentary**

Subsection (1) draws on Article 9(1) of the UN Declaration, which provides that:

*In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.*

Subsection (2) specifies that human rights defenders have a right to apply to a competent
court regarding a violation of Part II of the Law. The wording of subsection (2) is based on Section 24(1) of the Canadian Charter of Rights and Freedoms 1982.

Subsection (3) provides standing for a range of persons to seek relief under the section. A similar standing provision is set out under section 38 of the South African Constitution. Subsection (3)(f) is necessary to ensure that an application for relief may be brought even where a human rights defender has been disappeared or is being held incommunicado, or where a group or organisation with which they are associated has been closed or disbanded.


Section 19
Limitations on the rights of human rights defenders

In exercising his or her rights in Part II of this Law, a human rights defender, individually or in association with others, shall be subject only to limitations that are prescribed by law, in accordance with international human rights obligations and standards, are reasonable, necessary and proportionate, and are solely for the purpose of securing due recognition and respect of the human rights and fundamental freedoms of others and meeting the requirements of public order and general welfare in a democratic society.

Commentary

This Section draws on Article 17 of the UN Declaration, which provides that:

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

The words “reasonable, necessary and proportionate” have been added to more fully reflect the test for permissible limitations under international law and to clarify that the evidentiary burden for establishing the permissibility of a limitation resides with the person or authority seeking to impose it.

The Section does not include limitations “for the purpose of … meeting the just requirements of morality”. This phrase was omitted on the basis that it could be used to justify arbitrary limitations on the rights of human rights defenders, including women human rights defenders and others challenging “traditional values” or practices.
Section 20
Other rights and freedoms not affected

Nothing in this law shall affect any provisions which are more conducive to the recognition and protection of human rights defenders and which may be contained in domestic or international law or instruments.

Commentary
This Section is a “savings clause” which makes clear that, to the extent the rights set out in Part II are less extensive than the rights of human rights defenders under domestic or international law, human rights defenders are still entitled to those more extensive rights.
The wording of this Section 20 is based on article 37 of the Convention on Enforced Disappearances.

Section 21
Responsibility to defend human rights and fundamental freedoms

(1) Everyone has an important role to play and a responsibility to promote and to strive for the protection and realisation of human rights and fundamental freedoms.

(2) No-one shall participate, by act or omission, in a violation of human rights and fundamental freedoms or in undermining democratic societies, institutions and processes.

Commentary
This section is based on Article 18(2) and (3) of the UN Declaration:

(2) Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.

(3) Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of 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.
PART III. OBLIGATIONS OF PUBLIC AUTHORITIES

Section 22
Obligation to respect, promote, protect and fulfil the rights of human rights defenders

Public authorities shall take all necessary measures to ensure:

(a) that the human rights and fundamental freedoms in Part II of this Law are effectively guaranteed and ensured;
(b) that all laws, policies and programs are consistent with the rights in Part II of this Law; and
(c) that human rights defenders are able to undertake their activities and work in a safe and enabling environment free from restriction.

Commentary

Section 22 draws on Article 2(2) of the UN Declaration which provides that:

Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

The wording of the provision has been altered to account for the fact that, at the national level, obligations of the State are fulfilled by public authorities.

The section is further informed by recent reports of the UN Special Rapporteur on the situation of human rights defenders which identified the elements of a safe and enabling environment for their work.

Subsection (b) requires a system to be established that verifies the compatibility of proposed legislation with the rights in Part II of this Law. Annexure II contains examples of provisions that could be included for that purpose, including those relevant for a common law system and those relevant to a civil law system.

Section 23
Obligation to facilitate the activities and work of human rights defenders

(1) Public authorities shall take all necessary measures to facilitate and protect the exercise of the rights in Part II of this Law.

(2) The obligation in subsection (1) includes the obligation:

(a) to permit and facilitate access, in accordance with the law, to places where a person is deprived of liberty;
(b) to permit and facilitate access to places and to information required by human rights defenders to exercise their rights under Part II in accordance with the law;
(c) to provide information about violations of human rights or fundamental freedoms that may have occurred within the territory or subject to the jurisdiction, including the power or effective control, of [country’s name];
(d) to develop and implement policies and measures to promote, support and enhance the capacity of human rights defenders to promote and protect human rights and fundamental freedoms; and
(e) to promote and publicly acknowledge the role, function, activities and work of human rights defenders as legitimate and important.

**Commentary**

Section 23 draws on Article 15 of the Ivorian Law.

Subsection (2)(d) draws on Sections 2(a) and 3 of the South African Non-Profit Organisations Act No 71 of 1997.

Subsection (2)(e) responds to the need, identified by the UN Special Rapporteur on Human Rights Defenders and also identified during the regional consultations, for public authorities to raise awareness and speak out in support of human rights defenders, as an important aspect of contributing to a safe and enabling environment for their work.

**Section 24**

**Obligation to provide free access to materials relating to human rights and fundamental freedoms**

Public authorities shall make freely available and accessible both offline and online:

(a) international and regional human rights instruments;
(b) the [national constitution], national laws and regulations;
(c) research, studies, reports, data, archives and other information and materials within the possession of public authorities that relate to human rights and fundamental freedoms;
(d) reports and information submitted by [country’s name] to international and regional human rights bodies and mechanisms;
(e) minutes, reports and communications of international and regional human rights bodies and mechanisms in which [country’s name] is discussed;
(f) documents and information related to the decisions or activities of national authorities with competence in the field of human rights and fundamental freedoms; and
(g) all such other information as may be necessary to secure or enable the exercise of any human rights or fundamental freedoms under Part II or access to remedy for a violation of any such right.

**Commentary**

Section 24 complements Section 6 (Right to seek, receive and disseminate information).

The Section draws on Article 14 of the UN Declaration which provides that:

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.
2. Such measures shall include, inter alia:
   (a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;
   (b) Full and equal access to international documents in the field of human rights, including the periodic
reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

Access to information has been recognised by the UN High Commissioner for Human Rights as one of the “essential ingredients” for a safe and enabling environment for human rights defenders and other civil society actors (see A/HRC/32/20). The High Commissioner has explicitly called on States to enact laws and policies providing for the proactive disclosure of information by, and a right of access to information held by, both public authorities and private actors where such information is necessary to the exercise or protection of human rights (see paragraph 86(a) of A/HRC/32/20).

Section 24 specifies particular categories of documents to which human rights defenders must have access to perform their work.

Section 25
Obligation not to disclose confidential sources

(1) Public authorities shall not disclose or require disclosure of the identity of sources used by human rights defenders.

(2) Notwithstanding subsection (1), public authorities may disclose the identity of sources used by human rights defenders if both the relevant source and the relevant human rights defender give informed consent in writing to such disclosure or if so required by an independent and impartial tribunal in accordance with international standards.

Commentary
Section 25 draws on Article 16 of the Ivorian Law.

Section 26
Obligation to prevent and to ensure protection against intimidation or reprisal

(1) Public authorities shall take all necessary measures to ensure the prevention of, and protection against, any intimidation or reprisal by any other public or private actor.

(2) The reference to “measures” in subsection (1) shall include protection measures available under Annexure I of this Law.

Commentary
This Section complements Section 15 (Right to freedom from intimidation or reprisal).
The Section draws on Article 12(2) of the UN Declaration which provides that:

The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

The text of the provision has been simplified by making reference to the defined term “intimidation or reprisal”. It should be noted that the definition of “intimidation or reprisal” includes action taken against a human rights defender’s family members, representatives or associates, or a group, association or organisation with which the human rights defender is
associated. It should also be noted that the definition restricts “intimidation or reprisal” to action or omission “related to a human rights defender’s status and work as a human rights defender”.

For the sake of clarity, subsection (2) stipulates that the measures that public authorities have an obligation to take include the protection measures available under Annexure I.

Section 27
Obligation to ensure protection against arbitrary or unlawful intrusion and interference

(1) Public authorities shall take all necessary measures to ensure the protection of human rights defenders against arbitrary or unlawful intrusion and interference in his or her family, home, places of work, possessions and correspondence, both offline and online.

(2) “intrusion and interference” in subsection (1) includes any form of surveillance, recording, search and seizure in association with any person’s legitimate activity or work as a human rights defender without his or her consent.

Commentary
Section 26 addresses a concern raised in the regional consultations,¹¹ and complements Section 14 (Right to privacy). It draws on the wording of Article 13 of the Burkinabe Bill.

Section 28
Obligation to conduct investigation

(1) Whenever there is reasonable ground to believe that a human rights defender has been killed, disappeared, tortured, ill-treated, arbitrarily detained, threatened or subject to a violation of any of the rights in Part II of this Law, whether by a public authority or private actor within the territory or subject to the jurisdiction, including the power or effective control, of the country’s name, the competent authority must ensure that a prompt, thorough, effective, independent and impartial investigation is conducted with due diligence and is prosecuted as appropriate.

(2) An investigation pursuant to subsection (1) shall take into account:

(a) whether a motive for the violation of the rights of the human rights defender included his or her status, activity or work as a human rights defender;

(b) whether there have been previous violations of the rights of the human rights defenders or systematic violations of the rights of similarly situated human rights defenders; and

(c) whether the violation was perpetrated, aided, abetted or supported by multiple actors.

(3) During an investigation pursuant to subsection (1), the competent authority shall consult with the Mechanism established under Section 34 and keep the victim, or his or her family, relatives or associates, informed of the status of the investigation.

(4) [Country’s name] should request such assistance from relevant international or regional human rights bodies or mechanisms as is necessary to conduct an investigation in conformity with subsection (1).

(5) Where the [competent authority] is unable or unwilling to conduct an investigation pursuant to subsection (1), [country’s name] shall request assistance to conduct such an investigation from relevant international or regional human rights bodies or mechanisms.

Commentary
Pursuant to this Section, when the work of a human rights defender gives reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred, the relevant authority will be obliged to investigate that potential violation.

The Section draws on Article 9(5) of the UN Declaration which provides that:

The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

The word “thorough” was added to the description of the investigation to be conducted in light of a suggestion made during the regional consultations.12 The terms “effective”, “independent” and “prompt” were added to reflect international jurisprudence regarding the conduct of investigations which may implicate State agencies or authorities.13

Subsection (2) addresses comments made during the regional consultations expressing concern that crimes against human rights defenders are not investigated in a way which contemplates that the motive for the crime may be their work as a human rights defender, that there may be systemic violations against defenders, or that there may be multiple perpetrators.

Section 29
Obligation to ensure effective remedy and full reparation

Public authorities shall take all necessary measures to ensure that an effective remedy and full reparation are available and provided for violations of the rights in Part II of this Law and for breach of the obligations in Part III of this Law.

Commentary
This Section complements Section 18 (Right to remedy and full reparation). The inclusion of an obligation to complement the right reflects that remedies may include non-judicial

12 International Service for Human Rights, Consultation on the situation and protection needs of human rights defenders from Western European and Others Group States (22-23 June 2015, Florence, Italy), p 9: “States should ensure the prompt and thorough investigation and prosecution of attacks against human rights defenders by both State and non-State actors, with perpetrators held accountable and victims provided access to effective remedies”.

remedies and that the provision of remedies within the power of a public authority should not require recourse to a court or tribunal by a victim of a violation or his or her representative.

This Section draws on Article 9 of the UN Declaration, which provides in relevant part that:

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person’s rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, inter alia:
   (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

Section 30
Obligation to make intimidation and reprisal an offence

An act of intimidation or reprisal, whether by a public or private actor, against a person, on the grounds of or in association with his or her status, activities or work as a human rights defender, shall be an offence and should be prosecuted by the [competent authority] and subject to appropriate penalties which take into account the gravity of the offence.

Commentary

This section draws on the language of Article 4(2) of the Convention Against Torture:

(1) Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. (2) Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Penalties for acts of intimidation or reprisals should recognise and reflect that threats and attacks against human rights defenders may also amount to threats and attacks against the human rights, fundamental freedoms and democratic societies, institutions and processes they defend.

The Burkinabe Bill contains a number of provisions (Articles 19 to 29) which create offences related to the intimidation or reprisal of human rights defenders. These provisions could serve as a guide for any State which does not have existing offences in its domestic law relating to intimidation or reprisal.

This section may require adaptation to national contexts.

Section 31
Obligation to promote and facilitate human rights education

Public authorities shall promote, facilitate and adequately resource teaching, training and education about human rights and fundamental freedoms within all public authorities and to all persons within the jurisdiction or subject to the control of [country’s name]. Teaching, training and education programs shall include information about this Law and the important
and legitimate work of human rights defenders.

**Commentary**

This section is intended to give effect to article 15 of the UN Declaration and to respond to concerns raised in the regional consultations regarding the lack of education or information about human rights and the important and legitimate work of human rights defenders

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**Section 32**

**Obligation to implement protection and urgent protection measures**

Public authorities shall take all necessary measures to fully and effectively implement protection and urgent protection measures determined under Part IV of this Law.

**Commentary**

This section is intended and necessary to ensure that all those public authorities involved or implicated in the protection of human rights defenders are obliged and may be compelled to provide such protection as is necessary and within their power.

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**Section 33**

**Assistance to human rights defenders abroad**

1. Public authorities shall take all necessary steps within their power in conformity with national and international obligations and standards to provide assistance to a human rights defender abroad who has been or may be subject to intimidation or reprisal on the grounds of or in association with his or her status, activities or work as a human rights defender.

2. The assistance referred to in subsection (1) may include, as required by the nature of the intimidation or reprisal and the nationality of the human rights defender concerned:

   a. receiving the human rights defender in the diplomatic mission in that country or visiting the human rights defender at his or her home or places of work, or places where a person is deprived of liberty;

   b. making official representations, whether public or confidential, in relation to the human rights defender;

   c. attending or observing trials or legal proceedings involving the human rights defender;

   d. monitoring and producing reports on the situation of the human rights defender;

   e. issuing emergency or replacement travel documents;

   f. obtaining medical care;

   g. providing details of local lawyers;

   h. providing details of local interpreters;
(i) contacting the family members of the human rights defender;
(j) arranging for someone to accompany the human rights defender to a safe location or providing other relocation assistance;
(k) providing financial assistance; and
(l) providing emergency funds to enable the human rights defender to travel to a safe location.

**Commentary**

Unlike the previous Sections of the Law, this Section deals with the State’s treatment of, and assistance to, human rights defenders located outside of the State.

The Section refers to national law in addition to international law so as to ensure that in situations where a State’s domestic law imposes more onerous obligations regarding the protection of nationals abroad than it is subject to under international law, the State will be required to comply with those more onerous domestic obligations.

For nationals or citizens of a country, such domestic or international law may compel or make it obligatory to provide assistance to that person when abroad. For non-nationals or non-citizens, assistance may not be obligatory but is increasingly recognised as good practice, as reflected in the European Union Guidelines on the Protection of Human Rights Defenders and national guidelines adopted by States including Switzerland, Finland, Ireland, Norway and the Netherlands.
PART IV. MECHANISM FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS

Commentary

States should establish or mandate, adequately resource, and fully and effectively implement mechanism/s or programme/s for the protection of human rights defenders. Such mechanism/s or programme/s should be coordinated by an independent body, whether established and mandated specifically for this purpose or by way of conferring such a mandate within an existing body.

There is a range of mechanisms and programmes that a State could choose to implement, and different mechanisms and programmes may be appropriate in different States. Whatever specific mechanism or programme a State chooses to implement, it should adhere to the following minimum principles:

1. The mechanism or programme should be developed, implemented and evaluated in close consultation with human rights defenders and should directly involve human rights defenders in its development, governance and decision-making structures;
2. The mechanism or programme should be established, or the mandate conferred, in national legislation;
3. The mechanism or program should be independent of government and should not be subject to political, administrative or financial controls which are incompatible with its independence;
4. The mechanism or programme should be adequately and sustainably resourced;
5. The mechanism or programme should include measures to promote a safe and enabling environment for human rights defenders, contribute to the prevention of threats, risks and restrictions to human rights defenders, and provide both urgent and longer term protection to human rights defenders at risk;
6. The mechanism or programme should seek to identify and address both structural and systemic factors contributing to risk and provide for individualised assessment for particular defenders;
7. The mechanism or programme should be developed and implemented in such a way as to identify and address the particular situation and risks faced by particular groups of defenders, including women human rights defenders, and apply a gender perspective;
8. The mechanism or programme should include specific, rather than generic, protection measures that respond to the level and nature of risk, taking into account elements such as gender, gender identity and sexual orientation, ethnicity, age, health and family considerations, geographical location, socio-economic contexts and the individual or collective nature of the beneficiary. These measures should be defined according to a clear risk analysis methodology and in consultation with the beneficiaries;
9. The mechanism or programme should focus on the holistic security of human rights defenders, their family members and associates, including physical security, digital security and psycho-social wellbeing;
Any plans or measures to protect human rights defenders should be designed and implemented to support and minimally interfere with their activities and work as human rights defenders;

All staff and other personnel involved in the implementation of a mechanism or programme should be adequately and properly vetted and trained, including in relation to the situation and protection needs of women human rights defenders and in relation to multiple, intersectional and systemic discrimination; and

The mechanism or programme should promote, contribute to ensuring, and report on the full and effective implementation of the Declaration, including through the provision of reports and advice to parliament and the government and through cooperation with relevant international and regional human rights mechanisms.

These core minimum principles have been developed having regard to, inter alia, the Commentary to the Declaration, the March 2016 Report of the Special Rapporteur on the situation of human rights defenders (A/HRC/31/55), a review of the provisions and operation of protection mechanisms in Brazil, Mexico and Honduras, and extensive inputs from human rights defenders in all regions through the regional consultations.

Part IV of this Law has been drafted in accordance with these core minimum principles and is offered as a model for their operationalisation. It is recognised, however, that different models or approaches are legitimate, and may be more appropriate, in particular national contexts and legal and constitutional frameworks. For example, a mechanism or programme could be established within an existing body, such as a national human rights institution in conformity with the Paris Principles, or the detailed operational provisions set out in this Part IV may be more appropriately codified in regulation, decree or policy.

Section 34
Establishment of Mechanism for the Protection of Human Rights Defenders

The [competent authority] shall maintain, designate or establish a Mechanism for the Protection of Human Rights Defenders, which shall have responsibility within the [competent authority] for coordinating the protection of human rights defenders. The Mechanism shall carry out its functions in close, cooperative consultation [with the country’s national human rights institution, where there is one and] with civil society.

The Mechanism shall fulfil the following functions:

(a) prevent intimidation or reprisal;
(b) protect human rights defenders from intimidation or reprisal;
(c) assist in ensuring investigation of, and accountability for, acts of intimidation or reprisal;
(d) facilitate and promote inter-agency and inter-departmental coordination to prevent, protect against, investigate, and ensure accountability for acts of intimidation or reprisal; and
(e) promote and publicly acknowledge the legitimate and important role, function, activities and work of human rights defenders.
In fulfilling the functions in subsection (2), the Mechanism may:

(a) monitor and respond to the situation of human rights defenders in [country’s name], including risks to their security, and legal and other impediments to a safe and enabling environment that is conducive to their work;

(b) consult and work closely and cooperatively with human rights defenders in the implementation of this Law;

(c) coordinate the implementation of this Law, including by developing protocols and guidelines for this purpose, within a period no longer than [180 days] of the entry into force of this Law;

(d) carry out assessments of risks, vulnerability or conflict at the [national, regional or local] levels, with the aim of identifying specific needs for the protection of human rights defenders, including by undertaking gender based and collective risk assessments;

(e) aid, assist and inform investigations for the purpose of prosecuting the offences created under Section 28;

(f) monitor existing and draft legislation and inform the [competent authority] about the impact or potential impact of legislation on the status, activities and work of human rights defenders, proposing legislative modifications where necessary;

(g) advise all areas of government on the design and implementation of policies and programmes to guarantee and protect the rights of human rights defenders under this Law;

(h) monitor and prepare annual reports on the situation of human rights defenders in [country’s name] and make recommendations to the relevant authorities on the appropriate measures to be taken to promote a safe and enabling environment for their work and to mitigate and prevent the risks facing them, including by tackling the root causes of violations against human rights defenders;

(i) propose and implement, or ensure the implementation of, prevention measures and protection measures to guarantee the life, integrity, liberty, security and the work of human rights defenders, giving particular attention to the situation and protection needs of women human rights defenders and other human rights defenders at increased risk;

(j) advise the [competent authority] on the desired profiles, selection procedure, income and training of all staff and security personnel with responsibility towards the protection of human rights defenders;

(k) receive and assess applications for protection measures and implement the appropriate protection measures, including emergency measures, in coordination with other relevant authorities;

(l) disseminate information to the public about protection programmes for human rights defenders and how to access them, and about the Mechanism’s work, guaranteeing transparency in regards to resource allocation;

(m) disseminate information to authorities and to the public about the UN General Assembly Declaration on the Right and Responsibility of Individuals, Groups
and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and the vital and legitimate role, function and work of human rights defenders; and

(n) prepare and submit reports and communications on the situation of human rights defenders in [country’s name] to relevant international and regional human rights bodies and mechanisms.

(4) The Mechanism shall respect and maintain the confidentiality of the personal data collected on human rights defenders and those referred to Section 38(2)(b) to (e). The Mechanism, together with independent experts and in consultation with civil society, shall develop obligatory information management and digital security policies for their staff and all other authorities with access to information received by the Mechanism.

(5) The Mechanism, together with independent experts and in consultation with civil society, shall carry out periodic reviews of the implementation of this Law and the Mechanism’s effective functioning. The first review shall be carried out within [18 months] of the entry into force of this Law.

Commentary
This Section is drawn from Article 14(3) of the UN Declaration, which provides that:

The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

The language “maintain, designate and establish” is taken from Article 17 of the Optional Protocol to the Convention Against Torture.

The value of such a national institution for the protection of human rights defenders has been underscored in several HRC documents. These include HRC Resolution 13/13, which:

..[e]ncourages States to create and strengthen mechanisms for consultation and dialogue with human rights defenders, including through establishing a focal point for human rights defenders within the public administration where it does not exist, with the aim of, inter alia, identifying specific needs for protection, including those of women human rights defenders, and ensuring the participation of human rights defenders in the development and implementation of targeted protection measures.\(^\text{14}\)

The commentary to the UN Declaration recommends that States should put in place protection mechanisms to prevent violations against human rights defenders and that such mechanisms should exhibit a range of characteristics including being:

(a) established and operated in consultation with human rights defenders;
(b) established or defined by law;
(c) adequately and sustainably resourced;
(d) empowered to define and implement protective measures which address the specificities of the profile of defenders, including as to gender and place of residence; and

staffed and resourced by persons receiving specific trainings on human rights, gender issues and the Declaration on Human Rights Defenders.

(See also Commentary page 21 and Report of the Special Rapporteur on human rights defenders A/HRC/13/22). Such a mechanism could be independently established or may be a function conferred by statute on a national human rights institution. In this regard, HRC Resolution 22/6:

..[u]nderlines the value of national human rights institutions, established and operating in accordance with the Paris Principles, in the continued monitoring of existing legislation and consistently informing the State about its impact on the activities of human rights defenders, including by making relevant and concrete recommendations.\textsuperscript{15}

In the Report of the Special Rapporteur on the situation of human rights defenders (the Special Rapporteur’s Report) (A/HRC/25/55, dated 23 December 2013), which elaborated on the main elements that are necessary for human rights defenders to be able to operate in a safe and enabling environment, the Special Rapporteur emphasised that national human rights institutions can play a crucial role in the protection of human rights defenders (see paragraph 79).

In order to play that crucial role, the Special Rapporteur also recommended that national human rights institutions fulfil the following functions (see paragraphs 80 – 82):

(a) have a designated focal point for human rights defenders with responsibility to monitor their situation, including risks to their security, and legal and other impediments to a safe and conducive environment for defenders;

(b) monitor legal and administrative frameworks which regulate the work of human rights defenders, and inform the State about the impact or potential impact of legislation on the work of defenders; and

(c) disseminating information about protection programmes for defenders, where they exist, and ensuring that defenders are closely involved in the design, implementation and evaluation thereof.

The functions of the Mechanism in this Section are derived from the recommendations in the Commentary, the Special Rapporteur’s Reports, and adopted from national legislation such as the Mexican Law and the Honduran Law.

Each State, in consultation with civil society, should determine the precise structure of the national mechanism for the protection of human rights defenders suited to its particular system of public governance. For ease of reference and simplicity, this Model Law establishes one such entity, referred to as the Mechanism for the Protection of Human Rights Defenders. Ultimately, more fundamental to this Model Law are the functions carried out by this national mechanism. States may allocate these functions to different entities that make up the national mechanism for the protection of human rights defenders.

Where the State has a national human rights institution that complies with the Paris Principles, this section could be drafted to allocate to that institution the responsibilities and functions described in the section. The institution should be given adequate resources to undertake effectively those additional responsibilities and functions. If that institution does not take on this role, then the section should require the national mechanism to work closely with the national human rights institution.

\textsuperscript{15} UN Human Rights Council, Protecting human rights defenders, 12 April 2013, A/HRC/RES/22/6, para 16.
Where a special national mechanism is established under this section, it should have the responsibilities and functions set out in the section. The section should also set out the role of any government body that may form a part of the national mechanism and its relationship vis-à-vis any other government bodies that are part of the national mechanism.

National mechanisms for the protection of human rights defenders in existing laws, such as the Mexican Law and the Honduran Law, typically consist of three main parts: (1) a governing body that makes the final decisions and gives the necessary approvals; (2) an advisory/deliberative body that deliberates the issues and advises the governing body; and (3) an executive body/secretariat that carries out the technical workings of the national mechanism and implements the decisions of the governing body.

It is important to underline that, regardless of the composition of the national mechanism for the protection of human rights defenders, ultimate responsibility rests with the Head of State or Head of Government, who must guarantee its implementation and effectiveness. One of the failures of States in the implementation of laws and policies for the protection of human rights defenders, identified by civil society, is the lack of high level political backing.

The Mexican Law

Under the Mexican Law, the mechanism for the fulfilment of the object of the Mexican Law is composed of three main entities: (1) the Governing Board; (2) the Advisory Council; and (3) the National Executive Coordination.

The Governing Board is the highest authority of the mechanism and the main decision-making body for the protection of human rights defenders and journalists. Civil society representation on the Board is guaranteed by the law. Article 8 of the Mexican Law outlines the powers of the Governing Board.

The Advisory Council is a consultative body of the Governing Board made up of civil society representatives. The powers of the Advisory Council are set out in Article 16 of the Mexican Law.

The National Executive Coordination is the technical body responsible for coordinating with the States, agencies of the federal public administration and autonomous bodies. It consists of three auxiliary units: (1) the Case Reception and Rapid Reaction Unit; (2) the Risk Assessment Unit; and (3) the Prevention, Monitoring and Analysis Unit (see Article 17). Article 18 of the Mexican Law sets out the powers of the National Executive Coordination.

The Honduran Law

By way of comparison, under the Honduran Law, the National System for the Protection of Human Rights Defenders, Journalists, Social Communicators and Legal Practitioners (the National Protection System) consists of five entities (see Article 19): (1) The Secretary of State of the Department of Human Rights, Justice, Interior and Decentralisation (as the governing body); (2) the National Council for the Protection of Human Rights Defenders, Journalists, Social Communicators and Legal Practitioners (the National Council of Protection); (3) the Directorate-General of the Protection System; (4) the Technical Committee of the Protection Mechanism and (5) the Human Rights Department of the Secretary of State of the Department of Security.

The powers of the Secretary of State in the Ministry of Human Rights, Justice, Interior and Decentralisation as the governing body of the National System are not specifically spelt out in the Honduran Law.

The National Council of Protection was established as the deliberative and advisory body to
the National Protection System (see Article 20). Article 24 of the Honduran Law sets out the powers of the National Council of Protection.

The Directorate-General of the National Protection System, which is part of the organisational structure of the Secretary of State in the Ministry of Human Rights, Justice, Interior and Decentralisation, is the executive structure of the National Protection System (see Article 28). Article 29 sets out the powers and duties of the Directorate-General of the National Protection System.

The Technical Committee of the Protection Mechanism is responsible for carrying out the dictates of risk analysis, deliberation and decisions on requests for protection submitted to the Directorate-General (see Article 31). Article 32 sets out the power of the Technical Committee.

In order to protect the privacy of human rights defenders, their families and their associates, it is necessary for the national human rights institutions to maintain the confidentiality of the data collected on these individuals. Under Article 31 of the Honduran Law, the members of the Technical Committee are required to maintain strict confidentiality of all information on the procedure for protection and case analysis, on pain of punishment by a fine.

### Section 35
Consultation with civil society

The [competent authority] shall consult with human rights defenders and other civil society actors in relation to all aspects of the work of the Mechanism.

### Section 36
Resources

(1) The [competent authority] shall provide adequate financial resources to the Mechanism to enable it to fulfil its functions and exercise its powers fully and effectively.

(2) To fulfil the purposes of this Law and for the purpose of obtaining financial resources additional to those in subsection (1), the [competent authority] shall establish a Fund for the Protection of Human Rights Defenders.

(3) The Fund’s resources shall be used exclusively for the implementation of protection measures and prevention measures and other acts authorised under this Law.

(4) Provided that there is no actual or apparent conflict of interest, the Fund may receive:
   (a) grants and loans from the public sector and the private sector;
   (b) contributions from domestic and foreign persons, groups, associations and organisations and institutions; and
   (c) [amounts derived from the movable and immovable assets of the Mechanism].

(5) The Fund may be utilised by the Mechanism and other entities authorised by the Mechanism.

(6) The Fund shall be administered with full transparency and a report of the Fund’s use shall be included in the Mechanism’s annual report.
In the Special Rapporteur’s Report (at paragraph 131), it was recommended that national institutions established for the protection of human rights defenders be “adequately resourced to be able to operate independently and to be credible and effective”, and be provided with “material resources to ensure the physical and psychological protection of defenders”.

In HRC Resolution 22/6, States are called upon to: “ensure that they do not discriminatorily impose restrictions on potential sources of funding aimed at supporting the work of human rights defenders in accordance with the [UN Declaration] …, other than those ordinarily laid down for any other activity unrelated to human rights within the country to ensure transparency and accountability, and that no law should criminalize or delegitimize activities in defence of human rights on account of the origin of funding thereto”.

This Section draws on the following sources: (a) Articles 48 and 49 of the Mexican Law; (b) Article 16 of the Nepalese Bill; and (c) Article 66 of the Honduran Law and an analysis jointly undertaken by CEJIL-PI in that regard.

Section 37
Training and vetting

(1) All persons involved in the Mechanism, including security and law enforcement officials, shall be appropriately vetted and shall receive training prior to the commencement of their involvement, together with continuing training designed to ensure full and effective implementation of the Law.

(2) The training under subsection (1) shall include training on human rights and fundamental freedoms, including the situation and protection needs of victims and of more vulnerable human rights defenders, specifically those working on sexual orientation, gender identity and sex characteristics issues, those acting or working in rural and remote areas and women human rights defenders.

In HRC Resolution 13/13, States are called upon to:

..allocate resources for the effective implementation of necessary protection measures, including specific training for persons involved in their implementation.

In the Special Rapporteur’s Report (at paragraph 88), it was recommended that:

..[s]ecurity and law enforcement officials involved in protection programmes should receive specific training on human rights and gender issues. The physical protection of defenders should not be outsourced to third parties unless these have received specific training.

Rather than set out the specific training programmes that States should provide under this Section, the drafters of the Model Law preferred to leave it to the discretion of the States to design their own training programmes for the purposes of the Model Law, in consideration of

16 UN Human Rights Council, Protecting human rights defenders, 12 April 2013, A/HRC/RES/22/6, para 9(b).
the particular risk assessment of the human rights situation in each State and in consultation with civil society.

Subsection (2) clarifies that training should include the situation and protection needs of groups of defenders who are particularly vulnerable. These defenders may vary in different national contexts.
PART V. DEFINITIONS AND SCOPE OF APPLICATION OF THIS LAW

Section 38
Definitions

(1) For the purposes of this Law, “human rights and fundamental freedoms” includes the rights and freedoms recognised in or declared by international and regional human rights instruments and customary international law and by national laws consistent with those instruments and that law.

(2) For the purposes of this Law, “intimidation or reprisal” means any form of violence, threat, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary or abusive action or threat related to a person’s status, work or activity as a human rights defender, including proposed, attempted or imputed work or activity, directed at:
   (a) the human rights defender;
   (b) an associate of the human rights defender;
   (c) a legal or other representative of the human rights defender appointed to conduct the affairs of or to otherwise act on behalf of the human rights defender;
   (d) a family member or relative of the human rights defender;
   (e) a group, association, organisation, community or network, whether formal or informal, with which the human rights defender is associated; or
   (f) the home, property or possessions of the human rights defender or any of the other persons or entities in subsections (b) to (e) above.

(3) For the purposes of this Law, the following definitions also apply:
   (a) “associate” of a human rights defender means a person with whom the human rights defender acts to promote and protect human rights and fundamental freedoms;
   (b) “Fund” means the Fund for the Protection of Human Rights Defenders established under Part IV.Section 36(2);
   (c) “Mechanism” means the Mechanism for the Protection of Human Rights Defenders established under Part IV;
   (d) “protection measures” means the measures available under Part IV of this Law and includes urgent protection measures;
   (e) “public authority” means a person or body performing a function of a public nature that is conferred or imposed by or pursuant to law or delegated, contracted or procured by a governmental authority or agency.

Commentary

Subsection (1)

The drafters included a broad definition of “human rights and fundamental freedoms”. The drafters considered that defining “human rights and fundamental freedoms” with reference to a codified list of international instruments relating to human rights may be restrictive.
However such instruments would include:

(a) the Universal Declaration of Human Rights;

(b) the UN General Assembly Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;

(c) the International Convention on the Elimination of All Forms of Racial Discrimination;

(d) the International Covenant on Economic, Social and Cultural Rights;

(e) the International Covenant on Civil and Political Rights;

(f) the Convention on the Elimination of All Forms of Discrimination against Women;

(g) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(h) the Convention on the Rights of the Child;

(i) the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;

(j) the International Convention for the Protection of All Persons from Enforced Disappearance;

(k) the Convention on the Rights of Persons with Disabilities;

(l) the Declaration on the Rights of Indigenous People;

(m) relevant regional human rights instruments, such as the African Charter on Human and Peoples’ Rights, and the American Convention on Human Rights; and

(n) other relevant human rights instruments adopted after the enactment of this Law.

Customary international law should be specifically included.

To account for the fact that some human rights defenders may act to promote rights and freedoms which are still emerging and which are yet to be recognised in any international instrument, any definition which lists the particular international instruments should not be exclusive (“Human rights and fundamental freedoms’ shall include…”).

The content of many human rights and fundamental freedoms has been elucidated by decisions of national and international bodies that have interpreted and applied the international human rights instruments listed above, as well as in customary international law. Given the importance of those decisions, a sentence could be included in the definition of “human rights and fundamental freedoms” providing such decisions may be referred to when interpreting the meaning of “human rights and fundamental freedoms”.

Subsection (2)

The definition of “intimidation or reprisal” is based on Article 12(2) of the UN Declaration:

The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

A human rights defender’s ability to promote and protect human rights will not only be impaired if the human rights defender himself or herself is threatened, but also if those close to the human rights defender are threatened. For this reason, the definition of “intimidation or
reprisal” in subsection (3) includes actions taken against a human rights defender’s family members, representatives or associates, or a group, association or organisation with which the human rights defender is associated.

The drafters made the decision not to define the term family member in subsection (2)(d). This was on the basis that defining this term may in effect restrict its application. The term family member should be interpreted as broadly as possible and in the context of the culture and custom in the relevant State.

No domestic instrument relating to human rights defenders defines who is considered to be a “family member” of a human rights defender. Article 5 of the Convention on the Rights of the Child provides:

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

This broad definition of family reflects the wide variety of kinship and community arrangements within which children are brought up around the world. See UNICEF, Implementation Handbook for the Convention on the Rights of the Child (2007), Commentary on Article 5, p 76. Section 3A(1) and (2) of the Victorian Magistrates’ Court Act 1989, and §701 of the US Securities Act 1933.

Any definition of family member included by a State adopting a law on the recognition and protection of human rights defenders should rely on these instruments and be broad and acknowledge ties that arise not only from blood relations, but also from marriage and other unions.

Subsection (3)

The definition of “associate” included in subsection (3)(a) is broad so as to encompass the variety of working relationships that may exist between a human rights defender and those with whom they act to promote and protect human rights.

The definition of “public authority” is a simplified version of the definition of “public body” used in Section 4 of the Victorian Charter of Human Rights and Responsibilities Act 2006.

It is likely that the definition of “public authority” in Section 38(3)(e) will need to be elaborated to suit the particular circumstances of any State adopting a law on the recognition and protection of human rights defenders.

Section 39

Non-discriminatory application

This Law applies to all human rights defenders under the jurisdiction, territory, or control of [country’s name] without distinction of any kind, such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth, disability, sexual orientation, gender identity, sex characteristics or other status.
Commentary

This Section has been included in line with a suggestion made in the regional consultations. The Section is an added protection aimed at ensuring that all human rights defenders are able to enjoy the rights and protections under this Law.

Provisions similar to Section 39 are found in Article 2 of the Universal Declaration of Human Rights:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 1(1) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (the Migrant Workers Convention):

The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

Article 2(2) of the International Covenant on Economic, Social and Cultural Rights:

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be 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.

The language of the Migrant Workers Convention was used in Section 39 as it includes the most extensive list of impermissible bases of discrimination. The attributes of disability, sexual orientation, gender identity and sex characteristics were added to this list to reflect international human rights norms and jurisprudence, including the Convention on the Rights of Persons with Disabilities, and the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, respectively.

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20 See, for example, Convention on the Rights of Persons with Disabilities, Article 5(2): “States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds”.

21 Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, Principle 2: “Everyone is entitled to enjoy all human rights without discrimination on the basis of sexual orientation or gender identity”.
ANNEXURE 1. POTENTIAL ADDITIONAL PROVISIONS TO MANDATE, RESOURCE AND IMPLEMENT A MECHANISM FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS

Commentary
This Annexure contains a range of provisions which could be incorporated into the Model Law, or into regulations or a decree, to provide further guidance as to the operationalisation of Part IV of the Law.

Section 1
Application for protection measures

(1) A human rights defender and those specified in Section 38(2)(b) to (e) may make an application for protection measures in writing or orally in person [using the prescribed form] or through an emergency hotline established for that purpose and available on a 24 hours basis every day of the week.

(2) To the extent that making an application in writing is not practicable in the circumstances, an application for protection measures may be made orally in person or over the emergency hotline established for that purpose.

(3) The [official who receives an application] shall:
   (a) obtain the details necessary for an application for protection measures or urgent protection measures; and
   (b) transmit a written record of the application to the Mechanism without undue delay and within [6 hours] of the application; and
   (c) where it appears there is a risk of an imminent act of intimidation or reprisal, immediately transmit a record of the application to the Mechanism.

Section 2
Assessment of application for protection measures

(1) Unless the procedure for urgent protection measures under Section 4 applies, the Mechanism shall within [two weeks] of the receipt of an application for protection measures:
   (a) prepare a comprehensive risk analysis to determine whether there is a real risk that an act of intimidation or reprisal will occur, including by applying a gender perspective and taking into account the specific situation and protection needs of women human rights defenders and other human rights defenders at increased risk, and by identifying the root causes of violations; and
   (b) determine whether the application for protection measures should be approved.

(2) If an application for protection measures is approved, within the same [two week] period the Mechanism shall:
(a) develop the protection plan and define the protection measures to be put in place;
(b) specify the timeframe and manner of implementation of the protection plan and measures; and
(c) identify the beneficiary or beneficiaries of the protection measures.

(3) The beneficiaries of protection measures may be human rights defenders and those specified in Section 38(2)(b) to (e).

(4) Protection measures shall only be implemented with the consent of the beneficiary or beneficiaries.

(5) A decision of the Mechanism under subsection (1) or (2) shall be communicated to the applicant in writing and shall include the reasons for the decision.

(6) The applicant shall be consulted regarding the risk analysis under subsection (1)(a) and the plan and the measures defined under subsection (2)(a).

(7) With the express consent of the beneficiary or beneficiaries, the Mechanism shall share the risk analysis with the authority responsible for investigating any alleged criminal offence against human rights defenders and those identified in Section 38(2)(b) to (e).

Commentary
This section is largely drawn from Article 27 of the Mexican Law.
It is fundamental to the scheme of this Model Law that the beneficiary of the protection measures has the right to a comprehensive risk analysis on which he or she, or his or her representative, is consulted.

In the Special Rapporteur’s Report (at paragraph 88), it was recommended that:
...human rights defenders be consulted throughout the setting up or review of protection programmes and the structure of such programmes should be defined by law. Protection programmes ... should also assess the safety of the defenders’ family members and relatives.
The Special Rapporteur (at paragraph 89) also commended the Mexican Law for its guarantee of:
...the right of the beneficiary to participate in the analysis of his/her risk and the definition of his/her protective measures.

Under Article 25 of the Mexican Law applications shall only be processed where they are supported by the prospective beneficiary (of the protection measures sought), save where that beneficiary’s ability to consent is seriously impaired.

Section 3  
Development of protection plans and measures

(1) Within [six months] of the entry into force of this Law, the Mechanism shall develop, in consultation with civil society, a non-exhaustive list of protection measures based upon international best practice. The list shall be reviewed and updated every [six] months.
(2) The protection measures that the Mechanism and relevant public authorities may implement in relation to human rights defenders and those specified in Section 38(2)(b) to (e) include:

(a) provision of cellular devices, radio, satellite phones or other communication equipment;
(b) installation of cameras, locks, lights or other safety measures at the home or places of work of the beneficiary;
(c) provision of bullet-proof vests;
(d) installation of metal detectors;
(e) provision of armoured vehicles;
(f) setting up of emergency telephone lines;
(g) assignment of armed or unarmed protection personnel;
(h) provision of, or access to, legal aid;
(i) provision of cyber security advice, support and infrastructure;
(j) making public or private statements or representations of support;
(k) attending or observing trials or legal proceedings;
(l) provision of a safe house;
(m) provision of alternative identity documents;
(n) travel assistance;
(o) relocation outside the area of risk;
(p) evacuation
(q) provision of psychosocial support and including counselling for trauma, stress management and well-being; and
(r) financial assistance or income support.

(3) The Mechanism shall consult and agree with the beneficiary or beneficiaries on the development and implementation of protection plans and measures.

Commentary
This Section largely draws on Article 33 of the Mexican Law and paragraph 4.2 of the Guatemalan Catalogue, expanded by reference to threats identified as common in the regional consultations.

It is important to link the mechanism for the protection of human rights defenders with investigations into the risks posed to the human rights defenders. Providing the beneficiary’s risk analysis to relevant investigative authorities, with the express consent of the beneficiary, would facilitate investigations into criminal activity directed at a beneficiary.
Section 4
Urgent protection plans and measures

(1) Where it appears from an application for protection measures under Section 1 that there is a risk of an imminent act of intimidation or reprisal, the Mechanism shall, without undue delay and no later than [six hours] from the receipt of the application determine whether there is a real risk that an imminent act of intimidation or reprisal will occur.

(2) If there is a real risk that an imminent act of intimidation or reprisal will occur, without undue delay and within the same [six hour] period the Mechanism shall develop an urgent protection plan and the Mechanism and relevant public authorities shall implement urgent protection measures with the agreement of the beneficiary or beneficiaries.

(3) Urgent protection measures include:
(a) evacuation;
(b) temporary relocation outside the area of risk;
(c) escort by specialised security personnel;
(d) measures to protect property; and
(e) other measures determined by the Mechanism to be necessary to protect the beneficiary or beneficiaries.

Commentary
The Special Rapporteur’s Report (at paragraph 89) commended the Mexican Law for defining an “extraordinary process for emergency response in less than 12 hours”.
This Section largely draws on Articles 26 and 32 of the Mexican Law.

Section 5
Re-assessment and termination of protection measures

(1) The Mechanism shall periodically re-assess and, as it considers appropriate, continue, modify or terminate the protection measures implemented under this Law and for this purpose may:
(a) interview the beneficiaries of protection measures;
(b) request from beneficiaries reports on how protection measures have been implemented;
(c) request from beneficiaries information on advances in investigations and legal processes, if any;
(d) determine whether new circumstances exist that might increase the risk of an act of intimidation or reprisal; and
(e) carry out intermediary risk analyses, including in relation to context and root causes.

(2) If protection measures involve evacuation, a safe return plan shall be developed in consultation with the beneficiary.
If the Mechanism proposes to modify or terminate protection measures it must:
(a) provide adequate notice of that intention to the beneficiary or beneficiaries; and
(b) afford due process and an adequate opportunity for the beneficiary or beneficiaries to respond.

If the Mechanism determines that the beneficiary of the protection measures deliberately and repeatedly made improper use of the protection measures, it may modify the protection measures.

The Mechanism may terminate protection measures if it determines that there is no longer a real risk that an act of intimidation or reprisal will occur.

Commentary
This Section largely draws on paragraphs 3.2.2.4 and 3.2.2.5 of the Guatemalan Catalogue. The Section also draws on Articles 36 and 37 of the Mexican Law.

Section 6
Review of decision of the Mechanism
(1) An applicant for protection measures under Section 1 may apply to the [relevant court, tribunal or other independent competent authority] for review of:
(a) the Mechanism’s decision not to approve the application for protection measures;
(b) the Mechanism’s decision to modify or terminate protection measures;
(c) the protection measures selected by the Mechanism;
(d) the Mechanism’s assessment and decision under Section 2 to Section 4; and
(e) the implementation of the protection measures.

(2) An application for review under this Section shall be made within [30 days] of the communication of a decision of the Mechanism.

(3) Notwithstanding a decision by the Mechanism not to approve or to withdraw protection measures, a human rights defender and those specified in Section 38(2)(b) to (e) may file a new application for protection measures if new facts arise.

(4) In relation to subsection (1), where the [relevant court, tribunal or other independent competent authority] is satisfied that there has been poor or unsatisfactory implementation of protection measures, the [relevant court, tribunal or other independent competent authority] may also:
(a) institute [disciplinary proceedings]; and
(b) impose a [fine of up to $X].
In the Special Rapporteur’s Report (at paragraph 89), the Mexican Law was commended for establishing a complaints procedure and ensuring that public officials who do not implement the measures ordered by the mechanism will be legally sanctioned.

This Section largely draws on Chapter XI of the Mexican Law.

Some guidance may also be drawn from Articles 54 and 55 of the Honduran Law.

**Section 7**

**Promotion and prevention measures**

(1) The Mechanism shall promote recognition of and support for the work of human rights defenders and prevention of acts of intimidation or reprisal.

(2) In order to fulfil the objective of subsection (1), the Mechanism shall:

(a) make public statements and increase public awareness, especially through information and education and by making use of all press organs to promote the important and legitimate work of human rights defenders;

(b) propose prevention measures;

(c) conduct national monitoring of acts of intimidation or reprisal in order to collect and organise data relating to such threats and produce reports of the findings;

(d) identify patterns of aggression against human rights defenders;

(e) make public statements and otherwise combat acts of discrimination, stigmatisation or defamation of individual human rights defenders, groups of human rights defenders and those specified in Section 38(2)(b) to (e); and

(f) evaluate the effectiveness of prevention measures, protection measures and urgent protection measures that have been implemented.

(3) The prevention measures under subsection (2)(b) shall include the design of early warning systems and contingency plans to avoid acts of intimidation or reprisal.

It is important for the Mechanism to propose promotion and prevention measures, and continually conduct national monitoring of threats to the life, physical integrity, security and freedom of human rights defenders, so as to identify patterns of aggression, map the risks posed to human rights defenders, and evaluate the effectiveness of prevention measures, protection measures and urgent protection measures that have already been implemented.

This Section is informed by the Principles relating to the Status of National Institutions, particularly in relation to raising public awareness, together with Article 23 and Chapter VIII of the Mexican Law.
ANNEXURE II. POTENTIAL ADDITIONAL PROVISIONS TO ENSURE THE COMPATIBILITY OF OTHER LAWS WITH THE MODEL LAW

Commentary
In addition to enacting a specific law for the protection of human rights defenders, States should review and amend those laws which restrict or criminalise human rights defenders’ important activities and work.

Drawing on existing human rights legislation, this Annexure sets out a mechanism for determining the compatibility of other legislation with the rights set out in Part II of the Law and interpreting other legislative provisions compatibly with this Law.

These provisions may not be necessary or appropriate in those jurisdictions where comprehensive and effective pre-legislative or legislative processes exist to identify and avoid any incompatibility between national law and international human rights law.

### Section 1
**Interpretation consistent with this Law to be preferred**

1. So far as it is possible to do so consistently with its purpose, a statutory provision shall be interpreted and applied in a way that is consistent with the rights in Part II of this Law.

2. This Section applies to statutory provisions whenever enacted.

Commentary
This Section draws on interpretive provisions of domestic human rights laws, including Section 3 of the UK Human Rights Act 1998 and Article 39(2) of the South African Constitution.

Subsection (2) makes clear that statutory provisions enacted before the Law are also to be interpreted in accordance with the rule set out in subsection (1).

### Section 2
**Declaration of incompatibility**

In any proceeding in which a court or tribunal determines whether a statutory provision can be interpreted and applied in a way that is consistent with the rights in Part II of this Law, if the court or tribunal is satisfied that the statutory provision is incompatible with one or more of those rights, the court or tribunal may make a declaration of that incompatibility, or such other order, including as to invalidity, as may be appropriate and within the power of the court.

Commentary
This Section is based on Section 4 of the UK Human Rights Act 1998.

The applicability of this provision, together with Section 3, should be considered in light of the constitutional framework of the State.
Section 3
Effect of declaration of incompatibility

(1) A declaration of incompatibility under Section 2:
   (a) does not affect the validity, continuing operation or enforcement of the statutory provision in respect of which it is given; and
   (b) is not binding on the parties to the proceedings in which it is made.

(2) Within [120 days] of the making of a declaration of incompatibility under Section 2, the [Minister administering the statutory provision in respect of which the declaration is made] shall present a report to the [competent authority]:
   (a) bringing the declaration of incompatibility to the attention of the [competent authority]; and
   (b) advising on the government’s response to the declaration of incompatibility.

Commentary
This Section specifies the consequences of a declaration of incompatibility under Section 2. Subsection (1) is based on Section 4(6) of the UK Human Rights Act 1998. Subsection (2) draws on Section 92K of the New Zealand Human Rights Act 1993.
While the provisions in Section 3 have been drawn largely from common law systems operating within the traditions of Westminster-style parliamentary supremacy, the competent authority to which the Minister may present a report on the declaration of incompatibility need not be the Parliament, so long as it is a competent authority to which the Minister may be held accountable under that particular political system of governance.

Section 4
Statement of compatibility

(1) A competent authority that proposes to make a statutory provision must cause a statement of compatibility to be prepared in respect of that proposed statutory provision.

(2) A member of the [legislature] who introduces [draft legislation], or another member acting on his or her behalf, must cause the statement of compatibility prepared under subsection (1) to be laid before the [legislature/competent authority] when the [draft legislation] is introduced.

(3) A competent authority or the [legislature] must cause the statement of compatibility under subsection (1) to be released publicly at least twenty-eight days before the proposed statutory provision is made and give members of the public the opportunity to comment on the proposed statutory provision during that period.

(4) A statement of compatibility required under subsection (1) must state:
   (a) whether, in the opinion of the member of the [legislature] or the competent authority, as the case may be, any part of the [draft legislation or proposed statutory provision, as the case may be] is incompatible with the rights in Part II of this Law; and
(b) if, in that opinion, there is an incompatibility, the nature and extent of the incompatibility.

**Commentary**

This Section aims to draw potential incompatibilities with Part II of the Law to the attention of the Legislature and the public before incompatible statutory provisions are enacted. The Section draws on existing provisions in national human rights instruments, such as section 6 of the New Zealand Bill of Rights Act 1990.

These provisions may not be necessary or appropriate in those jurisdictions where comprehensive and effective pre-legislative or legislative processes exist to identify and avoid any incompatibility between national law and international human rights law.

### Section 5

**Review of legislative compatibility**

1. The [Minister for Justice/Attorney-General/other relevant or responsible Minister] must cause a review to be made of the compatibility of all existing statutory provisions with this Law and must cause a report of that review to be laid before the [legislature/competent authority] within [three years] of the entry into force of this Law.

2. The review under subsection (1) must include consideration as to the amendments, revisions or repeals that would be required to ensure the compatibility of existing statutory provisions with this Law.

**Commentary**

This Section aims to draw existing incompatibilities with this Law to the attention of the legislature or other relevant authority in order to provide an opportunity for such statutory provisions to be amended or repealed, with a view to ensuring that the Law has full force and effect. The drafters considered that such a provision is necessary given the existence of a range of laws, provisions and regulations the operation and enforcement of which may be incompatible with the Law or undermine its purpose, intent or effectiveness.

These provisions may not be necessary or appropriate in those jurisdictions where comprehensive and effective pre-legislative or legislative processes exist to identify and avoid any incompatibility between national law and international human rights law.
### APPENDIX: LIST OF EXISTING DOMESTIC INSTRUMENTS RELATING TO HUMAN RIGHTS DEFENDERS

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<tr>
<th>SHORT TITLE</th>
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* Documents prepared by NGOs
Human Rights Council
Thirty-ninth session
10–28 September 2018
Agenda items 2 and 5
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights bodies and mechanisms

Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*

Report of the Secretary-General

Summary
The present report is submitted pursuant to resolution 12/2 of the Human Rights Council. The Secretary-General highlights recent developments within the United Nations system and beyond to address intimidation and reprisals against those seeking to cooperate or having cooperated with the United Nations, its representatives and mechanisms in the field of human rights. It presents the activities of the Assistant Secretary-General for Human Rights as the senior official leading the efforts of the United Nations in this area.

The report contains information on alleged acts of intimidation and reprisals, including in follow-up to cases included in the previous report (A/HRC/36/31) and prior to that. Owing to the word limit, more information on selected cases is set out in annex I. Information on follow-up to cases included in previous reports is provided in annex II. The report concludes with a summary of trends and recommendations to address and prevent acts of intimidation and reprisals.

* The annexes to the present report are reproduced as received.
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I. Introduction

1. The Human Rights Council, in resolution 12/2, expressed concern over continued reports of intimidation and reprisals against individuals and groups seeking to cooperate or having cooperated with the United Nations, its representatives and mechanisms in the field of human rights. The Council further condemned all acts of intimidation and reprisal committed by Governments and non-State actors and invited me to submit a report to the Council at its fourteenth session and annually thereafter, containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals and recommendations on how to address the issue. The present report is the ninth report based on resolution 12/2.1

II. Developments in response to acts of intimidation and reprisal

2. Addressing reprisals and intimidation against those cooperating with the United Nations in the field of human rights continues to be a priority and a core responsibility of the Organization as a whole. During the reporting period I continued to receive reports of alarming trends of reprisals, forms of retaliation for past cooperation and measures of intimidation, designed to discourage future participation or cooperation with the United Nations.

3. Intimidation and reprisals were discussed at and in relation to cooperation with the General Assembly, the Economic and Social Council, the Human Rights Council and the Security Council. Within the United Nations system, including in the Secretariat and its field offices and peace missions, at the United Nations Development Programme (UNDP), the International Labour Organization (ILO), the United Nations Conference of States Parties to the Convention Against Corruption, the World Bank and the International Monetary Fund, multiple actors have continued to address cases with concerned Governments and taken initiatives to raise awareness of the severity of the issue.

4. On 24 December 2017, at its seventy-second session, the General Assembly adopted by consensus resolution 72/247 to mark the twentieth anniversary and promotion of the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders). The General Assembly condemned all acts of intimidation and reprisal by State and non-State actors, including against human rights defenders and their legal representatives, associates and family members, and strongly called upon all States to give effect to the right of everyone, individually and in association with others, to unhindered access to and communication with the United Nations. It expressed grave concern at the “considerable and increasing number of allegations and communications of a serious nature received by special procedures” related to intimidation and reprisals.

5. On 29 September 2017, at its thirty-sixth session, the Human Rights Council adopted resolution 36/21 on “Cooperation with the United Nations, its representatives and mechanisms in the field of human rights,” in which it reaffirmed “the right of everyone, individually and in association with others, to unhindered access to and communication with … the United Nations, its representatives and mechanisms”. In the resolution, the Council urged all States to prevent and refrain from all acts of intimidation or reprisal and to take measures to ensure accountability for reprisals. It noted the designation of the Assistant Secretary-General for Human Rights and decided that the presentation of the present report at the thirty-ninth session would be followed by an interactive dialogue. At the thirty-sixth, thirty-seventh and thirty-eighth sessions of the Council, States and non-governmental organizations (NGOs) also delivered statements on the issue of reprisals.

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6. During the reporting period, successive Presidents of the Human Rights Council used their good offices through bilateral meetings or in writing in 2017 and 2018 to handle eight cases of reprisals related to participation in sessions of the Council. Those cases included travel bans, detention and confiscation of a passport, arrest, interrogation and imprisonment in the home country following participation in Council sessions and intimidation during parallel side events of the Council by representatives of a State.

7. The High Commissioner for Human Rights addressed in strong terms the issue of reprisals brought to bear by State officials on several occasions, in particular in his opening statement to the thirty-sixth session of the Human Rights Council on 11 September 2017 and on 18 June 2018 to its thirty-eighth session. On numerous occasions, he has drawn attention to new and evolving policies and legislation that aim to restrict the operations of civil society, including those that selectively place obstacles in the way of international advocacy efforts by NGOs on particular issues. They include those that would limit or deny the foreign funding that organizations use to submit research and travel to United Nations meetings.

8. The Assistant Secretary-General for Human Rights, the senior official designated to lead efforts within the United Nations system to address intimidation and reprisals, has continued his high-level engagement with States, in particular on patterns and concerning urgent cases, and has undertaken activities to consult directly with victims and civil society organizations on the work of the United Nations in addressing reprisals. Apart from meetings in New York and Geneva, he engaged with participants from around the world at the 2017 Dublin Platform for Human Rights Defenders hosted by Front Line Defenders, with Asian defenders from 16 countries at a regional consultation in Bangkok organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in May 2018 and at a human rights defender security platform for Central Asia in Bishkek.

9. The Assistant Secretary-General addressed specific situations and individual cases with Member States in intergovernmental forums and through quiet diplomacy with concerned Governments, including with Permanent Representatives to the United Nations and during field missions. He engaged with the President of the Human Rights Council, the Chair of the Committee on Non-Governmental Organizations, special procedures mandate holders, including their Coordination Committee, treaty bodies, Special Representatives of the Secretary-General and Resident Coordinators, representatives of the World Bank, heads of human rights field presences and focal points in various United Nations organizations at Headquarters and in the field. He has also engaged with the Global Alliance of National Human Rights Institutions on the specific targeting of national institutions in relation to their work with the United Nations.

10. On 18 April 2018, at the seventeenth session of the United Nations Permanent Forum on Indigenous Issues, the Assistant Secretary-General emphasized the widespread intimidation of and reprisals taken against indigenous peoples, including those who cooperated with the United Nations. The Permanent Forum requested the Secretary-General, through the Assistant Secretary-General and in consultation with other relevant United Nations mechanisms, to report to the Forum at its eighteenth session in 2019 on trends related to intimidation and reprisals against indigenous peoples who seek to engage with the United Nations (see E/2018/43-E/C.19/2018/11, para. 14).

11. In the report on the twenty-fourth annual meeting of special rapporteurs/representatives, independent experts and chairs of working groups of the special procedures of the Human Rights Council, the special procedures mandate holders noted various measures taken to respond to intimidation and reprisals, which were observed to have
become increasingly severe in nature. They also stressed the need for a trends analysis and comprehensive assessment, and for strengthened coordination with other parts of the United Nations system, including the Assistant Secretary-General (see A/HRC/37/37, paras. 66–67). 8

12. In a statement on 1 June 2018 to mark the twentieth anniversary of the Declaration on Human Rights Defenders, experts reaffirmed that all individuals should be able to engage with the treaty bodies free from all forms of interference, intimidation, abuse, threat, violence, reprisal, or undue restriction. 9

13. UNDP, OHCHR and the Global Alliance of National Human Rights Institutions continue to support the implementation of their guidelines on reprisals and other acts of intimidation against national human rights institutions, their members and staff. That includes documenting cases and responding to them promptly, as well as collectively supporting targeted national human rights institutions.

14. To ensure the visibility and accessibility of the work on intimidation and reprisals and the activities of the United Nations human rights mechanisms, the website launched in June 2017 is being translated into the six official languages and informational materials, including an animated video and a one-page document for civil society on how to submit information, are available online. 10 Special procedures mandate holders 11 and some treaty bodies also have dedicated webpages.

III. Information on policy and best practices

15. There were developments in the working methods and practices of the treaty bodies, including in the implementation of the Guidelines against Intimidation or Reprisals (the San José Guidelines, HRI/MC/2015/6) adopted at their meeting in 2015. During their thirtieth annual meeting, the Chairs of the treaty bodies encouraged rapporteurs or focal points of different committees to work together between sessions, as needed, to address cases, to make information available about reprisals on the website, and for the Secretariat to prepare a document for 2019 on the role of rapporteurs and focal points, including good practices (A/73/140).

16. At its ninety-fifth session, the Committee on the Elimination of All Forms of Racial Discrimination started the practice of sending letters to States parties on alleged cases and of making them publicly available on its webpage. The Focal Point for Reprisals of the Committee was tasked with developing guidelines on reprisals.

17. In the development context, the World Bank Group has made progress in developing guidance on addressing reprisals reported in relation to complaints involving its projects. In October 2017, the Office of the Compliance Advisor Ombudsman published reprisals guidelines. These followed the publication in March 2016 of the World Bank Inspection Panel anti-retaliation guidelines, which were the first published by an independent accountability mechanism of an international financial institution. Initial dialogue between the Assistant Secretary-General and those offices has been initiated to share information and best practices.

18. The UNDP public accountability mechanism, the Social and Environmental Compliance Unit of the Office of Audit and Investigations, reports cases of harassment, intimidation and violence against persons who seek to cooperate or have cooperated with UNDP-aided projects and is developing a “retribution toolkit” for use by the international

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8 See also www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22828&LangID=E.
11 See www.ohchr.org/EN/HRBodies/SP/Pages/Actsofintimidationandreprisal.aspx.
13 See World Bank, “Inspection panel guidelines to reduce retaliation risks and respond to retaliation during the panel process”.

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accountability mechanisms, in cooperation with the Inter-American Development Bank. The Unit is completing compliance reviews and monitoring several cases of intimidation and reprisals for engagement with UNDP, including in Bosnia-Herzegovina, Malawi, Panama and Uganda.14

19. In the context of protection of civilians, the Department of Peacekeeping Operations has reinforced a policy commitment to the principle of “do no harm” in its cooperation with communities and civil society. The force commanders, in cooperation with civilian components, must ensure that threat assessments and situational awareness are informed by regular engagement with communities and civil society groups, such as youth and women’s groups, which affirms their accountability for ensuring that such engagement does not expose any persons to harm.

IV. Ensuring access to the United Nations, its representatives and mechanisms in the field of human rights

20. Civil society organizations make an indispensable contribution to the work and purposes of the United Nations, which would be impossible without their having access to international meetings at United Nations premises and the ability to engage directly with the human rights mechanisms. Indeed, the Economic and Social Council acknowledges the breadth of their expertise and their capacity to support the work of the United Nations (see resolution 1996/31).

21. The Assistant Secretary-General has addressed concerns about the use of accreditation and security procedures to hinder people from speaking out in a number of United Nations forums at Headquarters. There have been attempts by some diplomats to block the participation of certain civil society representatives in United Nations events, meetings or conferences, including attempts to thwart the accreditation of NGOs, especially those doing human rights work, through various manoeuvres. Further, OHCHR has repeatedly received reports indicating that individuals at United Nations meetings have been unwillingly filmed or photographed, or that their statements in closed sessions were secretly recorded, creating a climate of intimidation that may deter members of civil society from participating in proceedings.

22. According to the Department of Economic and Social Affairs, which provides secretariat support to the Committee on Non-Governmental Organizations, which considers applications for consultative status with the Economic and Social Council, in 2018 over 4,800 organizations had consultative status and the demand for that status remained high, with new applications increasing by 19 per cent in 2017 (see A/HRC/38/18, para. 19). At its resumed session in May 2018, the Committee had before it 472 applications, of which 244 were deferred from previous sessions. They recommended 209 for consultative status and deferred 233. Another 27 applications were closed owing to the failure of the applicants to answer questions.

23. Consultative status confers access to the United Nations and many of its mechanisms, and several stakeholders have raised concerns about the large number of deferrals and perceived lack of transparency in decisions on consultative status. Continuous deferral of applications has in some cases amounted to de facto rejections and has targeted civil society organizations that work on human rights-related issues (see A/HRC/38/18, para. 20).

24. In my previous report I addressed the role of the Committee on Non-Governmental Organizations and welcomed the positive efforts of the Committee to increase transparency, which have made some of its deliberations available via webcast. I also note the first consultation held between members of the Committee and NGOs in consultative status with the Economic and Social Council in June 2018 on the contribution of NGOs to the work of the Council and its subsidiary bodies, including on improving the access of NGOs to the United Nations. I again call on the Committee to apply the criteria for assessing

organizations in a fair and transparent manner. At a time when space for civil society is shrinking in various spheres, it is essential that the United Nations encourage engagement with civil society.

V. Information received on cases of intimidation and reprisal for cooperation with the United Nations, its representatives and mechanisms in the field of human rights

A. General comment

25. The present report includes cases based on information gathered from 1 June 2017 to 31 May 2018 and, in accordance with Human Rights Council resolutions 12/2 and 24/24, contains information on acts of intimidation or reprisal against those who:

(a) Seek to cooperate, or have cooperated with, the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them;

(b) Avail or have availed themselves of procedures established under the auspices of the United Nations for the protection of human rights and fundamental freedoms, and all those who have provided legal or other assistance to them for that purpose;

(c) Submit or have submitted communications under procedures established by United Nations human rights instruments and all those who have provided legal or other assistance to them for that purpose;

(d) Are relatives of victims of human rights violations or of those who have provided legal or other assistance to victims.

26. The information received has been verified and corroborated by primary and other sources to the extent possible. Reference is made to various United Nations publications if the cases included in the present report have been made public. Responses provided by Governments by 31 July 2018 to actions taken by various United Nations actors on cases are also included. Efforts have also been made to follow up on cases included in previous reports when there were new developments in the reporting period (see annex II).

27. The present report and annexes do not attempt to provide an exhaustive list of cases. In preparing it, the principle of “do no harm” and the consent of the alleged victims to be named were strictly adhered to and a risk assessment made for each case received and deemed credible. As a result, it was decided not to include cases where the risk to the security and well-being of the individuals concerned, or their family members, was deemed too high. Furthermore, a number of cases brought to my attention have been addressed confidentially and may not figure in the report.

28. Further information about the following situations and cases is available at annex I. Where there are new developments during the reporting period on ongoing cases mentioned in previous reports, the information is found at annex II. “Special procedures mandate holders” refers to the special procedures mandate holders of the Human Rights Council. All special procedures communications referred to in the present report can be now found online by conducting a search using the case reference numbers that are provided in parentheses throughout the report. Government replies to special procedures communications may also be found using this method.

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15 See www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx.
B. Summary of cases

Bahrain

29. Various United Nations actors have expressed grave concern about an ongoing trend of harassment and intimidation against Bahraini civil society representatives seeking to cooperate with the United Nations, the sweeping imposition of travel bans on around 20 individuals and the arrest, detention, sexual assault and torture and other forms of ill-treatment of targeted individuals (BHR 8/2017, BHR 9/2017 and BHR 13/2017). Long-standing travel bans remained in effect during successive sessions of the Human Rights Council, preventing many civil society representatives from participating between June 2017 and June 2018. A number of individuals have also reported threats of violence and psychological intimidation because of their past engagement with the Council, including threats of physical violence, public defamation and rape, to discourage them from speaking out again. The present report notes that various human rights defenders have reportedly faced criminal and terrorism-related charges, including family members of Mr. Sayed Ahmed Al-Wadaei, Ms. Ebtesam Al-Alsaegh, and Mr. Nabeel Rajab (see annexes I and II).


Cameroon

31. On 26 October 2017, special procedures mandate holders expressed concern about the increasingly threatening nature of the physical attacks on and intimidation and harassment of Ms. Maximilienne Ngo Mbe, of Central Africa Human Rights Defenders Network and Ms. Alice Nkom also of the Network and of an association for the rights of lesbian, gay, bisexual, transgender and intersex persons, following their participation in the review of Cameroon by the Human Rights Committee in Geneva (CMR 5/2017). On 17 July 2018 the Government responded to the allegations.

China

32. On 18 June 2018, in his opening statement to the thirty-eighth session of the Human Rights Council, the High Commissioner for Human Rights highlighted the continuing efforts of China to prevent independent members of civil society from engaging with United Nations human rights mechanisms, including treaty body reviews, the universal periodic review of the Human Rights Council and many special procedures mandate holders, and encouraged the authorities to enable all actors to contribute to all the international human rights mechanisms. The present report notes that various activists, human rights defenders and lawyers have reportedly been subjected to travel bans, surveillance, detention, including being held incommunicado, ill-treatment and torture for their efforts to engage with the United Nations (see annexes I and II). On 31 July 2018 the Government responded to the allegations.

Colombia

33. On 1 February 2018, special procedures mandate holders addressed allegations of death threats by paramilitary groups against Mr. Germán Graciano Posso, a member of the Peace Community of San José de Apartadó following his participation in the United Nations Forum on Business and Human Rights in Geneva 2017 (COL 1/2018).

Cuba

34. On 11 May 2018, the spokesperson for the High Commissioner for Human Rights stated that OHCHR had received worrying reports that officials in Cuba had prevented human rights defenders and civil society representatives from boarding flights to travel to meetings abroad, including United Nations meetings, on the pretext of requiring more

16 See also OHCHR, “Bahrain must end worsening human rights clampdown, UN experts say” (16 June 2017).
detailed identity checks. They included 14 direct cases of Cubans informed by officials that the computer system required extra screening. Those measures have resulted in passengers missing their flights and therefore the meetings. Special procedures mandate holders have raised individual cases (CUB 1/2018). On 4 April 2018, the Government responded to the allegations.

35. The Assistant Secretary-General addressed the allegations referred to above in writing on 11 April 2018. On 10 May 2018, the Government responded to the allegations.

**Democratic Republic of the Congo**

36. The United Nations Stabilization Mission in the Democratic Republic of the Congo reported multiple incidents of intimidation and reprisals for cooperation with the Mission, especially the team of joint human rights officers, in relation to incidents perpetrated by the Agence nationale de renseignements, the Forces armées de la République Démocratique du Congo, local police and others.

**Djibouti**

37. It was reported to OHCHR that Mr. Kadar Abdi Ibrahim, a human rights defender, was unable to participate in the review of Djibouti by the Working Group on the universal periodic review, held on 10 May 2018. Four Member States expressed their concern to the Government of Djibouti during the session (see A/HRC/39/10, paras. 54, 64, 84 and 104).

**Egypt**

38. Various United Nations actors took action on the initial disappearance and later detention of Mr. Ebrahim Abdelmonem Metwally Hegazy of the Association of the Families of the Disappeared, who was on his way to meet the Working Group on Enforced and Involuntary Disappearances in Geneva in September 2017. The case was addressed multiple times by special procedures mandate holders (EGY 14/2017, A/HRC/WGEID/109/1, para. 35, and see also A/HRC/WGEID/114/1, para. 56) and the Assistant Secretary-General. 17


**Guatemala**

40. On 30 November 2017, special procedures mandate holders raised concerns regarding allegations of criminal charges against Mr. Jerson Xitumul Morales, a journalist who had collaborated with OHCHR in Guatemala, providing information on the human rights situation in Izabal (GTM 6/2017). On 15 January 2018, the Government responded.

41. The High Commissioner for Human Rights expressed support for the national human rights institution (Procurador de Derechos Humanos). 19 This followed alleged attempts by the Government to undermine the independence of the institution because of its support for the International Commission against Impunity in Guatemala. The Ombudsman, Mr. Augusto Jordán Rodas Andrade, has faced smear campaigns and threats to his family.

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17 OHCHR, “UN rights experts dismayed by arrest of Egyptian lawyer Ebrahim Metwally en route to meet them” (15 September 2017).
18 OHCHR, “Report highlights rising reprisals against human rights defenders cooperating with the UN” (20 September 2017).
19 Statement by the High Commissioner for Human Rights at the end of his mission to Guatemala (19 November 2017).
Guyana

42. On 18 October 2017, the Working Group of Experts on People of African Descent expressed concern about alleged reprisals by prison authorities and guards against an individual (name withheld by the Working Group) incarcerated at Lusignan Prison, whom they had interviewed during their visit to Guyana in October 2017. They subsequently received information that the individual had been verbally threatened by the prison authorities and guards for having cooperated with them (GUY 1/2017).

Honduras

43. Following his official visit to Honduras on 12 May 2018, the Special Rapporteur on the situation of human rights defenders, said that he was “extremely concerned with the increasing number of acts of intimidation and reprisals against human rights defenders in connection with their engagement with the United Nations…These reprisals take the form of smear campaigns, harassment, intimidation, threats, physical attacks and killings.”

44. On 7 June 2017, special procedures mandate holders expressed concern about allegations of death threats, attacks and reprisals against Ms. Hedme Castro, of the Asociación para una Ciudadanía Participativa (HND 3/2017) in relation to cooperation with OHCHR and the Human Rights Council. On 29 June 2017 the Government responded.

45. On 24 July 2017, the Human Rights Committee raised concern about reports of disparaging statements made by senior government officials in the media about individuals and civil society organizations who had submitted information for the second periodic report of Honduras (see CCPR/C/HND/CO/2, para. 42), including in relation to the murder of Ms. Berta Cáceres (see A/HRC/36/31, annex II, paras. 1–3). On 18 July 2018 the Chair of the Committee met with the Government.

46. The Assistant Secretary-General visited Honduras in July 2017 and raised a number of allegations of reprisals with the Government.

Hungary

47. On 21 June 2017, special procedures mandate holders addressed the targeting of Budapest-based international disability rights NGO Validity (formerly Mental Disability Advocacy Centre) following the release of a report on allegations of human rights violations at the Topház social care institution (HUN 3/2017), which were addressed by the Human Rights Committee in March 2018 (see CCPR/C/HUN/CO/6, para. 21, and CCPR/C/SR. 3464 and 3465). Validity are of the view that their targeting is related in large part to their advocacy with the United Nations human rights mechanisms.

48. It was reported that among objections by Member States to NGO participation in the Conference of the States Parties to the United Nations Convention against Corruption in Vienna in November 2017 was an attempt to block the participation of K-Monitor, a Hungarian anti-corruption NGO, in an effort to place obstacles in the way of participation by organizations raising corruption pertaining to the authorities. The Bureau voted against the objection of the State (see CAC/COSP/2017/14, para. 25) and K-Monitor was able to resume its participation.

49. Two organizations that participated in the review of Hungary by the Human Rights Committee in March 2018, the Hungarian Helsinki Committee and Amnesty International Hungary, have been targeted, at least in part, for their advocacy on migrants’ rights at the United Nations. On 3 August 2018 the Government responded to the allegations.

India

50. On 9 November 2017, special procedures mandate holders expressed concern at the use of the Foreign Contribution (Regulation) Act 2010 to restrict the work of NGOs cooperating with the United Nations, for example by a refusal to renew or grant licences, including for Mr. Henri Tiphagne of the Centre for Promotion of Social Concerns (OTH 2/2017 and IND 14/2018). Related issues concerning Mr. Nobokishore Urikhimbam of the Centre for Social Development have also been reported.

52. On 7 June 2018, the Assistant Secretary-General addressed the allegations in writing. On 2 July 2018, the Government responded.

Israel

53. In May 2018, the Minister of the Interior in Israel did not renew the work permit of the Director of Human Rights Watch, Omar Shakir, and ordered his deportation.20 Mr. Shakir remains in the country, as the order is under review by a district court. The order was based, inter alia, on allegations that Mr. Shakir would support a boycott of Israel. Among the allegations are statements by Mr. Shakir supporting a database produced by the United Nations of businesses that operate in Israeli settlements, pursuant to Human Rights Council resolution 31/36.

Kyrgyzstan

54. On 25 June 2018, the Committee on Migrant Workers addressed the Government regarding the designation as extremist material of a submission by civil society organizations Anti-Discrimination Centre Memorial and Bir Duino Kyrgyzstan of an alternative report to the Committee ahead of its review of Kyrgyzstan in April 2015.21 In May 2018, during a visit to Kyrgyzstan the Assistant-Secretary General raised the allegations with the Government.

Maldives

55. On 20 April 2018, special procedures mandate holders raised concerns about the launching of investigations against Shahinda Ismail of the Maldivian Democracy Network, for the use of Twitter and for having participated in a side event at the June 2017 session of the Human Rights Council (MDV 3/2018). Ms. Ismail continues to receive online threats and online gender-based violence, including rape threats. On 23 July 2018 the Government responded to the allegations.

Mali

56. According to the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), there have been cases of reprisals perpetrated by State actors and non-State armed groups against individuals who collaborate with the Mission, including the Human Rights and Protection Division.22 Intimidation and death threats are strategies that have been used by terrorist and extremist armed groups to threaten populations for any collaboration with national and international forces, including MINUSMA.

Morocco

57. In a decision of 15 November 2016, the Committee against Torture found that Morocco was responsible for violations of the Convention in the case of Naâma Asfari v. Morocco, in which Mr. Asfari, a Sahrawi human rights defender currently in detention, was the petitioner (CAT/C/59/D/606/2014). Since the decision by the Committee, Mr. Asfari’s treatment in detention has reportedly deteriorated. His wife has been denied entry into Morocco on four occasions. On 13 February 2018, Mr. Asfari was placed in solitary

20 OHCHR, “UN experts urge Israel not to deport Human Rights Watch official Omar Shakir” (18 May 2018).
21 See submissions of civil society organizations to the twenty-second session of the Committee on Migrant Workers.
confinement until 13 March 2018. On 13 July 2018, the Committee’s Rapporteur on Reprisals and on Follow-up wrote to the Government.

**Myanmar**

58. During a briefing by members of the Security Council on their mission to Myanmar, it was reported that Myanmar security forces had threatened Rohingya villagers with reprisals if they talked to members of the delegation during the visit and had told the villagers that those who had done so were being sought. A Security Council member noted that it was unacceptable that anyone should feel intimidated about speaking with members of the Council (see S/PV.8255, p. 6).

59. The Special Rapporteur on the situation of human rights in Myanmar reported to the Human Rights Council in March 2018 that she had received information about violent reprisals taken by the armed forces against civilians with whom she had met following her visit to Rakhine State in January 2017 (see A/HRC/37/70, para. 63).

60. The Governing Body of ILO reported on 7 February 2018 that it remained concerned about two cases of apparent reprisal against complainants in forced labour cases, Mr. Aung Ko Htwe and Mr. Khaing Myo Htun (see GB.332/INS/8, paras. 15–16),23 which were also raised by the Special Rapporteur in her report to the Human Rights Council in March 2018 (see A/HRC/37/70, para. 15). The Assistant Secretary-General addressed the allegations in writing on 2 July 2018.

**Philippines**

61. On 2 October 2017, special procedures mandate holders expressed concern about the defamatory and intimidating public statements directed at the Commission on Human Rights of the Philippines, its members and its Chair, Mr. Chito Gascon, (PHL 12/2017), in part because of its cooperation with the United Nations. The former Chair of the Commission, Ms. Leila M. de Lima, has been in prison since February 2018 on allegations of drug-related charges, deemed “politically motivated” by several mandate holders (PHL 5/2017).

62. Multiple United Nations actors have addressed reprisals against human rights defenders and representatives of indigenous peoples who were de facto listed as terrorists in February 2018. A number of those individuals have been long-standing partners of the United Nations and have reported that they believe their inclusion on the list is in part because of their cooperation with its mechanisms. The Assistant Secretary-General addressed the allegations in writing on 4 May 2018 and publicly on 18 May 2018.24 On 8 June 2018, special procedures mandate holders raised concerns with the Government (PHL 5/2018).

**Russian Federation**

63. On 10 May 2018, the Chair and the Focal Point for Reprisals of the Committee on the Elimination of Racial Discrimination wrote to the Government about allegations of harassment, threats, and intimidation by authorities against Ms. Yana Tannagasheva and Mr. Vladislav Tannagashev and their families, two human rights defenders who had engaged with the Committee in August 2017 to advocate for the rights of the Shor indigenous people of southern Siberia.25

**Rwanda**

64. On 20 October 2017, the Subcommittee on the Prevention of Torture announced publicly that it had suspended its visit to Rwanda owing to obstruction regarding access to

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23 ILO, Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013), 7 February 2018
some places of detention, the confidentiality of interviews and concerns about potential reprisals. In February 2018, the Subcommittee announced its intention to resume the visit to Rwanda. On 1 June 2018, the Assistant Secretary-General wrote to the Government about the lack of assurances given to the Subcommittee that those interviewed or contacted during the visit would not face intimidation and reprisals. On 18 June 2018, the High Commissioner for Human Rights expressed concern at the suspension of the visit. During the Subcommittee’s confidential session held in Geneva from 18-22 June 2018, it decided it would terminate the visit due to the lack of cooperation of the authorities in the resumption of the visit. On 27 June 2018, the Government responded to the allegations.

**Saudi Arabia**

65. On 28 February 2018, Mr. Essa Al Nukheifi, a human rights defender consulted in December 2016 on the preparations for the mission of the Special Rapporteur on extreme poverty and human rights to Saudi Arabia in January 2017 and the subject of a communication by special procedures mandate holders (SAU 2/2017), was sentenced to six years in prison and banned from travelling and using social media for an equivalent amount of time after his release.

66. On 1 June 2017, the Working Group on Arbitrary Detention issued an opinion about the arbitrary detention of Salim Abdullah Hussain Abu Abdullah, who was arrested in December 2014 without a warrant and not provided with a reason for his arrest (see A/HRC/WGAD/2017/10, paras. 31–33). Since the opinion was issued, it has been reported that as an act of reprisal for having his case considered by the Working Group, Mr. Abu Abdullah has repeatedly been placed in solitary confinement for prolonged periods of time and been denied regular contact with his family (see A/HRC/39/45, para. 28). On 24 July 2018, the Government responded to the allegations.

**South Sudan**

67. In a report in February 2018, the United Nations Mission in South Sudan (UNMISS) and OHCHR noted restrictions imposed by national authorities against individuals whose opinions were perceived as critical of the Government or the reputation of the country and who cooperated with the United Nations by attending meetings, sharing information on human rights violations and facilitating access for UNMISS to affected populations (see S/2017/505, S/2017/784, S/2017/1011 and S/2018/163).

68. In follow up to his visit to South Sudan in February 2017, the Assistant Secretary-General addressed allegations on 21 July 2017 to the Government of intimidation and threats against individuals for having cooperated with UNMISS and other United Nations entities outside South Sudan, including cases of individuals who were forced to leave the country.

**Thailand**

69. On 30 June 2017, special procedures mandate holders raised concerns over the harassment of and death threats made against Mr. Maitree Chamroensuksakul, a Lahu indigenous rights defender, following a meeting with the Special Rapporteur on the situation of human rights defenders during his visit to Thailand in May 2017 (THA 4/2017).

70. In August 2017, Ms. Sirikan Charoensiri of Thai Lawyers for Human Rights was charged with giving false information regarding a criminal offence, which may be directly linked to her cooperation with the United Nations human rights mechanisms. She had been previously charged with sedition (THA 2/2017).

26 OHCHR, “UN torture prevention experts announce resuming visit to Rwanda,” 28 February 2018.

27 OHCHR, “UN torture prevention body to visit Burundi, Costa Rica, Senegal and Switzerland; terminates Rwanda visit,” 4 July 2018.

28 See OHCHR, “South Sudan: Senior UN human rights official condemns deplorable rights situation, calls for perpetrators to be held to account” (17 February 2017).
71. During his visit to Thailand in March 2018, the Assistant Secretary-General addressed allegations to the Government and followed up with a letter on 27 April 2018.

Trinidad and Tobago

72. On 21 July 2017, special procedures mandate holders raised concerns about the deprivation of liberty of Zaheer Seepersad in St. Ann’s Psychiatric Hospital and other individuals living with a psychosocial disability (TTO 2/2017). They expressed serious concern about the persistent harassment, intimidation and threats to which Mr. Seepersad had been subjected for bringing his claims to the attention of the Working Group on Arbitrary Detention (see A/HRC/WGAD/2017/68, para. 34–35).

Turkey

73. Information was received that on 20 August 2017, the web pages administered by the Housing and Land Rights Network - Habitat International Coalition had suffered a series of alleged cyberattacks, which were repeated in September 2017 and April 2018, which the Network believed were a reprisal following publicity relating to their report to the United Nations Conference on Housing and Sustainable Urban Development (Habitat III).

74. Kursat Çevik, a Turkish police superintendent, was the subject of an opinion adopted on 16 June 2017 by the Working Group on Arbitrary Detention, following which the Turkish pro-Government media circulated information distorting the opinion of the Working Group and containing various accusations against Mr. Çevik, who also reportedly faced reprisals in his place of detention (see A/HRC/39/45, para. 28). On 31 July 2018, the Government responded to the allegations.

Turkmenistan

75. On 18 May 2018 during a regional meeting in Kyrgyzstan, the Assistant Secretary-General engaged with human rights defenders from four countries of Central Asia, but said he regretted that the United Nations had not felt able to invite representatives from Turkmenistan to that meeting for fear that they might face intimidation or reprisals from their Government for cooperation with the Organization.29

Venezuela (Bolivarian Republic of)

76. According to information received, representatives of the Government of Venezuela allegedly threatened and harassed civil society representatives serving as panellists at a side event during the thirty-fifth session of the Human Rights Council on 6 June 2017.

77. On 19 January 2018, the Assistant Secretary-General addressed allegations in writing to the Government.

VI. Conclusions and recommendations

78. When I addressed the Human Rights Council in February 2018, I affirmed that we should all be deeply shocked and angered by the extent to which civil society actors suffer reprisals, intimidation and attack because of their work, including when they engage with the United Nations system (SG/SM/18912-HRC/26). As demonstrated by the number of allegations contained in the present report, reported acts of intimidation and reprisal against those seeking to cooperate or having cooperated with the United Nations on human rights continue to occur and remain of grave concern. At the same time, the Organization is aware that the cases of intimidation and reprisals included in the report are but a fraction of those that regularly occur. A number of cases have been omitted for security reasons and a concern for the individual or organization involved, and it is believed that many incidents go unreported.

79. Intimidation and reprisals affect not only the individuals and groups directly impacted, but are alarming also for the message they send to other actors and individuals, whether from government or civil society, who wish to engage with the United Nations and express their views freely. The United Nations is regrettably seeing evidence of self-censorship in all regions with regard to engagement with its institutions at the local, national, regional and international levels. The impact of fear of reprisals is not only visible in the field, where United Nations personnel often encounter people too afraid to speak with them, but also at headquarters in New York and Geneva.

80. Field presences have also reported disturbing trends in acts of intimidation and reprisals that inhibit their work. In conflict settings, a fear of reprisals poses an obstacle for the United Nations to fulfil its mandate to deliver humanitarian assistance and protect civilians. For example, at the community level, colleagues have reported arriving at a location only to find the local population either unwilling to speak or having abSENTed themselves from the scheduled meeting so as not to be seen to be providing information to the United Nations. It is not only community members who are being targeted, but also their legal representatives, intermediaries, witnesses and interpreters. In the development context, a hostile environment for community members in many countries who engage on land and resource-related projects is frequently reported. Indigenous peoples, in particular, continue to face reprisals as they seek to participate in development processes.

81. It is also observable from cases that have been reported to the United Nations that women and lesbian, gay, bisexual, transgender and intersex persons are exposed to gender- or sexual orientation-specific barriers, threats and violence. Women cooperating with the United Nations have reported threats of rape and being subjected to online smear campaigns. At least one case of sexual assault in detention was reported in the last year. Women and lesbian, gay, bisexual, transgender and intersex persons have also reported being subjected to physical searches and humiliating and degrading treatment. The United Nations is aware that such incidents are underreported owing to gender-specific barriers to coming forward. Many women and lesbian, gay, bisexual, transgender and intersex persons facing reprisals for their advocacy report being ostracized in their communities and their families threatened. The United Nations must do more to ensure that their experiences are documented, disaggregated and properly analysed, with a view to ensuring that they are not exposed to additional risks.

82. The range of intimidation and reprisals continues to be broad and often disguised in legal, political and administrative hurdles. Beyond measures such as travel bans, arbitrary arrest and detention, surveillance and defamation campaigns, initiatives such as budget cuts and selectively applied laws or new legislation that restrict the operations of organizations that are likely to cooperate with the United Nations are being seen. Measures undermining the legal legitimacy of organizations or the ability to acquire and maintain funding, especially funding from foreign donors, undermine their capacity to engage with the United Nations. Such measures can also deter organizations from engaging with the United Nations and contribute to the shrinking of civic space.

83. There is a disturbing trend in the use of national security arguments and counter-terrorism strategies by States as justification for blocking access by communities and civil society organizations to the United Nations. In the last year, a number of NGOs and human rights defenders, activists and experts have been labelled as “terrorists” by their Governments. Reported cases include individuals or organizations being officially charged with terrorism, blamed for cooperation with foreign entities, or accused of damaging the reputation or security of the State.

84. States have frequently invoked counter-terrorism as the reason an organization or individual should be denied access to participation at the United Nations. The real global threat of terrorism notwithstanding, this issue must be tackled without compromising respect for human rights, as human rights and national sovereignty go hand in hand, without contradiction. As I have emphasized before, terrorism is
fundamentally the denial and destruction of human rights and the fight against terrorism will never succeed by perpetuating the same denial and destruction. When we protect human rights, we are tackling the root causes of terrorism. Counter-terrorism strategies cannot legitimize the blocking of access to the United Nations for certain individuals and organizations, purely on the basis of allegations of links to terrorism.

85. The majority of cases described in the present report demonstrate that acts of intimidation and reprisal are usually perpetrated by State officials, or at the very least are condoned by the State. At the same time, violations by non-State actors must be taken seriously. I reiterate that States must end such acts, investigate all allegations, provide effective remedies and adopt and implement measures to prevent reoccurrence. I call on all States to follow up on the cases included in the present and previous reports and provide substantive responses where they remain outstanding. Private citizens, corporate actors and non-State groups must be held accountable as well.

86. The United Nations is making efforts to improve its system-wide response, but more needs to be done. I call on all United Nations entities to be vigilant in the blocking of access to their partners and to report such cases immediately. The United Nations must strengthen the collection of information on acts of intimidation and reprisal by encouraging all parts of the system to share information more regularly on such cases and to take appropriate measures. Further, I encourage all stakeholders to report allegations of intimidation and reprisals for cooperating with the United Nations on human rights, as they occur, to ensure follow-up and action. Such actions in all parts of the system help bring further attention to such cases and encourage positive action by Governments.

87. As I stressed in my previous report (A/HRC/36/31), any act of intimidation or reprisal against individuals or groups seeking to cooperate or having cooperated with the United Nations in the field of human rights is absolutely unacceptable. Such acts run contrary to the very principles of the United Nations and must end. The world owes it to those brave people standing up for human rights, who have responded to requests to provide information to and engage with the United Nations, to ensure their right to participate is respected. Punishing individuals for cooperating with the United Nations is a shameful practice that everyone must do more to stamp out.

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30 See speech given by the Secretary-General at the School of Oriental and African Studies, University of London, on “Counter-terrorism and human rights: winning the fight while upholding our values” (16 November 2017).
Annex I

Comprehensive information on alleged cases of reprisals and intimidation for cooperation with the United Nations on human rights

1. Bahrain

1. Ten special procedure mandate holders expressed grave concern about an ongoing trend of harassment and intimidation against Bahraini civil society representatives seeking to cooperate with the United Nations. Reprisals have taken the form of sweeping travel bans for at least 20 selected individuals, and the arrest, detention, sexual assault and torture and other forms of ill-treatment of other targeted individuals (see 4 July 2017, BHR 8/2017 (the Government responded on 2 August 2017); 13 July 2017, BHR 9/2017 (the Government responded on 2 August 2017); and 13 December BHR 13/2017 (at the time of writing the Government had not responded).1

2. Long-standing travel bans remained in effect for many civil society representatives during successive sessions of the Human Rights Council, preventing them from participating between June 2017 and June 2018.2 A number of individuals have also reported the use of intimidation because of their past engagement with the Council to discourage them from speaking out again, including threats of physical violence, public defamation and rape.

3. Three family members of Mr. Sayed Ahmed Al-Wadaei, of the Bahrain Institute for Rights and Democracy who has engaged with the Human Rights Council, were sentenced on terrorism-related charges on 30 October 2017. In March 2017, while Mr. Al-Wadaei was attending the 34th session of the Human Rights Council in Geneva, Mr. Al-Wadaei’s brother-in-law Mr. Sayed Nazar Al-Wadaei, cousin by marriage, Mr. Mahmoud Marzoq Mansoor and mother-in-law Ms. Hajar Mansoor Hassan were arrested in Bahrain, subjected to different forms of ill-treatment and torture, and faced terrorism-related charges. Bahraini authorities also reportedly targeted Mr. Al-Wadaei’s wife, Ms. Duaa Al-Wadaei in March 2018 when she was sentenced in absentia to two months prison for “insulting a police officer.” It was reported that Ms. Hajar Mansoor Hassan faced further reprisals in her place of detention, the Isa Town Prison Center, based on the raising of her and her family’s case and conditions in the Prison Center by civil society at the Human Rights Council on 2 July 2018 and at the review of Bahrain by the Human Rights Committee from 2 to 4 July 2018.

4. The Assistant Secretary-General for Human Rights addressed allegations in writing to the Government of Bahrain on 25 July 2017 and 29 May 2018. On 25 June 2018 the Government responded to the allegations of travel bans that freedom of movement in Bahrain is guaranteed by law, and that Ms. Ebtesam Al-Alsaegh, Mr. Nabeel Rajab, Ms. Neda Al-Salman (see Annex II of the present report), and the family members of Mr. Al-Wadaei’s were not subject to reprisals for cooperation with the United Nations but rather responsible for criminal offenses.

5. With regard to Mr. Sayed Ahmed Al-Wadaei’s family members (Mr. Nazar Al-Wadaei, Mr. Mahmoud Marzoq Mansoor, and Ms. Hajar Mansoor Hassan), the Government stated they were faced reprisals for committing criminal offences and not because of Mr. Al-Wadaei’s cooperation with the United Nations. Regarding Mr. Nazar Al-Wadaei, according to the Government, two persons who investigated in relation to a 30-person attack on a public order patrol on 3 January 2017 confessed that Mr. Nazar Al-

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1 OHCHR, “Bahrain must end worsening human rights clampdown, UN experts say,” 16 June 2017.
2 Individuals included in the travel ban include: Mr. Mohamed al Tajer, Ms. Enas Oun, Mr. Ahmed al-Saffar, Ms. Fatima al-Mutawa, Ms. Rula al-Saffar, Ms. Jalila al-Salman, Ms. Nidal al-Salman, Mr. Radhi al-Musawi, Ms. Fatima al-Halwachi, Mr. Ebrahim Sharif, Mr. Ahmed Radhi, Mr. Mohamed Jawad, Dr. Taha al-Durazi, Mr. Faisal Hayat, Mr. Munthur al-Khour, Ms. Masooma al-Sayed, Ms. Rihanna al-Musawi, Sayed Talal al-Musawi and Mr. Ali al-Ghadeer, among others.
Wadaei was involved. The Office of the Prosecutor referred the case to the court, and Mr.
Al-Wadaei was sentenced to seven years in prison. The decision is awaiting appeal at the
Supreme Appeal Court, to resume on 5 June 2018.

6. Regarding Mr. Nazar Al-Wadaei, Mr. Mahmoud Marzooq Mansoor and Ms. Hajar
Mansoor Hassan, according to the Government they were arrested for planting explosives
in public places on 28 January 2017 and confessed to committing the act. Regarding Mr.
Nazar Al-Wadaei and Mr. Younes Abdel Aziz, they were arrested for planting explosives in
public places on 8 March 2017. According to the Government, Mr. Nazar confessed that he
was instructed by Mr. Younes to commit the act. On 29 November 2017, Mr. Al-Wadaei
and Mr. Abdel Aziz received a three-year prison sentence. On 8 February 2018, the Appeal
Court accepted the case on a procedural basis, and the session took place on 13 June 2018.
Regarding Ms. Duaa Al-Wadaei, the Government stated that she was not arrested because
of her husband’s activities, but arrested and charged with insulting a public servant.
According to the Government, when Ms. Al-Wadaei was leaving the country, when the
passport officer asked for her boarding pass she threw her boarding pass in a provocative
manner and spoke to the officer in a demeaning manner. On 21 March 2018, the Court
sentenced Ms. Al-Wadaei in absentia to two months of imprisonment.

2. Cameroon

7. On 26 October 2017, five special procedures mandate holders expressed concern
about allegations of physical attacks, intimidation, and harassment against Ms.
Maximilienne Ngo Mbe and Ms. Alice Nkom, following their participation in the review of
Cameroon by the Human Rights Committee (CMR 5/2017). Ms. Ngo Mbe is the Executive
Director of a coalition of Central Africa Human Rights Defenders – Network, and Ms.
Nkom, is President of a Lesbian Gay Bisexual Transgender and Intersex (LGBTI) persons
association, and also a member of the Network. It is alleged that both women are being
targeted for their human rights advocacy - Ms. Ngo Mbe in relation to her efforts to bring
attention to human rights violations committed in the English-speaking areas of southwest
and northwest Cameroon, and Ms. Nkom for her advocacy against the criminalization of
homosexuality in Cameroon. Both women human rights defenders have been the subject of
previous communications by the special procedures, on 8 April 2010 an urgent appeal
concerning Ms. Ngo Mbe (CMR 1/2010), on 5 August 2011 an urgent appeal concerning
Ms. Ngo Mbe (CMR 1/2011), on 5 November 2012 an urgent appeal concerning Ms. Nkom
(CMR 5/2012), on 13 August 2013 an urgent appeal concerning Ms. Ngo Mbe and Ms.
Nkom (CMR 3/2013), and on 27 April 2015 an urgent appeal concerning Ms. Ngo Mbe and
Ms. Nkom (CMR 1/2015). At time of writing, the Government has not responded to the
special procedures’ urgent appeals.

8. Both women had contributed to a joint alternative report on Cameroon for its review
to the Human Rights Committee, and the special procedures expressed serious concerns
about the increasingly threatening nature of the physical attacks, acts of intimidation and
harassment against them, and the further risk of reprisals as a result of their meetings with
the Committee.. On 11 July 2018, the Government responded to the special procedures’
communication of 26 October 2017, stating that the complainants should provide detailed
evidence justifying the allegations, in order to allow and facilitate action by Cameroon. The
Government emphasized that Cameroon is a state of law and not a police state, with regard
to measures aimed at ensuring the full enjoyment of their freedom of association, including
protective measures against any form of reprisal for their cooperation with the human rights
mechanisms. According to the Minister of External Relations neither the gendarmerie nor
by the police have ever been questioned Ms. Ngo Mbe and Ms. Nkom in relation to their
human rights activities or their cooperation with human rights mechanisms. According to
the Ministry of Foreign Affairs, it is a priority of Cameroon to ensure the protection of all
persons and all individuals living on its national territory in accordance with the principle
of equality of before the law, therefore it is the Government’s view that neither Ms. Ngo
Mbe and Ms. Nkom can benefit from sui generis protection. During the universal period
review of Cameroon on 16 May 2018, one Member State recommended that the
Government take all necessary measures to enable human rights defenders and civil society
to conduct their legitimate activities without fear of reprisal (see A/HRC/39/1, para.
121.125)..
3. China

9. On 18 June 2018, in his opening statement to the thirty-eighth session of the Human Rights Council, the High Commissioner for Human Rights highlighted the continuing efforts of China to prevent independent members of civil society from engaging with United Nations human rights mechanisms, including treaty body reviews, the universal periodic review, and many special procedures mandate holders. The High Commissioner encouraged the authorities to enable all actors to contribute to all the international human rights mechanisms and to cooperate with them in a spirit of open and mutual partnership.3

10. In July 2017, police officially lifted bail conditions on Ms. Wang Yu, a Chinese lawyer working in defense of the rights of Chinese citizens, including high profile human rights defenders cooperating or seeking cooperate with the United Nations. Ms. Wang had reportedly been targeted for her legal representation on several sensitive cases, including her role in the case of Ms. Cao Shunli, a human rights defender who died in custody in 2014 following engagement with the second universal periodic review cycle of China (see A/HRC/33/19, para. 39; A/HRC/27/38, paras. 17-19; and A/HRC/30/29, Annex, para. 1).4

11. In July 2015, Ms. Wang was at the centre of the “709” incidents concerning human rights lawyers, legal assistants and law firm staff, and activists across the country, named for the date on which it took place (9 July 2015) and her situation was addressed in a prior communication by four special procedures mandate holders (CHN 6/2015) and in a statement by the High Commissioner for Human Rights.5 Upon her arrest Ms. Wang at first disappeared, then was subsequently charged with inciting “subversion of state power.” In the early hours of 9 July 2015, police reportedly abducted Ms. Wang from her home in Beijing and, in January 2016, following six months of incommunicado detention in “residential surveillance at a police-designated location,” Ms. Wang’s family received a notice stating she had been formally arrested and was being held at Tianjin No. 1 Detention Center. Ms. Wang was reportedly tortured in custody and forced to confess to criminal behaviour. According to Ms. Wang, a police officer referenced the situation of Ms. Shunli’s death during her own interrogation, noting that if she died in custody, she would become “another Cao Shunli.”

12. After a video was released on 1 August 2016 where Ms. Wang gave a reportedly coerced televised confession, she and her family were held under house arrest in an apartment in Inner Mongolia, with 24-hour police guards and escorts if they left the residence. She was subsequently released on bail. In July 2017, police officially lifted bail conditions on Ms. Wang and her husband, but the family reportedly continues to live under surveillance.

13. According to information received, on 11 May 2018 Mr. Qin Yongmin, democracy activist and dissident, was prosecuted in part for his advocacy of the use of United Nations human rights mechanisms amongst civil society in China, including the Working Group on Arbitrary Detention, and for promotion of the implementation of United Nations human rights treaties to which China is a party. Mr. Qin had also appealed to the special procedures to intervene on behalf of his wife, Ms. Zhao Suli, who has been held incommunicado while under “residential surveillance” (de facto house arrest) since February 2018, following over three years of enforced disappearance in police custody. Like Mr. Qin, Ms. Zhao has been in State custody since January 9, 2015, when they were both disappeared by police in Wuhan.

14. The Wuhan City Intermediate People’s Court in Hubei Province charged Mr. Qin for “subversion of state power” (Criminal Law, Article 105(1)), and on 11 July 2018 sentenced him to 13 years in prison. The criminal indictment against Qin, which was issued by Wuhan City People’s Procuratorate on 17 June 2016, states that Qin was being prosecuted due to his promotion of engagement with United Nations human rights mechanisms, and that his

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5 OHCHR, “UN Human Rights Chief deeply concerned by China clampdown on lawyers and activists, 16 February 2016.”
“fundamental method of his [advocacy] work is based on using the Constitution and various UN human rights treaties, leading those around him to strive for human rights protections, organizing them in accordance with the law, uniting various spontaneously created organizations, and coordinating the work on various fronts,” as a way to allegedly form a “powerful political opposition group.”

15. According to information received, Guizhou activist Mr. Mi Chongbiao and his wife, Ms. Li Kezhen have been forcibly disappeared since April 2018. They were detained incommunicado by State agents in May 2012 in Guiyang City, Guizhou Province, after Mr. Mi posted online a complaint that he had submitted to the United Nations Human Rights Council about rights violations that his family has suffered. Officers from Guizhou Public Security Bureau have mainly held the elderly couple (Mr. Mi is currently 78 and Ms. Li is around 67) in “black jails,” makeshift facilities used to illegally detain dissidents, activists, and petitioners. Mr. Mi has reportedly been subjected to ill-treatment and torture. Ms. Li has not been involved in human rights advocacy and is being persecuted solely on the basis of her relationship to Mr. Mi.

16. On 31 July 2018 the Government responded to the allegations. Regarding the case of Ms. Wang, the Government stated that in July of 2015, she was “lawfully subjected to criminal detention on suspicion of troublemaking and inciting the subversion of State power, and was subsequently put under residential surveillance in accordance with the law.” Regarding the case of Mr. Mi Chongbiao, the Government stated that in May of 2012, he was “lawfully subjected to criminal detention on suspicion of troublemaking, which was subsequently changed to residential surveillance that was lifted in August 2012. The Government further noted that allegations of “disappearances” or “arbitrary detentions” are at odds with the facts.

17. Pertaining to Mr. Qin, the Government stated that in March of 2015, he was “lawfully subjected to criminal detention on suspicion of subverting State power; his arrest was approved by the procuratorial authorities in May of 2015, and [his case] was referred for prosecution in June of 2016.” The Government noted that the Wuhan Municipal Intermediate People’s Court held an open trial on 11 July 2018, which held that Mr. Qin had committed the crime of subverting State power and lawfully sentenced him to 13 years’ fixed-term imprisonment and three years’ deprivation of political rights. The Government stated that, “following his release on the completion of his term of imprisonment [for that crime], and motivated by his dissatisfaction with State power and the socialist system, he continued to engage in activities subversive of State power, advocating his ideas on subverting State power and proposing the goal, strategies and methods of subverting it through written essays, published books and the use the Internet and foreign media.” The Government stated that to “achieve the goal of subverting State power, Mr. Qin sought out members, drafted regulations and established the structure of an unlawful organization that he set up with himself as its head, and raised funds by levying membership fees, soliciting donations and accepting financial subsidies, to be used for undertaking activities subversive of State power.” The Government did not address the allegation of reprisals.

4. Colombia

18. On 1 February 2018, five special procedures mandate holders addressed allegations of death threats by paramilitary groups to Mr. Germán Graciano Posso, a member of the Peace Community of San José del Apartadó, following his participation in the United Nations Forum on Business and Human Rights in Geneva in 2017 (COL 1/2018). On 27 and 28 November 2017, Mr. Graciano Posso gave two speeches as a panellist at the Forum, where he denounced the incursions, aggressions, and repeated death threats from paramilitary groups against members of the Peace Community, because of their work highlighting the illicit financing of Chiquita Brands by paramilitary groups. On 29 December 2017, five paramilitaries broke into a warehouse with the intention of assassinating him. Three of the attackers managed to flee, and two were captured and handed over by the community to government authorities who reportedly released them 24 hours after the event, whereby they continued to threaten the community in retaliation for the events that took place. At the time of writing the Government had not responded to the special procedures’ urgent appeal.
5. Cuba

19. On 11 May 2018, the spokesperson for the High Commissioner for Human Rights stated that OHCHR had received worrying reports that officials in Cuba have prevented a number of human rights defenders and civil society representatives from boarding flights to travel to meetings abroad on the pretext of requiring more detailed identity checks. Those measures have resulted in passengers missing their flights, and therefore the meetings, which in many cases, were organized by a United Nations entity. At the time of writing OHCHR had received direct information relating to 14 cases of Cuban human rights defenders who were told by officials that the computer system required extra screening.

20. There have also been reports that dozens of other people may have been stopped in this way from travelling, allegedly with no explanation by the Cuban authorities as to why they were held up nor on whose orders. Civil society organizations reported that the numbers of such instances have increased since 2016 and some human rights organizations were even informed that they would be banned from travelling outside Cuba until June 2018.

21. The spokesperson called on the Cuban authorities to respect everyone’s right to freedom of expression and to freedom of movement, and to ensure that human rights defenders and civil society representatives are not unjustifiably prevented from travelling, including those planning to attend United Nations meetings, in particular its universal periodic review on 16 May 2018 in Geneva.

22. On 9 February 2018, two special procedures mandate holders expressed their concern to the Government about allegations of interrogation, threats and unofficial travel bans in individual cases, including Mr. José Ernesto Morales Estrada of Consejería Jurídica e Instrucción Cívica (CUB 1/2018). Mr. Morales Estrada has collaborated with the United Nations on different occasions, mainly the Human Rights Council and treaty bodies. Mr. Morales Estrada travelled to Geneva at the end of November 2017 to take part in the 94th session of the Committee on the Elimination of Racial Discrimination and the 10th session of the United Nations Forum on Minority Issues.

23. On 18 December 2017, Mr. Morales Estrada received a summons to appear before the local police in Pinar del Río. During his interrogation, he was allegedly threatened and informed that from that day he would be prohibited from travelling outside of Cuba due to his human rights advocacy with the United Nations. The official-in-charge is alleged to have said that his participation in United Nations forums had negative effects for Cuba at the international level. In a letter dated 6 April 2018, the Government categorically rejected the allegations, stating that Cuba does not detain, threaten or harass people for peacefully exercising their rights and that Mr. Morales Estrada is free to leave the country.

24. According to information received on 18 February 2018, Ms. Dora L. Mesa, of Asociación Cubana para el Desarrollo de la educación Infantil (ACDEI), was advised at the passport office (Oficinas de la Dirección de Inmigración y Extranjería) that an indefinite travel ban had been imposed on her due to ‘public interest.’ Ms. Mesa has no past criminal or judicial charge pending, and there is concern that this de facto travel ban has been imposed as a reprisal in relation to her previous engagement with United Nations human rights mechanisms and to prevent her from engaging with the universal periodic review. She has reportedly been subject to surveillance and harassment at her home.

25. Ms. Mesa, Mr. Juan Antonio Madrazo Luna and Ms. Marthadela Tamayo González, had planned to participate in pre-meetings related to the universal periodic review. On 7 April 2018, Mr. Madrazo Luna and Ms. Tamayo González both members of the Comité Ciudadanos por la Integración Racial (CIR), were subject to intense scrutiny at the airport by customs and immigration officials, and were prevented from being able to board the plane to travel to Geneva. On 12 May 2018, Mr. Madrazo Luna was traveling to attend the universal periodic review session and intercepted at Havana airport and detained by the police for two hours for a “verification of (his) documents” which ensured he missed his flight to Geneva (via Madrid). It was also reported that the taxi driver driving Mr. Madrazo Luna to the airport was fined by the police, detained and driven to a police station where he was interrogated. During the universal periodic review of Cuba in May 2018, a Member State recommended that Cuba allow human rights defenders and civil society to engage with the United Nations and its mechanisms (see A/HRC/39/16, para. 24.158).
26. The Assistant Secretary-General for Human Rights addressed these allegations in writing to the Government of Cuba on 11 April 2018. On 10 May 2018 the Government responded that the individuals mentioned in the letter do not merit the categorization of ‘human rights defender’ because of the large monetary sums received for their work from undue foreign influence intent on regime change. The Government stated that these individuals should be more appropriately called ‘foreign agents,’ and rejected categorically the allegations of reprisals.

6. Democratic Republic of the Congo

27. The United Nations Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), reported that on 25 September 2017, in Lubumbashi, Haut-Katanga province, a human rights defender who had sent a letter alleging human rights violations committed in Kambove territory, became a victim of threats and harassment by an Agence Nationale de Renseignement (ANR) provincial agent. It is alleged that the agents formally reprimanded the human rights defender for sending such a letter to MONUSCO.

28. On 28 October 2017, in Luebo, Kasai province, a United Nations team of joint human rights officers, accompanied by their MONUSCO military escort, was threatened by soldiers of the Forces Armées de la République Démocratique du Congo (FARDC) soldiers. FARDC soldiers and Police Congolaise agents were posted outside the hotel where the United Nations team stayed, presumably to monitor the team’s movement and to identify persons coming to visit the team. It is alleged that two persons who wanted to speak with the United Nations team were arrested by FARDC soldiers and released the following day. A note verbale was sent by MONUSCO to the Congolese authorities addressing this particular incident.

29. On 20 December 2017, in Nyiragongo, North Kivu province, a representative of a local development NGO was abducted by unknown individuals who mistreated and hit him while asking questions. He managed to flee after nine days in captivity. This incident is allegedly linked to a World Bank visit in early 2017 when the NGO representative denounced the embezzlement of World Bank funds by the NGO’s coordinator and agents of the Fonds Social de la République, an institution attached to the Presidency of the Republic in charge of managing funds for development projects brought by international partners such as the World Bank. Since the World Bank’s visit, the NGO representative has been receiving threats through anonymous calls and text messages. In a meeting in March 2017 with the Antenna (sub-office) of the Fonds Social de la République in North Kivu, the coordinator of the NGO and his collaborators allegedly threatened the NGO representative if he continued to denounce their misbehaviour, and fired him.

30. On 24 April 2018, in Kimpese, Kongo central province, a human rights defender was allegedly threatened by a police commissioner following his advocacy for the release of six detainees, including one child. The police commissioner, who was armed, allegedly intimidated him publicly for sharing reports on allegations of human rights violations with MONUSCO.

7. Djibouti

31. In April 2018, Mr. Kadar Abdi Ibrahim, a professor, journalist and human rights defender, conducted advocacy activities in Geneva, and presented a joint NGO submission prior to the universal periodic review of Djibouti. On 15 April 2018, two days after returning from Geneva, it was reported that he was briefly detained and had his passport confiscated by Secret Service agents who raided his home. The Secret Service agents gave no reason for his arrest and confiscation of his passport. Mr. Ibrahim has since been unable to leave the country. As a result, he was unable to participate in the review of Djibouti by the Working Group on the universal periodic review held on 10 May 2018. Four Member States expressed their concern to the Government of Djibouti during its examination by the Working Group on the universal periodic review held in May 2018.

6 Report of the Working Group on the Universal Periodic Review Djibouti (see A/HRC/39/10, paras. 54 (Croatia), 64 (Germany), 84 (Ireland) and 104 (The Netherlands)).
8. Egypt

32. Various United Nations actors addressed the situation of Mr. Ebrahim Abdel Moneim Metwally Hagazy, one of the founders of the Association of the Families of the Disappeared. Mr. Metwally was traveling on 10 September 2017 from Cairo to Geneva to attend a meeting with the United Nations Working Group on Enforced and Involuntary Disappearances on 15 September 2017. Mr. Metwally had submitted a complaint on 3 April 2016 to the Working Group on behalf of his son, Mr. Amr Ibrahim Abdel Moneim Metwally, who was arrested on 7 August 2013 in Kafr El-Sheikh Governorate by police and army security forces and who has been reported as disappeared (see A/HRC/WGEID/109/1, para. 35). The Assistant Secretary-General for Human Rights addressed this case in writing to the Government on 15 September 2017 and to the Human Rights Council on 20 September 2017. On 3 October 2017, seven special procedures mandate holders expressed concern about his arrest and incommunicado detention (EGY 14/2017). The Government of Egypt replied to the Working Group (see below) and addressed the Human Rights Council on 20 September 2017.

33. Mr. Metwally was charged with founding and leading an illegal terrorist organisation, conspiracy with foreign entities or organizations to harm state security, and spreading false information. He was detained in Aqrab Prison for 15 days, pending the investigation, and reportedly subjected to ill-treatment and torture in detention. The Government responded to the special procedures on 8 November 2017, available online, but information has been received that he is still being held in solitary confinement in pre-trial detention and cannot exercise his right to habeas corpus.

34. The Working Group on Enforced and Involuntary Disappearances expressed its continued concern that the cases and charges against Mr. Metwally may relate to his documentation of cases of enforced disappearance in Egypt, including for submission to the Working Group, and requested an update from the Government on outstanding questions raised, including whether an OHCHR letter confirming a meeting with the Working Group is part of the criminal file of Mr. Metwally and is being used as evidence against him (see A/HRC/WGEID/114/1, para. 56). The Government replied that it was not yet possible to confirm whether Mr. Hegazy had been holding a letter from OHCHR as the items found in his possession at the time of his arrest were still being inspected, and the Working Group on Enforced and Involuntary Disappearances has subsequently requested an update on this matter.

35. On 31 July 2018 the Government provided an update to OHCHR, reiterating its previous communications with the Working Group, including its response to special procedures (EGY 14/2017) on 8 November 2017. The Government noted that Mr. Metwally was charged with leading a terrorist group (in association with the Muslim Brotherhood) and spreading false news, statements and rumours abroad about the internal situation in the country. It noted the case is still being investigated as Mr. Metwally is still being interrogated and his seized assets are being examined. The examination report of Mr. Metwally’s e-mail, phone, and CDs is still pending. The officer who conducted the investigation and who was responsible for his arrest and search still needs to be interviewed. The Government noted that Mr. Metwally was presented upon his request more than once to the prison hospital, where he was subjected to medical examination and care, was allowed to telephone his family and was given clothes, food, and medicine in his cell. The Government did not address the allegations of reprisals.

36. On 21 February 2018, five special procedures mandate holders addressed the prolonged nine-month pre-trial detention of Ms. Hanane Baderraddine Abdalhafez Othman, of the Families of the Forcibly Disappeared Association, as well as allegations of her being denied medical attention while in prison (EGY 4/2018; and see A/HRC/WGAD/2017/78, paras 89-93). Ms. Othman began to advocate for justice for victims of enforced disappearance and their families after her husband, Mr. Khaled Mohamed Hafez Mohamed Azzedine, disappeared on 27 July 2013 following his arrest by state security forces during a

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7 OHCHR, “UN rights experts dismayed by arrest of Egyptian lawyer Ebrahim Metwally en route to meet them,” 15 September 2017.
demonstration in Nasr City, Cairo district. She has documented cases of enforced disappearances for submission to the Working Group on Enforced and Involuntary Disappearances.

37. Ms. Othman was the subject of a previous communication by four special procedures mandate holders on 6 July 2017 (EGY 9/2017) that concerned her arrest on 6 May 2017 at the Al Qanater Al Khayriyah Prison in the Governorate of Qalyubiya, where she went to enquire about the fate and whereabouts of her husband. Following her arrest, she was brought to the Public Prosecutor of Shubra El Kheima in the Governorate of Qalyubiya, and charged with “belonging to a banned group” and “forming a women’s organization.” She is currently held at the Al Qanater Al Khayriyah Prison for women in reportedly inhuman conditions. The Government responded to the special procedures’ communication of 6 July 2017 on 30 October 2017. However, nearly six months after being detained, Ms. Othman remains in pre-trial detention, without being charged. There is concern that her detention may be an act of reprisal for her cooperation with the Working Group on Enforced and Involuntary Disappearances.

38. During its eightyeth session in November 2017, the Working Group on Arbitrary Detention rendered its opinion that the detention of Ms. Othman and other individuals was arbitrary, and requested the Government of Egypt to immediately release her and others and accord them an enforceable right to compensation and other reparations. The Working Group also referred the case to the Coordinating Committee of special procedures and the Assistant Secretary-General for Human Rights (see A/HRC/WGAD/2017/78, paras. 89-93). There has been no Government response to the communication of the special procedures of 21 February 2018.

39. In an update to OHCHR on 31 July 2018, the Government noted that the investigations indicated that the accused is involved in a number of women’s groups, which aim to monitor officers and individuals, as well as the cars they use for transportation for the purpose of targeting them through terrorist operations. The Government confirmed that the accused is currently in Qanatar prison for women and is charged with joining a terrorist organisation in case number 5163 of 2017, Administrative Qanatar Khayreya Police Station. She has been provided with medical treatment. The Government did not address the allegations of reprisals.

9. Guatemala

40. On 30 November 2017, five special procedures mandate holders raised concerns regarding allegations of criminal charges against Mr. Jerson Xitumul Morales, a journalist who regularly collaborated with OHCHR Guatemala by providing information on the human rights situation in Izabal (GTM 6/2017). On 11 November 2017, Mr. Xitumul Morales was arrested in the city of El Estor, and accused of threats, instigation to commit a crime, illicit association, illicit meetings and demonstrations, damages and illegal detention. These accusations were related to demonstrations in May 2017 organized by fishermen from El Estor to protest against the alleged pollution of Lake Izabal by the mining activities of the Guatemalan Nickel Company (CGN). The participation of Mr. Xitumul Morales in the protests was limited to covering the events in his capacity as a journalist, narrating the facts and denouncing alleged excessive use of force.

41. The arrest of Mr. Xitumul Morales took place four days after personnel from the OHCHR office in Guatemala met with the mayor of El Estor to discuss the problems of the protests against mining activity in the region. During the meeting, the mayor reportedly accused Mr. Xitumul Morales, another journalist and seven fishermen of being part of organized crime.

42. At the end of his visit to Guatemala on 12 November 2017, the High Commissioner expressed support for the national human rights institution (Procuraduría de Derechos Humanos). The statement followed reprisals faced by the human rights Ombudsman (Procurador de los derechos humanos), Mr. Augusto Jordán Rodas Andrade, allegedly due to his support to the International Commission against Impunity in Guatemala (CICIG).

9 OHCHR, Statement by UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein at the end of his mission to Guatemala, 12 November 2017.
particular, following the President’s declaration of the head of the Commission as persona non grata in August 2017, Mr. Rodas Andrade filed an injunction order to prevent his removal from the country. Subsequently, Mr. Rodas Andrade became the victim of smear campaigns, including by authorities in the executive and legislative branches, and there have been attempts to remove him from his position. Mr. Rodas Andrade and his family have received threats and on 27 October 2017 they were granted precautionary measures by the Inter-American Commission on Human Rights. The Commission concluded that they are in a serious and urgent situation, with their rights to life and personal integrity at risk.

10. **Guyana**

43. On 18 October 2017, the Working Group of Experts on People of African Descent sent an urgent appeal to the Government of Guyana concerning alleged reprisals by prison authorities and guards against an individual [name withheld by the Working Group] incarcerated at Lusignan Prison (GUY 1/2017). The Working Group had interviewed the individual on 4 October 2017, and heard allegations that he was verbally threatened by prison authorities and guards for having cooperated with them during their official visit to Guyana from 2 to 6 October 2017. The Working Group expressed serious concern at the safety and well-being of the individual and requested the Government, as a matter of urgency, to investigate the allegations and ensure that no detainees would be subjected to harm, threats, harassment or punishment for being in contact with the Working Group. At the time of writing the Government had not responded to the Working Group’s urgent appeal.

11. **Honduras**

44. Following the end of his official visit to Honduras on 12 May 2018, Mr. Michel Forst, the Special Rapporteur on the situation of human rights defenders, was “extremely concerned with the increasing number of acts of intimidation and reprisals against human rights defenders in connection with their engagement with the United Nations and its human rights mechanisms or with regional human rights organizations. These reprisals take the form of smear campaigns, harassment, intimidation, threats, physical attacks and killings.”

45. On 7 June 2017 four special procedures mandate holders sent a joint communication to the Government concerning allegations of death threats, attacks and reprisals against Ms. Hedme Castro (HND 3/2017), of the Asociación para una Ciudanía Participativa (ACI-PARTICIPA). The allegations related to surveillance and interference with her online correspondence, and her being held on 2 March 2017 at Toncontin international airport in Tegucigalpa, which prevented her from being able to board a plane to Geneva for a Human Rights Council side-event. Airport security allegedly conducted a “random” inspection of her luggage and interrogated her as to the purpose of her visit to Geneva, as well as to why she was carrying information regarding the situation of human rights in the country.

46. On 21 April 2017, a car without plates and with tinted windows was allegedly parked outside the office of ACI-PARTICIPA. On 1 May 2017, Ms. Castro and other members of ACI-PARTICIPA were reported to have been verbally and physically attacked during a demonstration by members of a company that operates in a region where ACI-PARTICIPA is helping the local indigenous community who are opposing actions by the company.

47. On 29 June 2017, the Government responded to the special procedures’ communication of 7 June 2017, noting that no request was found by the Department of Human Rights in the Ministry of Security to implement protection measures for Ms. Castro or other members of ACI-PARTICIPA, but the Human Rights Defenders section, Special Attorney for Human Rights is investigating her and others’ concerns regarding the airport security forces. The Government said it was impossible to contact Ms. Castro because she had left the country, therefore no risk assessment could be made on her behalf.

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10 OHCHR, End of mission statement by Michel Forst, United Nations Special Rapporteur on the situation of human rights defenders said at the end of his visit to Honduras, 12 May 2018.
48. On 24 July 2017, the Human Rights Committee raised concern about reports that senior government officials made disparaging statements in the media about individuals and civil society organizations who had submitted information for the second periodic report of Honduras (see CCPR/C/HND/CO/2, para. 42). In July 2017 Honduran defenders from Coalición contra la impunidad travelled to Geneva to take part in the review of Honduras by the Human Rights Committee. The defenders provided information to the Committee regarding the murder of well-known environmental and human rights defender, Ms. Berta Cáceres in March 2016. In response the head of the Honduran delegation discredited the information and later made public statements, including to Honduran media outlets, that the information provided by civil society to the Human Rights Committee on the death of Ms. Cáceres was false and misleading.

49. On 6 July 2017, the President of the Supreme Court of Justice read a public statement on behalf of the Government, whereby it accused 50 civil society organizations of having delivered false information to experts of the Human Rights Committee on the progress in the investigation of Ms. Cáceres’ murder, and that it does not accept, “that bad Hondurans and national and foreign organizations...bring false or misrepresented information to damage the country with dangerous interests.” The same communication was delivered by the Ministry of the Presidency in Honduras on 6 July 2017. On 18 July 2018 the Chair of the Committee met with the Government, who assured the Chair that no reprisals would occur.

50. The Assistant Secretary-General for Human Rights visited Honduras in July 2017 and raised allegations of reprisals with the Government.

12. Hungary

51. On 21 June 2017, three special procedures mandate holders addressed the alleged targeting of Budapest-based international disability rights non-governmental organisation Validity (formerly Mental Disability Advocacy Centre) following the release of a public report in May 2017 on allegations of human rights violations at the Topház social care institution (HUN 372017). Validity also brought these issues to the attention of OHCHR and to the Human Rights Committee when it considered the sixth periodic report of Hungary held in March 2018 (see CCPR/C/HUN/CO/6 para. 21 and CCPR/C/SR.3464 and 3465). Since the release of the report, the Government has reportedly tried to delegitimize the work conducted by Validity, threatening the organization that it would open criminal proceedings as well as intimidating its staff members. On 17 July 2017 a Validity representative was reportedly summoned by police in connection with the investigation. Validity are of the view that their targeting is related in large part to their advocacy with the United Nations human rights mechanisms.

52. Further, it was reported that among objections by Member States to non-governmental organisations participation in the Conference of States Parties to the United Nations Convention against Corruption in Vienna in November 2017, was an attempt to block the participation of K-Monitor, a Hungarian anti-corruption non-governmental organisation. There were reported efforts to place obstacles in the way of the participation by the conference of organizations working on issues related to corruption by authorities. The Bureau of States Parties of the Conference, voted against the objection of the State and applied rule 17 paragraph 2 of the Rules of Procedure of the Conference in relation to the

11 Coalición Contra la Impunidad integrated by: Asociación Arcoiris - Asociación de Jueces por la Democracia (AJD) - Asociación Intermunicipal de Desarrollo y Vigilancia Social de Honduras (AIDEVERISH) - Asociación por una Ciudadanía Participativa (ACI-PARTICIPA) - Centro de Derechos de Mujeres (CDM) - Centro de Estudios de la Mujer Honduras (CEM-H) - Centro de Investigación y Promoción de Derechos Humanos (CIPRODEH) Colectivo Gemas - Colectivo Unidad Color Rosa - Comité de Familiares de Detenidos Desaparecidos de Honduras (COFADEH) - Comité por la Libre Expresión C-Libre - Comunidad Gay Sampedrana para la Salud Integral - Convergencia por los Derechos Humanos de la Zona Nor Occidental Crisálidas de Villanueva - Equipo de Reflexión, Investigación y Comunicación (ERIC) - Feministas Universitarias Frente Amplio del COPEMH - Foro de Mujeres por la Vida - Foro Social de la Deuda Externa y Desarrollo de Honduras (FOSDEH) - Movimiento Amplio por la Dignidad y la Justicia (MADJ) - Movimiento de Mujeres por la Paz Visitación Padilla - Red de Mujeres Jóvenes de Cortés - Red de Mujeres Jóvenes de Cortés - Red de Mujeres Unidas de Colonia Ramón Amaya Amador - Red Nacional de Defensoras - Tribuna de Mujeres contra los Femicidios.
participation of non-governmental organizations (see CAC/COSP/2017/14, para. 25). While K-Monitor was able to resume their participation, there are concerns that the objection seemed to be a reprisal for cooperation with the United Nations in regard to its anti-corruption advocacy.

53. It was reported that two organizations that participated in the review of Hungary by the Human Rights Committee during the consideration of the Government’s periodic report in March 2018, the Hungarian Helsinki Committee and Amnesty International Hungary, have been targeted, at least in part, for their advocacy on migrants’ rights at the United Nations.

54. It was reported that the Governing Fidesz party have used language such as calling for “cleaning out [the country]” with reference to civil society. In 2018, there has been a targeted campaign of putting stickers on the doors of NGOs reading ‘organization supporting illegal migration,’ reportedly carried out by coalition partner KDNP (Christian Democrats) or Fidelitas (the youth wing of Fidesz). The Hungarian Helsinki Committee received a sticker on their door on 27 June 2018, while Amnesty International received such a sticker on 12 June 2018.

55. Further, on 12 April 2018, Figyelő, a publication in Hungary, published more than 200 names of people part of a group regarded by Prime Minister Orbán as “mercenaries paid by George Soros to topple the Government.” The list included members of human rights and anti-corruption organizations, refugee advocates, investigative journalists and faculty and officials from the Central European University, a number of which have cooperated with the United Nations and have been publicly intimidated for reporting to or about the United Nations. A number of media outlets have accused some of the names on this list of making complaints to the United Nations against the Government. The campaign by the ruling party Fidesz prior to the April 2018 elections featured hostile rhetoric and billboards against civil society and the United Nations, in particular with regard to the ongoing consultations around the Global Compact for Safe, Orderly and Regular Migration.

56. On 3 August 2018 the Government responded to the allegations. It noted that the Mental Disability Advocacy Centre (Validity) was not authorized to prepare and publish the documentation they made at the unit of Pest County Social Institution (Tópház) without the guardians’ permission. As several photographs of the report were published on the internet, the “Pest County Police Headquarters launched an investigation procedure on account of the criminal report of the state authority responsible for the maintenance of the Institution,” which the Government should not be regarded as a form of retaliation in connection with any monitoring activity. The Government referred to its detailed position on the subject matter in response to the 21 June 2017 communication by special procedures (HUN 372017), available online.

57. Pertaining to the participation of K-Monitor in the 2017 Conference of States Parties to the United Nations Convention against Corruption, the Government stated that the objection was related to the organization’s non-compliance with Hungarian legislation, and that making objections in compliance with the provisions of the Conference’s Rules of Procedure are legitimate and should not be considered a reprisal.

58. Regarding the targeting of the Hungarian Helsinki Committee and Amnesty International Hungary, the Government notes it is of the position that “putting stickers on the doors of NGOs does not in any way prevent organizations from availing themselves of UN procedures in the field of human rights.” Further, the Government notes that in the review of the Human Rights Committee, the Minister for Foreign Affairs and Trade of Hungary only remarked that “serious debates on this issue [migration] were taking place with non-governmental organizations, which exerted their voices in the international space” and that this should not be interpreted as a “call for cleaning out the country” with reference to civil society.

59. With regard to the allegations attributed to the publication Figyelő, the Government affirms that the “impugned acts are not attributable to the Government” given that Figyelő is not a publication of the Government, and that it “does not see how reporting about the activity of an NGO by the independent press would prove that the Figyelő publication is a result of the complaints filed with the UN.” Further, the Government notes that the domestic courts are available for redress in the case of infringements by media outlets. Regarding the Government’s rhetoric in the election campaign, in particular the ongoing
consultations around the Global Compact for Safe, Orderly and Regular Migration, the Government notes that its “rhetoric did not target any organization or individual for cooperating with the UN, but took a position and shared its view on the draft of a UN document related to migration.”

13. **India**

60. On 9 November 2017 two special procedures mandate holders expressed concern at the use of the Foreign Contribution Regulation Act of 2010 to restrict the work of non-governmental organizations who seek to cooperate with the United Nations, for example, by refusing to renew or grant licenses (OTH 27/2017).

61. They drew attention to the revocation of the license of the Centre for Promotion of Social Concern (also known as People’s Watch) under the Foreign Contribution Regulation Act, which was also addressed by three special procedures mandate holders on 31 May 2018 (IND 14/2018). On 29 October 2016 the Ministry of Home Affairs reportedly refused to renew the organization’s license to receive foreign funding under Article 6 of the FCRA and CPSC’s bank accounts were frozen. The refusal was subsequently upheld by the High Court of New Delhi in January 2017. The case is still pending before the court following a 13 April 2018 hearing, and has been adjourned to 31 August 2018.

62. The Executive Director of the Centre for Promotion of Social Concern, Mr. Henri Tiphagne was accused of using foreign contributions in his international advocacy “to the detriment of India’s image,” including in his engagement with United Nations special rapporteurs to whom he submitted information “portraying India’s human rights record in negative light.” Mr. Tiphagne has also made recommendations to the universal periodic review. The special procedures mandate holders noted that the non-renewal of CPSC’s license is a clear case of reprisal for his cooperation with the United Nations (IND 14/2018).

63. Additionally, on 1 January 2018, it was reported that the Centre for Social Development, which promotes the land and resource rights of indigenous peoples in Manipur, received a six months suspension. According to reports, the suspension was based on claims that the Centre for Social Development violated the Foreign Contribution Regulation Act by using foreign funding for purposes other than intended by the law, including drawing attention to Uranium mining in Meghalaya at “several global platforms.” The Centre for Social Development submitted a report in October 2017 to the United Nations Working Group on Business and Human Rights and to the Committee on the Elimination of Racial Discrimination which included inquiries related to uranium mining and cement factories in Meghalaya. According to the Centre for Social Development, it has submitted nine reports to the United Nations since 2006 concerning violations of the rights of indigenous peoples in northeast India in relation to large-scale development projects, mining operations, and implementation of the Armed Forces (Special Powers) Act. They have requested the Committee’s action under its early warning procedure.

64. It is alleged that the Centre for Social Development has been targeted by Indian authorities since August 2017, when surveillance of its premises and staff’s movements began. The offices of the organization were reportedly visited by the Central Reserve Policy Force and others to question the staff about their work, and staff have been harassed. One staff member was physically attacked on 18 August 2017. In November 2017, one staff member and two volunteers of the organization were called in for questioning by the police.

65. The Secretary of the Centre for Social Development, Mr. Nobokishore Urikhimbam, has been surveyed by military intelligence officials from the State of Manipur as well as those outside of the state at his office premises and at his home in Imphal, Manipur. When he travelled to Shillong, State of Meghalaya in January 2018, the Intelligence Department of Meghalaya contacted the hotel and interrogated its staff about his actions and contacts. The hotel staff was asked to provide detailed information on his activities, including a list of the people he interacted with. These incidents were reportedly brought to the attention of the Superintendent of Police, Imphal East District and Patsoi Policy Station, Imphal West District, to no avail.

66. On 20 June 2017, Mr. Michel Forst, the Special Rapporteur on human rights defenders expressed his concern about reports of reprisals against a member of the Jammu
and Kashmir Coalition of Civil Society, Mr. Kartik Murukutla (IND 4/2017). Mr. Murukutla represents victims of human rights violations before local courts and engages with United Nations human rights mechanisms, particularly the universal periodic review and the special procedures. In September 2016, while traveling to Geneva, Mr. Murukutla was informed that he was subject to a “Look Out Circular,” a measure taken where a case has been registered against an individual by a police authority in order to verify whether a travelling person is wanted by the police. They are used by the police authorities to prevent and monitor the entry or exit of persons who may be required by law enforcement agencies, and there is concern that this measure was taken against Mr. Murukutla as a reprisal for his cooperation with United Nations human rights mechanisms in Geneva. It was reported in May 2018 Mr. Murukutla was not subject to restrictions during his most recent travels, but he had not been informed about the status of the Look Out Circular nor its implications for his future travel.

67. On 7 June 2018 the Assistant Secretary-General for Human Rights addressed the allegations of intimidation and reprisals to the Government of India. On 2 July 2018 the Government responded that the Foreign Contribution Regulation Act of 2010 prohibits acceptance and utilization of foreign contribution for activities detrimental to national interest. It noted that the revocation of the license for the Centre for Promotion of Social Concern before the Delhi High Court, is adjourned until 31 August 2018, and that the Centre for Social Development “needs to conform to the legal framework and the requirements under FCRA.” The Government noted that Mr. Khurram Parvez’s detention is well grounded according to the provisions of the Jammu and Kashmir Public Safety Act (1978) based on his activities prejudicial to public order. At the time of writing, the Government had not responded to the communications by special procedures of 9 November 2017 (OTH 2/2017), 20 June 2017 (IND 4/2017), or 31 May 2018 (IND 14/2018).

14. Israel

68. In May 2018, the Minister of the Interior in Israel did not renew the work permit of the Director of Human Rights Watch, Mr. Omar Shakir, and ordered his deportation. Mr Shakir remains in the country, as the order is under review by a district court. According to information received, the revocation was based on a dossier compiled by the Ministry of Strategic Affairs and Public Diplomacy alleging that Mr. Shakir supports a boycott of Israel. Among the allegations cited are statements by Mr. Shakir supporting the creation of a database of businesses that operate in Israeli settlements, pursuant to Human Rights Council resolution 31/36. The Government highlighted this allegation in its 77-page response to a lawsuit filed by Mr. Shakir and Human Rights Watch challenging the deportation decision. An amicus brief filed by the group NGO Monitor and accepted by the court also points to social media posts highlighting Human Rights Watch’s support for the database and their more general advocacy at the United Nations Human Rights Council. The allegations were discussed at a first court hearing in June 2018.

15. Kyrgyzstan

69. On 25 June 2018 the Committee on Migrant Workers (CMW) addressed the Government regarding the designation as extremist material of a submission by civil society organizations Anti-Discrimination Centre Memorial and Bir Duino Kyrgyzstan. The decision came from the Oktyabrsky District Court in Bishkek following their submission of an alternative report to the Committee ahead of its review of Kyrgyzstan in April 2015. The report addressed the obligations of the Government to protect the rights of Kyrgyz migrant workers.

70. In May 2018 during a visit to Kyrgyzstan the Assistant-Secretary General raised the allegations with the Government.

16. Maldives

71. On 20 April 2018, four special procedures mandate holders raised concerns about the launching of investigations against Ms. Shahindha Ismail, of the Maldivian Democracy Network, for the legitimate exercise of her freedom of expression on Twitter and for having
participated in a side event at the 35th session of the Human Rights Council in June 2017 (MDV 3/2018). On 2 April 2018, the police summoned Ms. Ismail to question her for criticising Islam “with the intention to cause disregard for Islam” under Section 617 (a) 1 and 2 of the Penal Code, which prescribes up to four months and 24 days of imprisonment for first time offenders. She was also accused by the police of attempting to “disrupt the religious unity and create religious discord in the Maldives” through Twitter. Ms. Ismail has categorically denied the accusation. Ms. Ismail has been, and continues to be, subject to online threats and online gender-based violence, including rape threats. A Twitter account has repeatedly tweeted to Ms Ismail saying that they would rape her and violently harm her if they saw her on the road. The special procedures expressed concern that the investigations launched against her may constitute acts of reprisals for her cooperation with the Human Rights Council, and for her human rights work through the exercise of her right to freedom of expression.

The Government addressed the allegations on 23 July 2018 and confirmed that the Maldives police service launched a criminal investigation against Ms Ismail for allegations of attempting to disrupt the religious unit of the citizens of Maldives and conversing and acting in a manner likely to cause religious segregation amongst the people. After completing the investigation, the police forwarded the case to the Prosecutor General’s office where the Office determined that they could not find enough grounds to pursue a criminal charge against Ms Ismail or to have the charge proven in a court of law. The case has since been filed by the police. With regard to the allegations of death threats and intimidation through social media, a police investigation is ongoing and the case is being treated as serious, but the investigation is facing difficulties in obtaining the information because the Facebook and Twitter accounts were fake. The Government also reported that Ms Ismail is no longer being provided with personal security services by the Internal Security Command of the Maldives Police Service pursuant to her request in writing of 11 March 2018.

17. Mali

According to the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), there have been cases of reprisals perpetrated by state actors as well as non-state armed groups against individuals who collaborate with the United Nations. Intimidation and death threats are strategies that have been used by terrorist and extremist armed groups to threaten populations for any collaboration with national and international forces as well as State actors, including MINUSMA.

On 26 October 2017, the chief of Boulkessi village (close to the Burkina Faso border, Mondoro commune, Douentza cercle, Mopti region) who is a source of information for the MINUSMA Human Rights and Protection Division, reported that he had received threats relating directly to his cooperation with them regarding an investigation into allegations of extra-judicial executions committed by Forces Armées Maliennes (FAMa). It is alleged that he received three threatening phone calls from unknown callers whose voices were disguised, and who referred to his collaboration with the investigation. The chief had reported the location of a mass grave containing bodies of four individuals killed by armed forces in an extrajudicial execution then he began to receive these threats.

On 2 December 2017, six unidentified armed elements shot and killed the Secretary-General of the Mayor of Dioungani commune (Koro cercle, Mopti region), and it is believed that the victim may have been targeted for being an informer to the armed forces and/or international forces, including MINUSMA. At the time of writing an investigation was ongoing.

Between 9 and 11 April 2018, MINUSMA conducted a special mission to Ménaka to meet with representatives of civil society and victims of human rights abuses during “counter-terrorism operations” conducted by elements of the Mouvement pour le Salut de

12 MINUSMA, “Malgré la mise en œuvre de l’Accord pour la paix, la situation des droits de l’homme demeure préoccupante au Mali, Bamako, le 1er février 2018”.
l’Azawad (MSA) and the Groupe autodéfense touareg Imghad et alliés (GATIA), in the region since June 2017. The village chief of Akabar who met with the MINUSMA team reported that on 13 April 2018 he was contacted by the MSA Chief of Staff and was questioned and intimidated because of his cooperation with MINUSMA.

18. Morocco

77. In a decision of 15 November 2016 (CAT/C/59/D/606/2014) the Committee against Torture found that Morocco was responsible for violations of Art. 1 and 12 to 16 of the Convention against Torture in the case of Naâma Asfari v. Morocco, in which Mr. Ennaâma Asfari, a Sahrawi human rights defender currently in detention, was the petitioner. Since the decision by the Committee Mr. Asfari’s treatment in detention has reportedly deteriorated. His wife has been denied entry into Morocco on four occasions. On 13 February 2018, Mr. Asfari was placed in solitary confinement until 13 March 2018. On 13 July 2018 the Committee’s Rapporteur on Reprisals and Follow-up wrote to the Government emphasizing the need to refrain from reprisals (G/S0 229/3MAR(8) 606/2014). On 31 July 2018 the Government responded, and the Committee decided to keep the follow-up dialogue on this case open, emphasizing the need for the full implementation of remedies requested. Another meeting was suggested during the Committee’s session from 12 November to 7 December 2018.

19. Myanmar

78. During a briefing by members of the Security Council on their mission to Myanmar, it was reported that Myanmar security forces had threatened Rohingya villages with reprisals if they talked with the Security Council delegation during the visit and told the villagers that those who had done so were being looked for. A Security Council member noted that it was unacceptable that anyone should feel intimidated about speaking with the Council (see S/PV.8255, page 6). Reports indicate that Rohingya villagers from Pan Taw Pyin, Rakhine State who met with the delegation on 1 May 2018, have been forced into hiding after being targeted by Myanmar’s security agencies. Tatmadaw, including members of Military Security Affairs, reportedly requested local authorities to submit a list of all the villagers who had spoken with the delegation. While young villagers were interacting with the delegation, members of the military reportedly took video footage of the youth and then chased them and scolded them after the interviews. Villagers who participated in the meeting reportedly fear intimidation, harassment, and arrests. Furthermore, before the Security Council delegation visited Rakhine, authorities in Maungdaw township had reportedly warned the Rohingya in the surrounding villages against telling members of the Security Council anything adverse about the government or security forces.

79. Ms. Yanghee Lee, United Nations Special Rapporteur on the situation of human rights in Myanmar, reported to the Human Rights Council in March 2018 that she had received information about violent reprisals committed by the armed forces against civilians who she had met with following her visit to Rakhine State in January 2017 (see A/HRC/37/70, para. 63). These include a killing, beatings, and rape. The Special Rapporteur received credible information that the armed forces attacked a village in Rakhine a couple of days after her 2017 visit as a reprisal against those in the community who spoke to her. The armed forces reportedly gathered the village men and women together, and subjected them to severe mistreatment, beatings and assaults, and in another village, one man was killed.

80. The Governing Body of the ILO reported on 7 February 2018 that it remained concerned about two cases of apparent reprisal against complainants in forced labour cases (see GB.332/INS/8, para. 15). The two cases were also raised by the Special Rapporteur on the situation of human rights in Myanmar, in her March 2018 report to the Human Rights Council (see A/HRC/37/70, para. 15).

14 ILO, Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013), 7 February 2018.
81. The ILO expressed concern about the detention on 18 August 2017 of Mr. Aung Ko Htwe, who had been forcibly recruited into the army in 2005 at age 14 (see GB.332/INS/8, para. 16). He receives continued protection according to the 2007 agreement between the ILO and Myanmar that gives victims the right to lodge complaints alleging the use of forced labour and to seek redress without “retaliatory action.” In 2009, Mr. Htwe’s family filed a complaint about his underage recruitment with the ILO and, under its agreement of Supplementary Understanding, is entitled to continued protection from reprisals related to his forced recruitment complaint. At the time he was serving a commuted 10-year prison sentence for allegedly being implicated in a murder with two other child soldiers when he was attempting to flee the army in 2007, a case that had been addressed by the ILO to no avail.

82. A month after his release in July 2017, Mr. Htwe was re-arrested by Myanmar security forces after he gave an interview to Radio Free Asia detailing his forced recruitment into the army as a child, and charged under section 505(b) of the Penal Code for speaking publicly about his experience. The ILO appealed for the charges to be dropped and noted that in the past several years, other underage recruits have spoken publicly about their experience without facing such reprisals, which has helped to reinforce the Government’s policy to end underage recruitment and forced labour. On 9 October 2017, the Government responded to the ILO indicating that it had previously responded to ILO in 2010 that it had taken measures to close the case. However, on 28 March 2018, the Dagon Seikkan Township Court sentenced Mr. Aung Ko Htwe to two years in prison with hard labor, despite his status as a complainant with ILO.

83. Human Rights Council resolution of 18 March 2018 (see A/HRC/RES/37/32, para. 22) expressed serious concern about reported cases of reprisal for cooperation with the Special Rapporteur on the situation of human rights in Myanmar, and emphasized that no one should face reprisals, monitoring, surveillance, threats, harassment or intimidation for cooperating or speaking with the special procedures of the Human Rights Council, including the Special Rapporteur, the independent international fact-finding mission or the United Nations. The Human Rights Council called on the Government of Myanmar to take appropriate measures to prevent such acts and to combat impunity by investigating promptly and effectively all allegations of intimidation and reprisal in order to bring perpetrators to justice and to provide victims with appropriate remedies.

20. Philippines

84. On 2 October 2017, five special procedures mandate holders expressed concern about the defamatory and intimidating public statements directed at the Commission on Human Rights of the Philippines (Commission), its members and its Chairperson Mr. Chito Gascon (PHL 12/2017), because of its human rights monitoring work and cooperation with the United Nations. The Commission submitted information to the universal periodic review of the Philippines in 2017 (see A/HRC/WG.6/27/PFL/3, paras. 2-9), 2012 (see A/HRC/WG.6/13/PFL/3, paras. 1-13) and 2008 (see A/HRC/WG.6/1/PFL/3, paras. 1-18). The Commission has received threats of being defunded or abolished and has been vilified in the media as a hindrance to the implementation of government policies. When commissioners travel for work purposes they are reportedly monitored, which has affected their engagement with the United Nations. There has been no Government response to the communication of the special procedures of 2 October 2017.

85. The Commissioner’s former Chairperson, Ms. Leila M. de Lima, has been in prison since February 2017 on allegations of drug-related charges. In March 2018 it was reported that Ms. De Lima had not been arraigned in any of the three most serious drug-related cases for which she was charged. On 27 March 2017, six special procedures mandate holders raised concerns that her arrest may be “politically motivated” (PHL 5/2017). In addition to her arrest and detention, Ms. De Lima has been subject to intimidation, threats and judicial harassment in connection with her criticism of government policies surrounding the war on drugs, such as the extrajudicial killings of suspected criminals and drug users and President Duterte’s proposal to reinstate the death penalty, including when she was Chair of the Commission.

86. Multiple actors have expressed concern at the February 2018 petition of the Department of Justice to a Manila court in February 2018, seeking to declare the Communist Party of the Philippines (CPP) and the New People’s Army (NPA) as “terrorist” organizations under the Republic Act 9372 or the Human Security Act 2007 (the anti-terrorism law). The petition includes a list of over 600 individuals who are labelled as de facto “terrorists.” It is reported that among these are least 80 recognized human rights defenders, indigenous peoples’ representatives, and representatives of community-based organizations. This is the first time the Human Security Act of 2007 has been used against numerous activists.

87. A number of these individuals have been long-standing partners of the United Nations who believe their inclusion on this list is in part due to their international advocacy with the United Nations, including the Human Rights Council, the universal periodic review, the treaty bodies, and the special procedures. Among this list are past and current human rights defenders of the Karapatan Alliance for the Advancement of People’s Rights, which includes a national alliance of human rights organizations, institutions and individuals in the Philippines,16 which was the subject of a joint communication by three special procedures, regarding vilifying and threatening public statements made by President Rodrigo Duterte (PHL 4/2018).

88. Several indigenous peoples’ representatives and human rights defenders advocating for the rights of indigenous peoples in the Philippines are on this list. In addition to the above-mentioned United Nations human rights mechanisms, several of these individuals have engaged with the former United Nations Working Group on Indigenous Populations, the United Nations Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the World Conference on Indigenous Peoples, and the United Nations Forum on Business and Human Rights.17

89. In a letter to the Government on 4 May 2018, the Assistant Secretary-General for Human Rights expressed concerned that placing these individuals on a “terrorist” list may constitute a reprisal for their engagement with the United Nations human rights system, and he also addressed the matter publicly on 18 May 2018.18 On 8 May 2018 during its 95th session, the Committee for the Elimination of Racial Discrimination, under its early warning and urgent action procedures, urged the Government to remove indigenous leaders and human rights defenders, including incumbent and former United Nations special procedures mandate holders from the petition list, and recommended that the Government adopt effective measures to prevent acts of violence against indigenous peoples, defenders

16 These include Ms. Elisa Tita Lubi, member at large of the Karapatan National Executive Committee and former interim Regional Coordinator of the Asia Pacific Forum on Women, Law and Development (APWLD); Mr. Arnold Evangelista and Erlindo Baes, officers of the Batangas Human Rights Alliance –Karapatan chapter, QRT; Ms. Zara Alvarez, Research and Advocacy Officer of the Negros Island Health Integrated Program (NIHIP) and former Campaign and Education Director of Karapatan-Negros chapter; and Mr. Sherwin de Vera, Regional Coordinator of DEFEND Ilocos, member of the Save The Abra River Movement (STARM) and former Secretary General of the Ilocos Human Rights Alliance-Karapatan.

17 These include representatives associated with the Cordillera People’s Alliance, an independent federation of organizations promoting indigenous communities’ rights in the Cordillera Region, Philippines: Ms. Joan Carling, an indigenous leader from the Kankanay Igorot people of the Cordillera Region, current Member and Co-Convenor of the Indigenous Peoples Major Group for the Sustainable Development Goals, former Secretary-General of the Asian Indigenous Peoples’ Pact (AIPP), former member of the UN Permanent Forum on Indigenous Issues, former Chairperson of the Cordillera Peoples Alliance and current member of the CPA Advisory Council; Ms. Beverly Longid, an indigenous leader from the Kankanay Igorot people of the Cordillera Region, current global coordinator of the International Indigenous Peoples Movement for Self-Determination and Liberation (IPMSDL), and former CPA Chair and current Advisory Council member; Mr. Jose Molintas, an Ibaloi human rights lawyer, former Asia representative to the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and former CPA Chair and current Advisory Council member; Ms. Joanna Cariño, an Ibaloi member of the CPA Advisory Council and Co-Chair of the SANDUGO Movement of Moro and Indigenous Peoples for Self Determination; Mr. Windel Bolinget, a Kankanay-Bontok who is the current Chairperson of the CPA and National Co-convenor of KATRIBU national alliance of indigenous peoples; and Ms. Jeanette Ribaya-Cawiding, a Kankanay, former Chairperson of CPA-Tongtongan ti Umili and current Regional Coordinator of the Alliance of Concerned Teachers – Cordillera.

of the rights of indigenous peoples and other human rights defenders. It requested the Philippines to provide information no later than 16 July 2018 (see CERD Decision 1/95). On 8 June 2018, five special procedures mandate holders raised their concerns (PHL 5/2018). At the time of writing there had been no response from the Government.

21. Russian Federation

90. On 10 May 2018, the Chair and the Focal Point for Reprisals for the Committee on the Elimination of Racial Discrimination wrote to the Government about allegations of reprisals by the authorities against Ms. Yana Tannagasheva and Mr. Vladislav Tannagashev, human rights defenders advocating for the rights of the Shor indigenous people of southern Siberia. They had engaged with the Committee in relation to the twenty-third and thirty-fourth periodic reports of the Russian Federation in August 2017.

91. Following their collaboration with the Committee, Ms. Tannagasheva and Mr. Tannagashev were subject to harassment and intimidation by authorities of the Kemerovo district and representatives of Yuzhnaya coal company. They were urged by the police to renounce their activities, and were placed under surveillance by the police and security service, and had their phones tapped. Threats were made by security service agents concerning their children, and their relatives and friends were summoned for questioning. Further, Ms. Tannagasheva was dismissed from her job as a teacher at a local school and her house was burned down in a suspected arson attack, following which no investigation took place. As a result, both fled the country with their children out of fear for their safety. The Committee expressed their grave concern for the allegations of reprisals against Ms. Tannagasheva and Mr. Tannagashev, which appear to be a direct consequence of their engagement with the Committee. At the time of writing the Government had not responded to the Chair and the Focal Point for Reprisals of the Committee.

22. Rwanda

92. On 20 October 2017, the Subcommittee on the Prevention of Torture (SPT) announced publicly that it had suspended its visit to Rwanda “due to a series of obstructions imposed by authorities, such as accessing some places of detention, confidentiality of certain interviews and over concerns that some interviewees could face reprisals.” The Subcommittee reported that during its visit the experts encountered an especially difficult environment to undertake private interviews with detainees and many detainees expressed to them a fear of reprisals for cooperating with them. In some cases, detainees refused to be interviewed at all for fear of subsequent retaliation against them. Before the suspension of the visit, the Subcommittee and OHCHR Secretariat made several attempts to address the above-mentioned concerns with the Ministry of Justice, to no avail. According to its mandate under the Optional Protocol to the Convention against Torture (OPCAT), the Subcommittee can make unannounced visits at any place where people are or might be deprived of their liberty in countries which are a party to the Protocol, including prisons, police stations, detention centers for migrants, juveniles’ detention centers, interrogation facilities, and psychiatric hospitals.

93. At its thirty-fourth session in February 2018, the the Subcommittee announced its intention to resume the visit to Rwanda. However, due to the lack of cooperation of the authorities in the resumption of the visit, at its thirty-fifth session in June 2018, the Subcommittee decided to terminate the visit as there was no prospect of the visit being successfully resumed or concluded. It is the first time in 11 years and more that 60 country visits that the Subcommittee had to terminate a visit before its completion.

21 OHCHR, “UN torture prevention experts announce resuming visit to Rwanda,” 28 February 2018.
22 OHCHR, “UN torture prevention body to visit Burundi, Costa Rica, Senegal and Switzerland; terminates Rwanda visit”, 4 July 2018
94. On 1 June 2018 the Assistant Secretary-General for Human Rights wrote to the Government expressing concern about the lack of assurances given to the SPT that those interviewed or contacted during the visit would not face intimidation and reprisals for cooperating with the SPT members and OHCHR Secretariat, and requesting information on the welfare of the detainees involved in the visit. On 18 June 2018 the High Commissioner for Human Rights expressed concern by the suspension of the visit, and called on Rwanda to provide full cooperation so that the Subcommittee can fulfil its mandate. On 27 June 2018 the Government responded to the Assistant Secretary-General that the SPT had “full and unimpeded access to places of detention and detainees” and has put in place “prevention and investigatory measures to respond to allegations of reprisals.” The Government noted that it had underwent its own investigation into the conditions that led to the suspension of the visit, including the allegations of reprisals, and found them without base. The Government further referred to its letter of 23 October 2017 to the SPT which noted that technical issues that arose during the five-day visit were resolved.

23. Saudi Arabia

95. It was reported that on 28 February 2018, Mr. Essa Al Nukheifi was sentenced to six years in prison by the Specialized Criminal Court. Mr. Al Nukheifi is a human rights defender with whom Mr. Philip Alston, the Special Rapporteur on extreme poverty and human rights consulted in December 2016 during the preparations of his mission to Saudi Arabia in January 2017. Mr. Al Nukheifi was also banned from travelling and using social media for an equivalent amount of time after his release. He had been the subject of a previous communication by four special procedures (SAU 2/2017) and there is concern that his current detention is related to his cooperation with the Special Rapporteur and that he expressed his willingness to meet with the mandate’s team. On 20 April 2017 the Government replied that Mr. Al Nukheifi was arrested in December 2016 on criminal charges and was afforded due process.

96. In August 2017 Mr. Al Nukheifi was charged with “seeking to destabilise the social fabric and national cohesion” (Royal Decree 16820 see para. 8), “communicating with, and receiving money from foreign groups considered to be enemies of the state” (Royal Decrees 16820 and A/44) and “using a personal phone and the internet to store and transfer information considered harmful to the public order” (article 6 of the Anti-Cyber Crime Law, Royal Decree M/17). On 30 December 2016 Mr. Al Nukheifi had been transferred to Mecca General Prison where he remains in detention. It is alleged that he does not have a bed to sleep on and must sleep on the cold floor without any blanket, that he has been repeatedly threatened with torture, and that he is not allowed to receive visits from his family.

97. On 1 June 2017 the Working Group on Arbitrary Detention issued an opinion about Mr. Salim Abdullah Hussain Abu Abdullah (A/HRC/2017/10), who was arrested on 11 December 2014 without an arrest warrant and not provided with a reason for his arrest. He was taken to Dammam Central Prison and held incommunicado for six months and placed in solitary confinement. He was reportedly subjected to severe psychological and physical torture, and forced to sign a statement he was not allowed to read beforehand. In addition, some family members of Mr. Abu Abdullah were reportedly intimidated and threatened. The Working Group considers the detention of Mr. Abu Abdullah to be arbitrary and requested the Government to take steps to remedy the situation (see A/HRC/WGAD/2017/10, para. 31-33). At the time of writing, more than three years after his initial arrest, he has not been officially charged and, no court date has been set for a trial. Since the opinion was issued, it has been reported that Mr. Abu Abdullah has repeatedly been placed in solitary confinement for prolonged periods of time and been denied regular contact with his family, as an act of reprisal for having his case considered by the Working Group (see A/HRC/39/45, para. 28).

98. On 24 July 2018 the Government responded to the allegations. Concerning the case of Mr. Al Nukheifi, the Government stated he was arrested on 18 December 2016 and

charged under articles 2 and 112 of the Statute of Criminal Procedures after his wife called the police claiming he had threatened to kill her and that he is affiliated to Daesh. The Government reported that he was allowed to call a lawyer and that his family visited him on 24 February 2017 (26/5/1438 Hijri). The General Prosecutor referred his case to the relevant court which ruled that Mr Al Nukheifi committed crimes involving national security, spying for foreign entities, receiving financial support and cyber crimes. The court of first instance sentenced him to six years imprisonment with a travel ban for the same amount of time as his release. His case is still under consideration with the court.

99. Regarding the allegations about Mr. Abu Abdullah, the Government stated a warrant for his arrest was issued pursuant to articles 35 and 103 of the Statute of Criminal Procedures and he was accused of committing many crimes, including killing several persons, shooting security officers, possessing arms and providing terrorists with weapons. Mr. Abu Abdulla’s arrest was pursuant to article 2 of the Statute on Terrorism Crimes and Funding of 2013 and his detention was extended pursuant to article 5 of the same statute, and his case is referred to the specialized criminal court. According to the Government he was not subjected to torture or ill-treatment nor forced to confess, and was provided medical treatment. Additionally he was not forced to sign a confession. His case is still pending.

24. South Sudan

100. In a report in February 2018, the United Nations Mission in South Sudan (UNMISS) and OHCHR noted instances of restrictions imposed by national authorities, including the National Security Service and pro-government forces as well as among the personnel of Central and State administration, against individuals whose opinions were perceived as critical of the Government or the reputation of the country and who cooperated with the United Nations by attending meetings, sharing information on human rights violations, and facilitating access of UNMISS to affected populations (see S/2017/505, S/2017/784, S/2017/1011, and S/2018/133). UNMISS received reports of at least 12 incidents which included arbitrary arrests and detentions, restrictions of movements and acts of intimidation and harassment, mostly targeting human rights defenders cooperating with the United Nations. Some individuals were ordered by security officials to cease sharing information with the United Nations. In addition, UNMISS received credible reports of intimidation against three South Sudanese human rights defenders living in neighboring countries or travelling outside the country who were accused of collaborating with the United Nations and being critical of the human rights situation in South Sudan. Human rights defenders were also reportedly threatened by government representatives after holding meetings with United Nations personnel in Upper Nile and Equatoria regions, in September and November 2017, respectively. At least two victims have sought refuge elsewhere in the country and abroad.

102. In follow up to his visit to South Sudan in February 2017, the Assistant Secretary-General for Human Rights sent a letter to the Government on 21 July 2017 and stressed the absolute need to avoid reprisals and threats against human rights defenders, including those who have cooperated with the United Nations. In the letter he addressed specific cases of intimidation and threats against individuals for having cooperated with UNMISS and other United Nations entities outside South Sudan, including cases of individuals who were forced to leave the country.

25. Thailand

103. On 30 June 2017, three special procedures mandate holders raised urgent concerns about allegations of intimidation against Mr. Maitree Chamroensuksakul, a Lahu
indigenous human rights defender from a hill tribe group in the border between the north of Thailand and Myanmar (THA 4/2017). According to information received, Mr. Chamroensuksakul was subject to harassment and death threats following a meeting he had with Mr. Michel Forst, the Special Rapporteur on the situation of human rights defenders, on 27 May 2017 during his academic visit to Thailand. Mr. Chamroensuksakul had been documenting and publicly raising concerns of human rights violations committed against the Lahu community by law enforcement officers. In particular, he was seeking justice for the killing of Chaiyaphum Pasae, a 17-year old Lahu youth activist who was shot dead by military personnel on 17 March 2017 during an alleged anti-drug operation in Ban Kong Phak Ping village. Mr. Chamroensuksakul posted a photo of himself with the Special Rapporteur on his Facebook page.

104. On 29 May 2017, two days after Mr. Chamroensuksakul met with the Special Rapporteur, the police from Provincial Region 5 and Chiang Mai conducted a joint large-scale search operation of Ban Kong Phak Ping village, with a warrant issued by Chiang Mai Provincial Court, supposedly aimed at searching for drugs. The authorities searched nine houses, including Mr. Chamroensuksakul’s house, which they raided while he was not home. Two of his family members were arrested and charged with drug possession, and both were denied access to a lawyer during their interrogation by the police. At the time of writing the Government had not responded to the special procedures’ urgent appeal of 30 June 2017.

105. It was reported that in August 2017, Ms. Sirikan Charoensiri, of Thai Lawyers for Human Rights, was charged with the offences of giving false information regarding a criminal offence. Four special procedures mandate holders had raised concerns on 11 April 2017 that the charges she received, sedition and gathering five or more people for political purposes under the criminal code, may be directly linked to her cooperation with the United Nations, particularly her participation in the thirty-third session of the Human Rights Council in September 2016 (THA 2/2017). It is reported that, if found guilty, she could face up to 15 years in jail and could be tried in a military court for a sedition charge.

106. Ms. Charoensiri also participated in the March 2017 session of the Human Rights Committee, where she publicized her legal advocacy efforts. She had represented 14 student activists arrested by the Thai authorities for their alleged participation in peaceful protests in June 2015, following the military coup in May 2014. She is also engaged in awareness-raising on law and human rights issues related to the enforcement of martial law and the orders of the National Council for Peace and Order (NCPO). In February 2016, Ms. Charoensiri had been charged with the offences of refusing to comply with the order of an official and concealing of evidence and, in September 2016, upon return from the Human Rights Council, she was further charged under the National Council for Peace and Order and with sedition. The Government responded on 10 August 2017 to the special procedures’ communication of 11 April 2017, stating that Ms. Charoensiri was not charged due to her capacity as a lawyer or human rights defender, but on the basis of the possibility of her being one of the principals or accomplices in committing alleged offenses under article 12 of the NCPO Order No. 3/2015 and article 16 of the Criminal Code.

107. During his visit to Thailand in March 2018, the Assistant Secretary-General for Human Rights addressed allegations of intimidation and reprisals to the Government, and wrote a follow up letter on 27 April 2018. At the time of writing no response had been received from the Government.

26. **Trinidad and Tobago**

108. On 21 July 2017, three special procedures mandate holders raised concerns about the deprivation of liberty of Mr. Zaheer Seepersad in St. Ann’s Psychiatric Hospital and other patients living with a psychosocial disability (TTO 2/2017). Mr. Seepersad was born in 1987 with dystonia, a physical impairment due to a neurological movement disorder. On 20 November 2017, the Working Group on Arbitrary Detention issued Opinion No. 68/2017 concluding that the detention and subsequent internment of Mr. Seepersad in St. Ann’s Psychiatric Hospital on 8 January 2015 for a period of two months, and on 4 May 2016 for 16 days, were arbitrary without any legal basis justifying the deprivation of liberty, and was made purely on the basis of his physical impairment, constituting a
violation of international law on the grounds of discrimination based on disability (see A/HRC/WGAD/2017/68, paras. 34-35).

109. The Working Group on Arbitrary Detention expressed its most serious concern at allegations of reprisals, such as persistent harassment, intimidation and threats which Mr. Seepersad has been subjected to, for bringing his claims to their attention. The Working Group requested the Government to ensure that all acts of intimidation against Mr. Seepersad cease and that an impartial and effective investigation is carried out in relation to such acts and those responsible brought to justice. The Working Group recommended that the Government remedy the situation and provide compensation to Mr. Seepersad, and referred the case for further action to the focal point on reprisals of the Coordination Committee of Special Procedures and to the Assistant Secretary-General for Human Rights (see A/HRC/WGAD/2017/68, paras. 34-35, 37-39, 41).

110. On 6 September 2017, the Working Group on Arbitrary Detention transmitted the allegations to the Government under its regular communications procedure. The Working Group did not receive a response from the Government nor request for an extension of the time limit for its reply. It is reported that Mr. Seepersad still remains under pressure to dissuade him from engaging with regional or United Nations mechanisms to seek a legal remedy.

27. Turkey

111. Information was received that on 20 August 2017, the web pages administrated by the Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN), suffered a series of alleged cyber-attacks over two weeks, which were repeated on 25 September 2017 for two days and on 16 April 2018. The attacks disabled its websites www.hic-mena.org and www.hlrn.org for two weeks, and obliged the organization to deploy exceptional human and financial resources for two months in order to ensure the web pages’ security and data protection. The Network believe that the cyber-attacks were a reprisal following the publicity of their report at the United Nations Conference on Housing and Sustainable Urban Development (Habitat III), which took place in Quito, Ecuador, October 2016.

112. In October 2016, when HIC-HLRN presented a report “Turkey: Forced Eviction and Urban Transformation as a Tool of War” at Habitat III, it is alleged that the Turkish delegation scolded HIC-HLRN officers. The report was also distributed to numerous United Nations special procedures and to OHCHR.

113. The origins of the attacks are unknown. The first attack to the HIC-HLRN web page was reportedly perpetrated by a hacking group self-identified as Yarma Security Team and the second attack to their Middle East/North Africa website was perpetrated by an unknown hacker. The second cyber-attack displayed a political message in the hacked frontal page reading “Hayali Kürdistan Olanın Mekanı Kabristan Olur” (The Imaginary Place Kurdistan becomes a Cemetery). HIC-HLRN had been monitoring the expropriations, evictions and demolitions taking place in Diyarbakır, in the Kurdish region of southeast Turkey.

114. Mr. Kursat Çevik, a Turkish police superintendent, was the subject of an opinion adopted on 16 June 2017 by the Working Group on Arbitrary Detention. Mr. Çevik was arrested, together with 15 of his colleagues, on 21 July 2016. He is allegedly suspected of being a member of a terrorist organization (the Gülen movement) and of treason, and is classified as an opponent to the Justice and Development Party. However, Mr. Çevik is being held in secret, without a confirmed charge, and his lawyer does not have access to his file. The Working Group noted in its opinion that it considered his detention to be arbitrary as it had not received convincing information that Mr. Çevik was informed of the charges against him after his arrest, nor was he informed promptly after the judicial order that justified his detention, was issued (see A/HRC/WGAD/2017/38, para. 73-76).

115. Following the issuance of the opinion, Turkish pro-Government media circulated information distorting the opinion of the Working Group containing various accusations against Mr. Çevik. On 4 August 2017, the Turkish pro-government media accused Mr. Çevik of having acted as an intelligence officer for the French government, and accused “the United Nations” of requesting his release “because he had been set to leave Turkey for
holidays” on 16 July 2016. The Working Group opinion also triggered reprisals at Mr. Çevik’s place of detention, where his cell was reportedly moved to separate him from his friends and colleagues, and he was denied food and purchases from the prison mess (A/HRC/39/45).

116. On 31 July 2018 the Government responded to the allegations. With regard to the reported hacking of the websites of the Housing and Land Rights Network - Habitat International Coalition, the Government noted that the “perpetrators and/or sponsors of the attacks in question could be any source, based anywhere in the world” and that Turkish authorities are not in the possession of any previous record or information about the “Yarma Security Team.” The Government further noted that it has committed to international efforts to identify cyber threats and build a more secure network, and will continue to work with United Nations agencies to this effect.

117. Pertaining to the case of Mr. Kursat Çevik, the Government affirmed it had submitted to the Working Group on Arbitrary Detention information on the procedures and remedies available, and that it rejected the conclusion that his detention was arbitrary. It further noted that Mr. Çevik was moved from Mardin Penitentiary to Sanhurfa Penitentiary on 17 July 2016, before the release of the report on 16 June 2017, and that subsequently “his cell was changed three times, in accordance with administrative needs.” The Government stated he was not subject to solitary confinement, separated from other detainees with similar charges, or denied food or purchases from the prison mess. The Government further noted that there is no government media outlet in Turkey other than the Turkish Radio and Television Corporation, and any publication or broadcast by private media outlets reflect their own opinion.

28. Turkmenistan

118. On 18 May 2018 at the end of his visit to Kyrgyzstan, the Assistant Secretary-General for Human Rights attended the Human Rights Defender Platform Security Meeting for Central Asia and engaged with human rights defenders from four countries, but said he regretted that the OHCHR regional office had not felt able to invite representatives from Turkmenistan for fear that they might face intimidation or reprisals from their Government for cooperation with the United Nations.27

29. Venezuela (Bolivarian Republic of)

119. According to information received, representatives of the Government of Venezuela allegedly threatened and harassed four civil society representatives at a side event of the thirty-fifth session of the Human Rights Council on 6 June 2017. Mr. Alonso Medina Roa (Foro Penal), Mr. Julio Henriquez (Refugee Freedom Program), Ms. Laura Louza (Acceso a la Justicia) and Ms. Mercedes De Freitas (Transparencia Venezuela) were participating in a panel co-sponsored by the United States of America and were reportedly threatened that their passports would be confiscated.

120. Several civil society representatives are alleged to have been targeted by Mr. Diosdado Cabello Rondon, then member of the National Constituent Assembly and Vice-President of the United Socialist Party of Venezuela (PSUV). According to the allegations received, Mr. Diosdado Cabello Rondon has used his programme “Con el Mazo Dando,” a weekly broadcast on Venezuelan public television, to launch a smear campaign against human rights defenders, including those that have cooperated with the Human Rights Council and OHCHR.

Annex II

Information on alleged cases included in follow-up to previous reports

1. Algeria

   1. The case of Mr. Rafik Belamrania was included in the 2017 report of the Secretary-General (see A/HRC/36/31, para. 20 and Annex I paras 1-3). Mr. Belamrania, founding member of the Association pour les enfants des disparus forcés en Algerie – Mish’al, is the author of communication No. 2157/2012 against Algeria to the Human Rights Committee regarding the abduction, torture and summary execution of his father, Mr. Mohammed Belamrania, by the Algerian army in 1995. Three special procedures mandate holders raised concerns with the Government over alleged reprisals against Mr. Belamrania for publishing on Facebook on 14 February 2017, the decision of the Human Rights Committee, regarding the summary execution of his father in 1995 (A/HRC/36/25, DZA 2/2017). He was charged with “apology of terrorism,” and accused of circulating photos and expressing his support for terrorist organizations, including Daesh.

   2. On 15 November 2017, Mr. Belamrania was sentenced to five years in prison for “incitement to terrorism” and fined 100,000 Algerian dinars (860 USD). On 5 February 2018, he was sentenced on appeal to one year in prison followed by a two-year suspended sentence, and released on 16 February 2018. He was not granted any reparation or rehabilitation.

   3. On 6 December 2018 the Assistant Secretary-General for Human Rights addressed the allegations of reprisals to the Government, who responded on 12 February 2018, reiterating their response of 29 May 2017 to special procedures that the allegations of arbitrary detention of Mr. Belamrania were unfounded as he was indicted for the “criminal offense of apology of terrorism,” and that he benefited from all guarantees during his hearing and while in custody. The Government did not address the allegations of reprisals.

2. Bahrain

   4. The case of Ms. Ebtesam Al-Alsaegh, of SALAM for Democracy and Human Rights, was included in the 2017 report of the Secretary-General (see A/HRC/36/31, Annex, para. 7) related to a travel ban imposed on her and others for their cooperation with the Human Rights Council and the universal periodic review, in particular their participation in the thirty second session in June 2016 (A/HRC/34/75, BHR 4/2016).

   5. On 20 March 2017, after attending the Human Rights Council, Ms. Alsaegh was detained for several hours at Bahrain International Airport by agents of the National Security Agency and interrogated at length about her participation in the Council; she was searched, threatened and had her passport subsequently confiscated. On 26 May 2017, she was allegedly subjected to seven-hours of physical and psychological torture while she was interrogated by officers of the National Security Agency, and sexually assaulted. On 4 July 2017, two special procedures mandate holders raised concerns regarding her alleged arbitrary arrest and incommunicado detention in an apparent reprisal for her cooperation with United Nations human rights mechanisms (BHR 8/2017).

   6. On 13 July 2017 four special procedures mandate holders raised urgent concerns when information was received that on 4 July 2017, Ms. Al-Saegh was again detained by security forces who raided her home (BHR 9/2017). She was reported to have been held in solitary confinement at Isa Town women’s prison and transported daily to an unknown location where she was interrogated for up to 14 hours without access to a lawyer. There were fears she would be tortured and sexually abused. While in detention she went on a hunger strike on 12 July 2017. On 18 July 2017, she was charged under the anti-terrorism law and subsequently released, although the charges have not been dropped. On 8 August 2017 the Government responded that an investigation into the activities of Ms. Al-Saegh noted that she was associated with establishing the “Manama Human Rights Observatory” and was “hiding behind human rights activities” while supporting an operation that
impeded law enforcement activities and promoted the commission of acts of terrorism, including colluding with the Alkarama Foundation to which she was sending false and misleading information to bring the Kingdom of Bahrain into international disrepute. The Government notes that Ms. Al-Saegh was arrested on 4 July 2017 in accordance with the law and charged with “membership in an unlawful terrorist group.” The Government detailed the procedures of arrest, detention and treatment of Ms. Al-Saegh, including that she had been sent to the prison clinic in relation to the hunger strike. The Government did not address the allegations of reprisals.

7. On 25 June 2018 the Government, in a reply to the Assistant Secretary-General for Human Rights, stated that Ms. Al-Alsaegh was charged with six criminal offences: affiliation and participation in acts of terrorist organization, spying for a foreign terrorist organization to commit terrorist acts, accepting donations from a foreign terrorist organization for committing terrorist acts in the Kingdom, funding and donating to organizations which knowingly commit terrorist acts, spreading false news that may harm national security and public order, and participation in a demonstration with the intention of assaulting security forces, public property and destabilising public security. A travel ban was issued against her on 19 April 2017 and lifted on 13 July 2017.

8. During the thirty-eighth session of the Human Rights Council in June 2018 it was further reported that Ms. Al-Saegh published a series of tweets highlighting a range of human rights concerns in Bahrain. An account called @godkingcountry responded to her tweets by making threats against her, including referencing the sexual assault that she suffered previously during her arrest and torture and threatening further rape should she not end her human rights work on social media and with international mechanisms. Following the responses from @godkingcountry on Twitter, a second account (@turkialmajed7) began sending additional threatening messages to Ms. Al-Saegh on Instagram’s direct messenger service, which was sent to a third party who was told to forward the messages to Ms. Al-Saegh. The messages claimed responsibility in the death of Ms. Al-Saegh’s neighbor and threatened Ms. Al-Saegh that she would share his same fate. The messages also explicitly noted to “inform Ebtesam” that they would publish videos taken of her while in security custody in May 2017 when security officers filmed her in various states of undress during her interrogation, sexual assault, and torture.

9. Mr. Nabeel Rajab, of the Bahrain Center for Human Rights, was mentioned in the 2017 report of the Secretary-General (see A/HRC/36/31, para. 23 and Annex, para. 6). On 21 June 2016, the Spokesperson of the High Commissioner for Human Rights expressed deep concern that Mr. Rajab was arrested on 13 June 2016 for “spreading false news and rumours about the internal situation in a bid to discredit Bahrain.” He had been subject to a travel ban since at least January 2015. The High Commissioner for Human Rights expressed concern that these and subsequent actions against Mr. Rajab were connected to his engagement with the Human Rights Council. He was reportedly denied medical treatment by prison administrations while he awaited the results of his appeal trial in ill-health until a 5 June 2018 hearing which decided on an additional five-year sentence. He is now expected to pursue a final appeal before Bahrain’s Court of Cassation. On 25 June 2018 the Government stated that freedom of movement in Bahrain is guaranteed by law, and that Mr. Nabeel Rajab was not subject to reprisals for his cooperation with the United Nations, but that he is responsible for criminal offenses. Regarding the claims that Mr Rajab has not received medical care during his prison sentence, the Government stated that the Kingdom ensures and guarantees the safety and health of all citizens.

10. On 19 December 2017, three special procedures mandate holders expressed concern that Ms. Nedal Al-Salman, of the Bahrain Center for Human Rights, was prevented from leaving Bahrain multiple times in 2017 due to travel bans, including while on her way to speak at meetings related to the Human Rights Council (BHR 13/2017). On 19 September 2017 Ms. Al-Salman was summoned and charged by the Public Prosecution of Bahrain for “illegal gatherings” under charges stemming from the Anti-Terrorism Law, and placed under a formal travel ban. In August 2016, Ms. Al-Salman was prevented from travelling to Geneva to participate in meetings during the 33rd session of the Human Rights Council, and was the subject of an allegation letter on 25 November 2016 by three special procedures mandate holders (BHR 7/2016). At the time of writing the Government had not responded to the special procedures’ communications of 25 November 2016 or 19 December 2017.
11. On 25 June 2018 the Government responded to the letter of the Assistant Secretary-General and stated that Ms. Al-Salman was banned from travel in 2016 according to the procedure of investigations of the General Prosecutor, and that the ban was lifted immediately once the investigations were over. On 30 August 2017, another travel ban was issued to her, due to an investigation relating to her participation and demonstration in a non-authorized march.

3. Burundi

12. The cases of Mr. Armel Niyongere, Mr. Dieudonné Bashirahishize, Mr. Vital Nshimirimana, and Mr. Lambert Nigarura were included in the 2017 report of the Secretary-General (see A/HRC/36/31, para. 24 and Annex, paras. 11-15). The four lawyers had contributed to an alternative report submitted to the Committee against Torture for the consideration of the special report of Burundi, and Mr. Niyongere, Mr. Bashirahishize, and Mr. Nigarura had attended the interactive dialogue between Burundi and the Committee on behalf of the civil society organisations they represented. On 29 July 2016, during the second day of the dialogue between the Committee and the Government, the Government suspended its participation at the session and the delegation was absent. The Committee was immediately informed of a letter from the Attorney General of Bujumbura, dated 29 July 2016, requesting that the Bujumbura Bar Association disbar the four lawyers.

13. On 16 January 2017, the Bujumbura Court of Appeal disbarred Mr. Niyongere, Mr. Dieudonné Bashirahishize and Mr. l Nshimirimana, and suspended Mr. Nigarura for a period of one year and denied him participation in the Conseil du l’Ordre des Avocats for a period of five years. However the Court decision has not been communicated to the victims, thus denying them a right of appeal and without any further recourse or remedy. The Committee noted in a letter of 27 February 2017 that it considers the verdict of the court as an act of reprisal for the individuals’ engagement with the Committee and the United Nations human rights system. At the time of writing no response had been received from the Government.

4. China

14. The 2017 report of the Secretary-General (see A/HRC/36/31, Annex paras. 22-24) referred to the disappearance of Mr. Jiang Tianyong, a prominent human rights lawyer who had met with Mr. Philip Alston, Special Rapporteur on extreme poverty and human rights during his visit to China in August 2016. On 2 December 2016, four special procedures mandate holders raised concerns regarding actions taken against Mr. Jiang, including that his disappearance may have occurred, at least in part, in reprisal for his cooperation with the Special Rapporteur (A/HRC/34/75, CHN 13/2016).

15. On 6 September 2017 four special procedures mandate holders called on the Government to immediately release Mr. Jiang, who was on trial for inciting subversion of the State’s power and expressed concerns over a lack of fair trial standards. They expressed concern that he had been detained and under surveillance at an unknown location for more than nine months, without access to his family or a lawyer of his own choosing, and that he may have been subjected to torture and ill-treatment. The special procedures mandate holders stated that “Mr. Jiang’s ‘crime’ apparently included communications with foreign entities, which potentially include the United Nations human rights mechanisms, giving interviews to foreign media, and receiving training on the Western constitutional system, all of which have been carried out in the course of his work as a lawyer.”

16. Mr. Jiang was found guilty of inciting subversion of the State’s power on 21 November 2017 by the Changsha Intermediate People’s Court and sentenced to two years jail. On 23 November 2017, four special procedures mandate holders condemned the verdict and appealed to the Government to unconditionally release Mr. Jiang, noting that “Mr. Jiang’s trial clearly fell short of international standards and his conviction represents an unfair and arbitrary punishment of a human rights lawyer and defender, whose only
crime was to exercise his rights to free speech and to defend human rights."
They had previously expressed concern that his confession may have been coerced by the use of torture. On 23 March 2018, five special procedures mandate holders issued another statement regarding Mr. Jiang’s deteriorating health conditions while in detention and called on the authorities to give him urgent medical attention. The Government in its response to the special procedures’ communications of 2 December 2016 (CHN 13/2016) and 28 December 2016 (CHN 15/2016) respectively stated that Mr. Jiang had been charged with illegal possession of classified State documents with the intention of illegally transmitting State secrets abroad. It further noted that he has also received long-term funding and support from abroad and has identified himself as a “citizen agent,” interfering in several sensitive cases. The Government noted that he fabricated and disseminated rumours online, incited petitioners of the Government and the family members of persons involved in the cases to oppose State authorities, interfered with the administration of justice, and disturbed public order. The Government stated that Mr. Jiang has admitted to committing offences. The Government did not address the allegations of reprisals.

5. **Egypt**

17. It was reported in the 2017 report of the Secretary-General that on 3 May 2017, four special procedures mandate holders expressed concerns about the abduction, detention, torture and ill-treatment of Dr. Ahmed Shawky Abdelsattar Mohamed Amasha (see A/HRC/36/31, para. 39), reportedly in retaliation for his human rights work documenting cases of enforced disappearances for the special procedures (A/HRC/36/25, EGY 5/2017). On 10 March 2017, Dr. Amasha was allegedly abducted by police officers in Cairo, and no information was given about his whereabouts until 1 April 2017. He was charged on 13 April 2017 with “belonging to a banned group” under the Anti-Terrorism Law of Egypt and transferred to the Tora prison of Cairo. It was alleged that following his abduction on 10 March 2017, he was secretly detained at the Central Police station of Abbasiya in the Cairo Governorate and subjected to torture and ill-treatment. On 27 April 2017, his detention was prolonged. There are serious concerns that the acts committed against Dr. Amasha constitute acts of reprisals against him for documenting cases of enforced disappearances for the special procedures (see A/HRC/39/31, para. 39).

18. During its eightieth session in November 2017, the Working Group on Arbitrary Detention rendered its opinion that the detention of Mr. Amasha and other individuals was arbitrary, and requested the Government of Egypt to ensure his and others’ immediate release and to take steps to remedy their situation, including, by according them an enforceable right to compensation and other reparations. The Working Group also referred the case to the Coordinating Committee of the Special Procedures and the Assistant Secretary-General for Human Rights (see A/HRC/WGAD/2017/78, paras. 89-93).

19. The 2017 report of the Secretary-General addressed allegations of reprisals against civil society members in the form of asset freezes (see A/HRC/32/52/Add.1, para. 662 and A/HRC/36/31, para. 30). Staff members of the Cairo Institute for Human Rights Studies (CIHRS) and members of their families are alleged to have been targeted for their cooperation with United Nations mechanisms and their meetings with United Nations representatives, and are being subject to asset freezes. Mr. Mohamed Zaree, who has been banned from travelling outside Egypt in relation to this legislation (case 173/2011), was interrogated on 24 May 2017 by a judge as part of the ongoing prosecution of the foreign funding case, and has reportedly been accused of submitting information to the United Nations. He had also been accused of intending to harm Egypt through his role in preparing for the universal periodic review in 2014. Reportedly, Mr. Zaree was questioned for allegedly receiving foreign funds for an unregistered entity (CIHRS) and using them for unlawful activities with the intent of harming national security and interests. In May 2017 the judge pressed three charges, including two felonies, and set his bail at 30,000 Egyptian pounds. Mr. Bahey El-Din Hassan and his family have been subject to asset freezes, and most recently to death threats in relation to a memo sent by seven Egyptian civil society members.

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organizations to the United Nations Secretary-General regarding the presidential elections. These death threats were reportedly made on television on 21 March 2018 and, prior, on 25 May 2017.

20. On 1 June 2017, the High Commissioner for Human Rights addressed legislation adopted on 24 May 2017 (Law 70 of 2017 for Regulating the Work of Associations and Other Institutions Working in the Field of Civil Work), noting that the work of non-governmental organisations has been severely hampered already through asset freezes, travel bans, smear campaigns and prosecutions, and he expressed serious concern that the new legislation imposes severe restrictions on civil society and impinges on the exercise of the rights to freedom of expression and freedom of association. This was addressed previously on 23 November 2016 by three special procedures (A/HRC/34/75, EGY 14/2016). The Assistant Secretary-General for Human Rights sent a letter to the Government on 28 April 2017 where he addressed concerns about some provisions under the then draft law that would undermine civil society’s ability to engage freely with the United Nations, including provisions that would require them to seek Government permission before working with international organizations or experts, and that would defer administration of such international engagement to the Government.

21. On 31 July the Government provided an update. Regarding the case of Mr. Amasha, the Government noted that the accused is in pre-trial detention based on case number 316 of 2017 on charges of joining a group established contrary to law, calling for demonstrations without authorization, incitement to violence and other charges. He was recommended to undergo medical treatment and to follow up with the medical consultant in the prison’s clinic.

22. Regarding the case of the Cairo Institute for Human Rights Studies and its staff members, the Government noted that Decision number 325 of 2011 assigned a Judge to investigate the legal violations of foreign funding received by associations and non-governmental organizations operating in Egypt in violation of the provisions of the Law on Associations and NGOs, including this organization, its founder, Mr. Hassan and its director, Mr. Zaree. The Judge requested that the relevant individuals be prohibited from making use of their real estate as well as movable and liquid assets in accordance with the provisions of Article 208 of the Criminal Procedure Code, to ensure that the court’s decision is complied, in case the court decides to impose fines or order compensation for the charges attributed to them, which are punishable by the Penal Code and Law No. 84 of 2002 on associations and civil institutions. The Government noted that the Cairo Institute for Human Rights Studies is not registered with the Ministry of Social Solidarity, and that financial transfers from abroad were received illegally in violation of the provisions of Law No. 84 of 2002, which governs the work of associations and civil institutions. Regarding the allegations that Mr. Hassan and his family were subjected to threats, the Government noted that they could submit a communication to the Public Prosecutor’s Office, since such a threat, if it has occurred, is unacceptable in breach of the law.

6. India

23. In the 2017 report of the Secretary-General, intimidation and reprisals against Mr. Khurram Parvez, Chairperson of the Asian Federation Against Involuntary Disappearances and Program Coordinator of the Central Jammu and Kashmir Coalition of Civil Society (JKCCS), were reported in relation to his cooperation with the Human Rights Council, the Working Group on Enforced and Involuntary Disappearances and the universal periodic review. These reprisals took the form of a travel ban and arbitrary arrest and detention, reportedly because Mr. Parvez was fomenting an “anti-India narrative,” propagating separatism, and inciting others to violence. Reprisals were apparently taken against him for documenting and sharing information with the United Nations on human rights violations in Jammu and Kashmir, including on behalf of victims. At the time of his preventive detention of 76 days in 2016, he was accused in four criminal cases, which were subsequently dropped by the Jammu and Kashmir High Court who held that he had been

detained arbitrarily. However, the police have still filed “First Information Reports,” before a court in Srinagar for three cases, for which he is awaiting hearings.

24. Mr. Parvez was a source of information collected from June 2016 to April 2018 for an OHCHR report published in June 2018 on the human rights situation in the State of Jammu and Kashmir6 and has reportedly suffered reprisals for his assistance. Defaming content against the JKCCS and Mr. Parvez is reportedly being circulated by a group that claims to have ISIS affiliation. The group has publicly incited death threats against Mr. Parvez and his family, and used slanderous language against the work of the JKCCS.

7. Iran (Islamic Republic of)

25. The case of Ms. Raheleh Rahemipor was referred to in the 2017 report of the Secretary-General (see A/HRC/36/31, para 37 and Annex, paras. 41-42. On 16 May 2018, four special procedures mandate holders raised concerns over allegations of reprisals in the form of continuous judicial harassment for her efforts in seeking the truth about the fate and whereabouts of her brother and his infant daughter (IRN 9/2018). Ms. Rahemipor is a 65 year-old human rights defender, the sister of Mr. Hossein Rahemipor and the aunt to his infant daughter, whose disappearances have been registered with the Working Group on Enforced and Involuntary Disappearances since June 2016.

26. In February 2017, Ms. Rahemipor was sentenced by the Branch 15 of the Revolutionary Court in Tehran to a year in prison “for spreading propaganda against the system.” In September 2017, she was arrested while her first case was still pending in the court of appeal. During her interrogation, she was allegedly pressured to withdraw the complaints that stand before the Working Group and in return the prosecution against her, would be stopped, which she refused. She was released on bail after being held in detention for one month. Similar concerns were raised in previous communications sent by the special procedures on 5 August 2016 (IRN 23/2016), on 22 November 2016 (IRN 29/2016), on 26 January 2017 (IRN 3/2017) and on 18 September 2017 (IRN 27/2017). A reference to her case was included in the February 2018 report of the Secretary-General on the situation of human rights in Iran (see A/HRC/37/24, para.47). A response by the Government was received on 27 October 2017 but it did not address the allegation that Ms. Rahemipor is being judicially harassed as a form of reprisal because she registered the disappearance of her brother and niece with the Working Group on Enforced and Involuntary Disappearances.

27. On 5 May 2018, it was further reported that Ms. Rahemipor was tried by the Branch 28 of Tehran Revolutionary Court on the same charge as in February 2017, of “spreading propaganda against the system” for informing the Working Group about the cases of her relatives and for participating in peaceful protests with other activists, where she held a poster reading “You killed my brother. What did you do with his child?” During the court session, the judge humiliated and verbally abused her for having communicated with organizations outside Iran including United Nations bodies. The judge said that the authorities made a mistake by releasing her on bail in the first case against her, and that she should have been kept in prison. While she is awaiting the outcome of this new trial, her other case in the appeal court is still pending.

8. Iraq

28. In the 2016 report of the Secretary-General (see A/HRC/33/19, para. 24), it was noted that on 13 April 2016, three special procedures mandate holders raised concerns over allegations of reprisals against Mr. Imad Amara and Mr. Faisal al-Tamimi, of Al Wissam Humanitarian Assembly, an NGO that documents cases of enforced disappearances in Iraq and submits them to the United Nations human rights mechanisms (see A/HRC/33/32, IRQ 1/2016). On 6 March 2016, Iraqi military forces stopped and searched Mr. Amara and Mr. Al-Tamimi’s car while the two men were on their way to meet families of disappeared persons. Both men were informed that a warrant had been issued for their arrest, before being handcuffed, blindfolded and taken to an unknown location. Mr. Amara and Mr. A-
Tamimi were severely beaten, insulted and threatened while being interrogated about their work for around two hours, before being released. The special procedures also raised concerns over reports that other employees of Al Wissam had previously been subjected to intimidation and reprisals relating to the submission of cases to the Committee on Enforced Disappearances, and some had left the country out of fear for their security.

29. On 10 April 2018, three special procedures mandate holders raised allegations of death threats and attempted killing against Mr. Al Tamimi and Mr. Al Roumy in what appears to be direct retaliation for their legitimate human rights work against enforced disappearances in Iraq and for urging the State to join the International Criminal Court (IRQ 2/2018). While recognising the independent judicial character of the International Criminal Court, the Court is regarded as a related organization in the United Nations System. The men were threatened after attending a preparation meeting for a conference aimed at calling on Iraq to join the Court, following which three cars stopped next to them and one of the men inside made the following threat “Iyad and Faisal, either your life or the conference.” On 5 February 2018, two days after the conference, both individuals were approached by a car near the Sheikh Maruf Square in Baghdad. One of the persons in the car opened fire on them and shot five times. Mr. Al Tamimi was injured and was brought to the Medical City Hospital in Baghdad, where he received medical treatment. On 4 March 2018, both Mr. Al Roumy and Mr. Al Tamimi received threats through Facebook messages. At the time of writing no response has been received.

9. Japan

30. In the 2016 report of the Secretary-General (see A/HRC/33/19, para. 25), reference was made to an urgent appeal to the Government by three special procedures mandate holders on 30 May 2016 alleging the monitoring and surveillance of Ms. Kazuko Ito, of non-governmental organisation Human Rights Now. Ms Ito had facilitated and organised meetings for Mr. David Kaye, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, with representatives of civil society during his visit to Japan in April 2016 (see A/HRC/34/52/Add. 1, paras. 399 and 400; JPN 4/2016). These allegations stemmed from a magazine that reported information obtained through a leaked memo allegedly produced by Japanese intelligence agency members ordering the surveillance of Ms. Ito’s movements ahead of the Special Rapporteur’s visit to Japan. They expressed concern that the allegations of surveillance of Ms. Ito could be an act of intimidation and reprisal for her cooperation with the United Nations. Human Rights Now has been cooperating with the United Nations mechanisms since 2013, including the universal periodic review and the Commission on the Status of Women (CSW).

31. The 2017 report noted the Government’s response of 16 June 2016 that, the allegations were investigated by the Public Security Intelligence Agency and the National Police Agency, who each confirmed that they “had neither received such instructions nor conducted such research activities as were reported by the media” (see A/HRC/36/31, Annex, para. 5).

32. In May 2018 it was reported that Ms. Ito and Human Rights Now continue to be targeted due to their cooperation with the United Nations. On 9 March 2018, during a videotaped session of the House of Representatives Committee on Cabinet, a member of the Diet and Liberal Democratic Party addressed government representatives where she characterized Human Rights Now as “(a)n organization that makes use of the United Nations and other [international forums] to spread around the world the fabricated information that the “comfort women” of the Japanese army were sex slaves, and does that with lots of enthusiasm; that’s what Human Rights Now is.” Human Rights Now had organised a side event on “comfort women” at the Commission on the Status of Women. The Diet member also reportedly requested the Diet to “control NGOs’ international forms of speech” in their collaborative activities with the United Nations and said, “it is obvious that there are people trying to use propaganda to discredit Japan,” which was reiterated on social media. Human Rights Now sent two letters to the Chairman of the House of Representatives Committee on Cabinet and to the Liberal Democratic Party on 27 March 2018 regarding these allegations. The Government of Japan responded on 15 August 2018 that “it asked both the Liberal Democratic Party and the Secretariat of the House of Representatives about the letters mentioned. The Liberal Democratic Party replied that it
cannot confirm if it received the letter because it has no information on which department of the Party the letter was addressed to. The Secretariat of the House of Representatives replied that the chairman has not responded to the letter from that organization.

10. Mexico

33. As reported in the 2017 report of the Secretary-General (see A/HRC/36/31, para. 41 and Annex 47-50), on 4 August 2015 the Committee against Torture, in *Ramirez et al. v. Mexico*, found a violation of articles 1, 2 (1), 12-15 and 22 of the Convention against Torture and Other Cruel or Degrading Treatment or Punishment (CAT/C/55/D/500/2012 and communication No. 500/2012). On 19 May 2016 and 19 September 2016, the complainants submitted that they had suffered acts of intimidation and harassment by the authorities as a result of the Committee’s decision. This allegedly took the form of a campaign aimed at stigmatizing the complainants as criminals and re-victimizing them. On 19 September 2016, the CAT requested protective measures.

34. Given the absence of a response by the Government to the allegations of reprisals of 19 September 2016, the Chair of the Committee met with the Permanent Representative of Mexico in Geneva on 14 May 2018 to discuss measures taken by the authorities to implement the Committee’s decision. The Chair enquired about the outcomes, if any, of the investigation into the acts of torture, punishment of the perpetrators, and protection of the complainants from reprisals reported to the Committee in September 2016. The Chair further inquired whether all four complainants in the case have been released and if they received the remedies requested by the Committee.

35. According to an update received on 25 May 2018, two of the four victims remain in detention and are held in extremely precarious conditions with no regard to their condition as victims of torture and were transferred, without prior notice, to prisons with even harsher conditions. One victim has been diagnosed with a medical condition and is in need of treatment, which he has not received. With regard to the two victims that were released, their families continue to face harassment and stigmatization, to the extent that they were forced to change residences.

36. During the meeting with the Chair of the Committee Against Torture on 14 May 2018, the Government committed to provide updated information from the national authorities and to submit its response to the Committee on the measures taken to implement the decision on the case by 14 July 2018. The Committee will meet with the Government during the sixty-fifth session of the Committee from 12 November to 7 December 2018.

11. Morocco

37. In the 2017 report of the Secretary-General concerns were raised about the prolongation of the detention of Mr. Abdul Rahman Alhaj Ali, which the Committee Against Torture deemed likely to be related to the complaint to CAT on his behalf on 22 May 2015 (see A/HRC/36/31 para. 42 and Annex paras. 51-52). On 3 August 2016, the Committee against Torture, in *Abdul Rahman Alhaj Ali v. Morocco*, found that the extradition of Mr. Alhaj Ali would constitute a breach of Article 3 of the Convention against Torture and Other Cruel or Degrading Treatment or Punishment (CAT/C/58/D/682/2015 and communication No. 682/2015). Mr. Alhaj Ali, a Syrian national registered with the United Nations High Commissioner for Refugees and seeking asylum in Morocco, was detained in October 2014 in Morocco on an extradition request by Saudi Arabia for “breach of trust” based on previous business relations in Riyadh. The Committee urged the Government to release him or to try him if charges are brought against him in Morocco, as he had been in extradition detention for almost two years, far in excess of the sixty-day pretrial period provided for in Morocco.

38. According to updated information received by the Committee, during his detention in 2017 Mr. Alhaj Ali was twice summoned to the Prosecutor’s office, where he was reportedly notified that the extension of his detention resulted from action on behalf before the CAT. On 5 October 2017, the Committee requested the Government to provide further information, within 2 months, on the measures taken to implement the Committee’s decision in this case. On 28 November 2017, the Committee decided to request a meeting
with a representative of Morocco during its sixty-third Session, 23 April to 18 May 2018. On 17 May 2018, the Committee’s Rapporteur on Reprisals, together with the rapporteur for follow-up to decisions on individual complaints under Art. 22, met with a representative of the Permanent Mission of the Kingdom of Morocco in Geneva to discuss, inter alia, the implementation of the Committee’s decision in the present case (CAT/C/62/3 of 20 February 2018 and CAT/C/63/3).

39. On 6 June 2018, the Government confirmed that the complainant was released from detention on 16 May 2018, after more than three-and-a-half years of arbitrary detention. He is reported to be awaiting resettlement to the Netherlands where his family resides.

40. In the 2016 report of the Secretary-General (see A/HRC/33/19, para. 26), it was reported that on 22 March 2016 three special procedures mandate holders raised concerns with the Moroccan authorities over allegations of reprisals against Ms. El Ghalia Djimi, an employee of the Ministry of Agriculture and Maritime Fishing of Morocco and member of the l’association Sahraouie des victimes des graves violations des droits de l’homme commises par l’état du Maroc, l’ASVDH (A/HRC/33/32, MAR 1/2016). In the 2017 report of the Secretary-General (see A/HRC/36/31, Annex para. 6) it was reported that Mr. Michel Forst, the Special Rapporteur on the situation of human rights defenders, in his report on observations on communications, reiterated concerns that Ms. Djimi did not receive authorization to leave the country to travel to the thirty-first session of the Human Rights Council in Geneva (see A/HRC/34/52/Add.1, para 722). The mandate holder further expressed concern that the case of Ms. El Ghalia Djimi is not isolated, but is rather representative of a larger trend of reprisals, harassment and intimidation of human rights defenders. Information was subsequently received that Ms. El Ghalia Djimi was able to attend the thirty-second session of the Human Rights Council.

41. It was further reported that after the participation of Ms. Djimi in a session of the Working Group on Enforced and Involuntary Disappearances on 30 April 2018 in Geneva, she was subject to reprisals in the form of online defamation on a Moroccan website “Sahrawikileaks.com.” It was also reported that Ms. Mina Baali, also a member of the association, participated in the Human Rights Council at the June 2017 session, and believes because of this, she has become subject to reprisals at her place of employment.

12. Myanmar

42. The case of Mr. Khaing Myo Htun (also known as Mr. Khine Myo Htun), a human rights defender who had reported on forced labour cases in Rakhine State, was addressed by four special procedures mandate holders (A/HRC/34/75, MMR 2/2016, MMR 7/2017) and included in the September 2017 report of the Secretary-General (see A/HRC/36/31, para. 43 and Annex, paras. 53-55). On 8 September 2017 the Government responded to the special procedures communication (MMR 7/2017) pertaining to the charges related to defamation and incitement. It is alleged that the arrest and detention of Mr. Khaing Myo Htun was linked to his cooperation with Ms. Yanghee Lee, the Special Rapporteur on the situation of human rights in Myanmar, with whom he met during her visit in June 2016 shortly before his detention. The charges against him relate to a written statement issued on 24 April 2016 by the Arakan Liberation Party, of which Mr. Khaing Myo Htun is a member, claiming that the Myanmar Army had engaged in severe human rights violations, including forced labour, forced land relocation, hostage taking, and arbitrary beatings and ill-treatment of combatants.

43. The ILO Governing Body noted in its report of 7 February 2018 that it remained deeply concerned that on 12 October 2017, Mr. Khaing Myo Htun, was convicted of defamation and incitement under section 505 of the Penal Code and sentenced to 18 months in jail, following eight months in detention during his trial. Ms. Lee, in her March 2018 report to the Human Rights Council, noted that he was convicted of disturbing public tranquillity and incitement under Sections 505(b) and (c) in October 2017 for allegations he made about forced labour the Myanmar security forces. Subsequently, after 19 months Mr. Htun was released on 22 February 2018 (see A/HRC/37/70, para. 15).
13. Pakistan

44. On 26 July 2017, four special procedures mandate holders sent an urgent appeal to the Government alleging threats and acts of intimidation against Mr. Adil Ghaffar, a lawyer and human rights defender who has brought to the attention of the United Nations human rights mechanisms, cases of extrajudicial killings, torture, and enforced disappearances allegedly committed by State agents against members of the political party and movement Muttahida Quami Movement, including persons belonging to the Mohajirs community (PAK 5/2017).

45. According to the information received, Mr. Ghaffar’s home has been monitored and he has received direct death threats from the twitter account @PakRangersFreePress. This account reportedly belongs to Pakistani Paramilitary Rangers, who have been accused of serious human rights violations against MQM workers and ethnic Mohajirs.

46. The first threat received was on 1 July 2017, from a tweet referring to Mr. Ghaffar as a “traitor of Pakistan.” It stated that if someone needs his residential address and details about his family they should contact the sender. On 14 July 2017, Mr. Ghaffar received another message from the social media account @PakRangersFreePress, which asked “what punishment is fit for the traitor.” The special procedures expressed serious concern that these reported threats and acts of intimidation appear to be reprisals against Mr. Ghaffar at least in part due to his engagement with the United Nations human rights mechanisms. At the time of writing there had been no response to the urgent appeal.

14. Rwanda

47. In the 2017 report of the Secretary-General it was noted that two special procedures mandate holders sent an urgent appeal to the Government (RWA 1/2017) on 18 January 2017, in response to allegations of kidnapping and intense daily interrogation against journalist and human rights defender Mr. Robert Mugabe (see A/HRC/36/31, para. 48 and Annex, paras. 62 and 65) for his cooperation with the universal periodic review and the Human Rights Council (A/HRC/35/44).

48. On 30 May 2018, Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, wrote to the Government in response to allegations that while Mr. Mugabe was travelling to Geneva to attend the 2017 United Nations Internet Governance Forum on 15 December 2017, he was stopped by the authorities at the airport in Kigali and barred from leaving the country (RWA 1/2018). He was reportedly detained and questioned for several hours on accusations of “working against the state, treason, and spreading rumours to undermine the state…” based upon his critical reporting published online. The police searched his bags and phone and questioned him about his activities related to the Human Rights Council. He was released after four hours of questioning to return home. On 16 December 2017 he was reportedly summoned again to the police, and criminal investigations from January 2017 were reopened against him, which could lead to formal charges. If convicted for treason, Mr. Mugabe could face 25 years in prison. At the time of writing the Government had not responded to the communications by the special procedures of 18 January 2017 and 30 May 2018.

15. Saudi Arabia

49. It was reported that on 16 September 2017, Mr. Issa Al-Hamid, of the Saudi Civil and Political Rights Association (ACPRA) was arrested, following previous sentences imposed by the Saudi authorities during a crackdown on human rights defenders. The 2017 report of the Secretary-General (see A/HRC/36/31, para. 49 and Annex, paras. 66-67) noted that three special procedures mandate holders took action on the case of Mr. Al-Hamid, who was sentenced to 11 years in prison followed by an 11-year travel ban and a fine of 100,000 Riyals (SAU 8/2016). He was originally sentenced to nine years by the Specialized Criminal Court for having, inter alia “communicated with international organizations in order to harm the image of the State,” a charge that according to special procedures appear to also constitute acts of reprisal for cooperation with the United Nations. His sentence was increased by two years on 1 December 2016 by the Court of Appeal.
50. On 13 December 2016, three special procedures mandate holders raised concerns over allegations of reprisals against Mr. Al-Hamid for cooperating with the United Nations (A/HRC/35/44, SAU 8/2016). In its reply dated 13 February 2017, the Government did not address the case of Mr. Al-Hamid, as a response concerning his case had been provided already in relation to a previous communication (SAU 4/2016) in which the Government informed that he was sentenced by a lower court to nine years of imprisonment and a ban to travel outside the Kingdom for a similar period. The Government did not address the allegations relating to reprisals.

16. **Thailand**

51. The 2017 report of the Secretary-General (see A/HRC/36/31, para. 57 and Annex, paras. 78-79) noted that, in June 2016, grant recipients of the United Nations Voluntary Fund for Victims of Torture, Ms. Porpen Khongkachonkiet and Mr. Somchai Homla-or of Cross-Cultural Foundation and Ms. Anchana Heemmina of Duay Jai Group, were subject to a legal complaint filed by the Royal Thai Army operating in the Southern Border Provinces for publishing a report in February 2016 entitled “Fifty-four cases of torture and ill-treatment in the Deep South documented in 2014-2015,” funded in part by the Voluntary Fund. They were consequently accused of publicizing false information on torture and ill-treatment committed by military officials. The spokesperson of the Royal Thai Army in the region issued a public statement on 11 February 2016 accusing the organization of bias and of using outdated information to seek funding.

52. It is reported that the Internal Security Operations Command (ISOC) Region 4 filed a lawsuit against them for defamation and publication of false information on the internet. On 1 July 2017, plainclothes men believed to be military personnel visited Ms. Hemmina and warned her not to post comments about human rights violations on social media. Further to advocacy efforts related to the allegations, in November 2017, the ISOC 4 withdrew the defamation charges against Ms. Porpen Khongkachonkiet, Mr. Somchai Homla-or, and Ms. Anchana Heemmina. The charges were dropped by the Pattani Provincial Prosecutor.

53. On 13 September 2017 four special procedures mandate holders noted that Ms. Angkhana Neelapaijit, Ms. Porpen Khongkachonkiet and Ms. Anchana Heemmina, among others, were also reportedly subject to an online smear campaign, accusing them of bias and misinformation, and associating their human rights advocacy with the promotion of insurgency and separatist movements (THA 6/2017). Ms. Angkhana Neelapaijit is a Commissioner of the National Human Rights Commission of Thailand. Beginning in October 2016, the online blog “Conditions in South Thailand” regularly published content discrediting the work of Ms. Khongkachonkiet and Ms. Heemmina. Death threats were also posted online against Ms. Khongkachonkiet.

54. It was reported that on 14 February 2018, a case was opened against Mr. Ismaael Teh, founder of the Patani Human Rights Organization Network and a field officer since 2013 for an investigation funded by the United Nations Voluntary Fund for Victims of Torture (see A/HRC/36/31, para. 57 and Annex, paras. 78-79). Mr. Teh is responsible for helping document 82 cases of allegations of torture that were submitted by civil society representatives to the Committee Against Torture. Military officials of the Internal Security Operations Command Region 4 (ISOC Region 4) via the Pattani Provincial Police reportedly accused Mr. Teh of defamation following a television interview in which he recounted his own personal experience of torture while in military custody in Pattani province, in 2006. In October 2016, the Supreme Administrative Court had ruled that Mr. Teh had been physically abused in military custody based on medical records, and ordered the Thai Royal Army to award him compensation. Mr. Teh’s interview was broadcast on a Thai PBS program on 5 February 2018, after which he was accused of defaming the 4th Army Region and ISOC Region 4.

17. **United Arab Emirates**

55. Mr. Ahmed Mansoor, advisor to the Gulf Centre for Human Rights and Human Rights Watch’s Middle East and North Africa Division, was mentioned in the 2017 report of the Secretary-General (see A/HRC/36/31, para. 60 and Annex, paras. 84-85) and was the
subject of actions by seven special procedures mandate holders (ARE 1/2017; ARE 7/2017). Mr. Mansoor is alleged to have suffered intimidation and reprisal for his collaboration with the Human Rights Council, the special procedures, the universal periodic review and the treaty bodies. Mr. Mansoor has experienced physical assaults, death threats, government surveillance, and since 2011, has been subject to a travel ban to prevent him engaging in person with United Nations human rights mechanisms. According to reports, he was detained on 20 March 2017 when security agents searched his home in Ajman, confiscated laptops and other equipment, and arrested him without a warrant. He was placed in custody in Al Wathba prison in ill-health and has been subject to ill-treatment and possibly torture. On 29 May 2018 Mr. Mansoor was sentenced to ten years prison before the State Security Chamber of the Federal Supreme Court, fined one million Dirhams (USD $272,294.00), and ordered to be put under surveillance for three years upon his release. The Government responded in writing to the allegations transmitted by the special procedures in April 2017, but did not address the allegations of reprisals.

56. On 4 October 2017, two special procedures mandate holders raised concern about the treatment of Mr. Mohamad Ismat Mohamad Shaker Az as retaliation of an opinion issued by the Working Group on Arbitrary Detention on his case (ARE 6/2017). Mr. Shaker Az was transferred to solitary confinement on 2 July 2017 for two months, beyond the 15-day limit recommended in international standards, allegedly as a measure of retaliation after the issuance of Opinion No. 21/2017 in which the Working Group found Mr. Shaker Az’s detention arbitrary. Furthermore, Mr. Shaker Az was told that the prosecutor would ask for an increased penalty, from 15 years to which he was sentenced in 2014, to life imprisonment. The Government responded in writing to the allegations transmitted by the special procedures in October 2017, citing its view that Mr. Shaker Az was not subjected to arbitrary detention, torture or solitary confinement.

57. Mr. Osama Al-Najjar was alleged to have been subject to reprisals after meeting with the Ms. Gabriela Knaul, Special Rapporteur on the independence of judges and lawyers during her visit to the United Arab Emirates in 2014. His case has been raised by five special procedures mandate holders (ARE 2/2015) and in previous reports of the Secretary-General in 2014, 2015 and 2016. According to information received, Mr. Al-Najjar, who was arrested, tortured and held incommunicado in March 2014, was then transferred to Al Wathba prison, to be released on 17 March 2017, following the completion of his three-year sentence. However, in March 2017 the Federal Supreme Court reportedly refused to release him and, requested by the Public Prosecution, transferred him to a counselling center (Munasaha) based on Article 40 of Federal Law No. (7) of 2014 on Combating Terrorism Offences. On 1 June 2017 the court extended his placement in this center by six months and on 13 December 2017 it was again renewed for another six months.

58. On 6 July 2018 the Government provided follow up information on multiple cases, noting that Mr. Al-Najjar is currently going therapy and treatment at a counselling centre called a Munasaha Centre which “consists of psychological, social and religious sessions to uproot terrorist and extremist ideologies” based on “concern that he might commit a terrorist offence after leaving the prison” and a “threat to public security.” The Government stated that Mr. Shaker Az is “currently serving his sentence of imprisonment at the Al Wathba penal institution, where he receives appropriate health care, and is permitted to communicate with his family in accordance with the regulations and procedures applicable to penal and correctional institutions.” Mr. Mansoor “was tried, convicted and sentenced to ten years’ imprisonment” and is serving his sentence at the Al Sadr penal institution with the right to an appeal. The Government did not address the allegations of reprisals.

18. Uzbekistan

59. The case of Ms. Elena Urlaeva, of the Human Rights Alliance of Uzbekistan, an independent labour monitor who documents the practice of forced labour in the cotton industry, was included in the 2017 report of the Secretary-General (see A/HRC/36/31, para. 61 Annex, para. 86-87). On 1 March 2017, Ms. Urlaeva was arrested in Tashkent and taken to a police station, the day before she was due to meet representatives of the ILO and the World Bank on 2 March 2017. She had filed a complaint with the International Finance
Corporation’s Compliance Advisor Ombudsman (CAO) regarding World Bank investments. At the police station, Ms. Urlaeva was insulted and mocked by police officers who told her that she needed psychiatric treatment. She was then forcibly transferred to a psychiatric facility in Tashkent. On 24 March 2017, Ms. Urlaeva was released after 24 days of psychiatric detention.

60. On 5 April 2017 four special procedures mandate holders raised concerns about these incidents, which they noted appear to be related to her cooperation with international organizations (UZB 1/2017). On 28 April 2017 the Government responded, stating that according to a 2006 ruling of the Miabad Interregional Civil Court in Tashkent, Ms. Urlaeva suffers from mental illness and is legally incompetent. On 27 October 2017 the Government further responded to the mention of this case in the 2017 report of the Secretary-General, reiterating that no illegal actions by law enforcement were taken against Ms. Urlaeva, and that the Government maintains a cooperative relationship with the ILO.

61. It has subsequently been alleged that police and other authorities in several regions arbitrarily detained, interfered with and obstructed the work of both Ms. Urlaeva and Ms. Malohat Eshonkulova, an independent journalist and human rights activist who also signed the complaint to the Ombudsman, because they openly monitor work based upon forced labor. On 12 September 2017, police in Yaipan, a district of the Fergana region, detained Ms. Urlaeva at the police station where they confiscated her notebook, three mobile phones, camera, and a recording device. When Ms. Eshonkulova came to the station to demand Ms. Urlaeva’s release, she was also detained. Both were released several hours later. Police in Buka detained Ms. Urlaeva again on 6 October 2017. On 15 October 2017, police in Pastdargam district, in the Samarkand region, detained Ms. Urlaeva and Ms. Eshonkulova for six hours. They were taken to the police station where they were interrogated and had their belongings confiscated, including notebooks, mobile phones, and camera flash card. In November 2017, is also alleged that police raided Ms. Eshonkulova’s home and confiscated several of her belongings in a nearly 11-hour search for her computer and cell phone.

19. **Venezuela (Bolivarian Republic of)**

62. The 2017 report of the Secretary-General contains information about alleged acts of intimidation and reprisals against Mr. Henrique Capriles, former governor of Miranda state (see A/HRC/36/31, paras. 29 and 88). In a press briefing on 19 May 2017, the spokesperson of the High Commissioner for Human Rights referred to the case of Mr. Henrique Capriles, who was scheduled to meet the High Commissioner in New York, on the same day, but was prevented from leaving Venezuela to do so. On 19 January 2018, the Assistant Secretary-General for Human Rights wrote to the Government about allegations of further reprisals against Mr. Capriles, expressing concern that subsequent attempts by him to renew his travel documents to participate in international events have been thwarted. On 11 April 2018 it was reported that Mr. Capriles was issued a passport to travel abroad to visit a sick relative.
Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)

Geneva, 23 – 27 May 2011
3.5 *India: National Human Rights Commission of India (NHRCI)*

**Recommendation:** The SCA recommends that the NHRCI be re-accredited a status.

The SCA notes:

1. **Composition and Pluralism**

The provisions in the Protection of Human Rights Act (Amendment) 2006 dealing with the composition of the Commission are unduly narrow and restrict the diversity and plurality of the board. The requirement for the appointment for the Chair to be a former Chief Justice of the Supreme Court severely restricts the potential pool of candidates. Similarly, the requirement that the majority of members are recruited from the senior judiciary further restricts diversity and plurality.

While the SCA understands that the justification for these restrictions is based on the NHRCIs quasi-judicial function, it notes that this is but one of 10 functions enumerated in section 12 of its enabling legislation. The SCA is of the view that determining the composition of the NHRCI’s senior membership in this way limits the capacity of the NHRCI to fulfil effectively all its mandated activities.

The SCA notes the presence of “deemed members” from the National Commissions addressing caste, women’s rights, minorities, and scheduled tribes on the full statutory commission. While this is a welcome initiative, there are concerns that they are not adequately involved in discussions on the focus, priorities and core business of the NHRC non-judicial functions.

The SCA notes that similar concerns were voiced by the Special Rapporteur on the situation of human rights defenders, who, at the conclusion of her official visit to India on January 21, 2011, made a statement regarding the restrictive nature of the appointments process to the board.

The SCA refers to Paris Principle B.1 and to General Observation 2.2 on “Selection and appointment of the governing body”.

2. **The appointment of the Secretary General and the Director of Investigations from Central Government**

At the time of the NHRCI’s re-accreditation in 2006, the SCA recommended that “consideration be given to strengthening the consultation process regarding the selection and appointment of the Secretary General and staff under section 11(1) of the enabling law of the Commission in order to strengthen the independence of the staff appointed.”

Section 11 of the founding legislation requires that the Central Government second to the NHRCI a civil servant with the rank of Secretary to take the role of Secretary
General of the Commission, and a police officer of the rank of Director General of Police or above to take the post of Director (Investigations). Email correspondence dated 30 November 2006, and re-submitted on 23 May 2011, further indicates that the posts of Joint Secretary, Chief Coordinator (Training), Director, Deputy Inspector General Police and Senior Superintendent Police are also seconded from the government.

The SCA is not satisfied that the NHRCI has sufficiently addressed the recommendation it made in 2006. The SCA recommends that the NHRCI advocate to amend the PHRA 2006 to remove the requirement that the Secretary General and Director of Investigations be seconded from the Government, and to provide for an open, merit-based selection process. The SCA also remains concerned about the practice of having police officers and former police officers involved in the investigation of human rights violations, particularly in circumstances where the alleged perpetrators are the police. This practice has adverse implications for the actual and perceived independence of the NHRCI.

The SCA refers to its General Observation 2.4 on “Staffing by secondment”.

3. The Relationship with Civil Society

The NHRCI highlights the existence of Core/Expert Groups as the means by which it complies with the Paris Principles requirement for pluralism and engagement with civil society and human rights defenders. The SCA notes however that information provided by civil society organisations, including those actually represented on the Core/Expert Groups, indicates that these mechanisms are not functioning effectively as a means of engagement and cooperation between the NHRCI and civil society defenders.

The SCA refers to Paris Principle C(g) and to General Observation 1.5 “Cooperation with other human rights institutions”

The Sub-Committee will again consider these issues at its first session in 2013.

The SCA also notes the following issues. These issues will not be considered in session 1, 2013, but rather at the NHRCI’s 2016 re-accreditation review.

4. Complaint handling function

The SCA notes that civil society groups allege that the NHRCI’s complaint handling functions suffer from extended delays and that the NHRCI does not adequately address human rights violations that have occurred. Their concerns were reiterated by the Special Rapporteur on the situation of human rights defenders
who, at the conclusion of her official visit to India in January 2011, stated: “(A)ll the
defenders that I met during the mission voiced their disappointment and mistrust
in the current functioning of (the NHRC). They have submitted complaints related
to human rights violations to the Commission, but reportedly their cases were
either hardly taken up, or the investigation, often after a significant period of delay,
concluded that no violations occurred. Their main concern lies in the fact that the
investigations into their cases [were] conducted by the police, which in many cases
are the perpetrators of the alleged violations.”

By contrast, the NHRCI has indicated that in recent years it has introduced
changes to its complaint handling process to address the increasing number of
complaints and delays in complaint handling.

On the information available, the SCA is unable to determine the veracity of the
allegations raised above, however it is clear that there is at least a perception that
there are significant delays, as well as ongoing concerns about the use of former
police to investigate complaints, including those against the police. The SCA
encourages the NHRCI to address these concerns.

5. Annual Report

The SCA notes that the most recent Annual Report available to it is for 2007-2008.
An Annual Report cannot be made public until it is tabled in Parliament by the
government, and this is not done until the government has prepared a response
for follow up to the recommendations made by the NHRC in its Annual Report.
The SCA acknowledges that it has been advised by the NHRC that Annual Reports
for 2008-2009 and 2009-2010 have been submitted to the government, but as the
government has not developed its responses to the recommendations in those
reports, it has not yet tabled the reports in Parliament.

The SCA notes that Annual Reports serve to highlight key developments in the
human rights situation in a country and provide a public account, and therefore
public scrutiny, of the effectiveness of an NHRI.

The SCA refers to General Observation 6.1 NHRI on “Annual Report”...

The SCA therefore encourages the NHRCI to seek such solutions as it considers
would appropriately allow it to report on a more timely basis. The SCA refers to
General Observation 1.6 “Recommendations by NHRIIs”
GLOBAL ALLIANCE OF NATIONAL INSTITUTIONS
FOR THE PROMOTION AND PROTECTION OF
HUMAN RIGHTS

Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)

Geneva, 14 – 18 November 2016
2.6. India: National Human Rights Commission (NHRC)

**Decision:** The SCA decides that further consideration of the re-accreditation application of the NHRCI will be deferred to its second session of 2017.

**The SCA notes with concern:**

1. **Composition and pluralism**

   In accordance with section 3(2) of the Act, the NHRCI shall consist of: a) a Chairperson who has been a Chief Justice of the Supreme Court; b) one member who has been a Judge of the Supreme Court; c) one member who has been Chief Justice of the High Court; d) two members amongst persons having knowledge of, or practical experience in, matters relating to human rights.

   The SCA reiterates its previous concerns from October 2006 and May 2011, and remains of the view that the requirement that the Chair be a former Chief Justice of the Supreme Court and the majority of members be recruited from the senior judiciary severely restricts the potential pool of candidates, particularly as it relates to the representation of women in the governing body of the NHRCI.

   The SCA acknowledges that the justification for these requirements is based on the NHRCI's quasi-judicial function. However, it notes that:

   - the quasi-judicial function is but one of the ten (10) functions enumerated in section 12 of the Act;
   - section 3(2) also provides for the appointment of two (2) members amongst persons having knowledge of, or practical experience in, matters relating to human rights, who are not required to be chosen from the judiciary; and
   - no women have been appointed to any of the positions on the governing body of the NHRCI since 2004.

   The SCA further acknowledges the NHRCI's position that the presence of "deemed members" from the National Commissions addressing caste, women's rights, minorities, scheduled tribes, and children's rights – two (2) of whom are women – on the statutory full commission contributes to the pluralism of the NHRCI. However, the SCA notes that the NHRCI reported that the member from the National Commission on scheduled castes rarely attends full statutory commission meetings and that the SCA has received information from civil society organizations indicating that the other deemed members similarly rarely attend meetings where decisions on the focus, priorities and core business of the NHRCI's non-judicial functions are made. Accordingly, the SCA remains of the view that this method of ensuring pluralism is insufficient.
Finally, the SCA notes that the NHRCI reports that, of its 468 staff, 92 (20%) are women. The SCA is accordingly of the view that the NHRC has not taken the necessary steps to ensure pluralism of its institution through its staff complement.

The SCA notes there are diverse models for ensuring the requirement of pluralism in the composition of the NHRI as set out in the Paris Principles. For example:

a) Members of the decision-making body represent different segments of society as referred to in the Paris Principles. Criteria for membership of the decision-making body should be legislatively established, be made publicly available and subject to consultation with all stakeholders, including civil society. Criteria that may unduly narrow and restrict the diversity and plurality of the composition of the NHRI’s membership should be avoided;

b) Pluralism through the appointment procedures of the governing body of the NHRI, for example, where diverse societal groups suggest or recommend candidates;

c) Pluralism through procedures enabling effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums; or

d) Pluralism through staff that are representative of the diverse segments of society. This is particularly relevant for single member Institutions, such as an Ombudsperson.

The SCA encourages NHRC to ensure pluralism, including appropriate gender balance, within the NHRI.

The SCA refers to Paris Principles B.1 and B.2 and to General Observations 1.7 on ‘Ensuring pluralism of the NHRI’ and 2.4 on ‘Recruitment and retention of NHRI staff’.

2. Selection and appointment

In accordance with section 4 of the Act, the Chairperson and other members of the NHRCI are appointed by the President based on the recommendation of a Committee consisting of the Prime Minister, the Speaker of the House of the People, the Minister in-charge of the Ministry of Human Affairs in the government of India, the Leader of the Opposition in the House of the People, the Leader of the Opposition in the Council of States, and the Deputy Chairperson of the Council of States.

The SCA is of the view that the selection process currently enshrined in the Act is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which all parties assess the merit of eligible applicants; and
- specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.

It is critically important to ensure the formalization of a clear, transparent and participatory selection and appointment process for an NHRI’s decision-making body in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

The SCA encourages the NHRCI to advocate for the formalization and application of a process that includes requirements to:

   a) Publicize vacancies broadly;
   b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
   c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
   d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
   e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

3. The appointment of the Secretary General and the Director of Investigations from Central Government

Section 11 of the Act requires that the Central Government second to the NHRCI a civil servant with the rank of Secretary to take the role of Secretary General of the Commission, and a police officer of the rank of Director General of Police or above to take the post of Director (Investigations).

In October 2006 and May 2011, the SCA emphasized that a fundamental requirement of the Paris Principles is that an NHRI is, and is perceived to be, able to operate independent of government interference. Where an NHRI’s staff members are seconded from the public service, and in particular where this includes those at the highest level in the NHRI, it brings into question its capacity to function independently.

Also in May 2011, the SCA expressed its concern about the practice of having police officers and former police officers involved in the investigation of human rights
violations, particularly in circumstances where the alleged perpetrators are the police. It noted that this practice has adverse implications for the actual and perceived independence of the NHRCI.

The SCA acknowledges the NHRCI’s position that:

- As concerns the Secretary General, the fact that this individual is seconded from the senior levels in the civil service means that they have wide knowledge of government functioning and standing among various levels of government. However, the SCA notes that, in the past five (5) years, the position has been held by a variety of people and has been vacant for a substantial period of time.

- As concerns the Director General (Investigation) and the practice of using former police officers to investigate complaints, these individuals know how the system works and, as a result, are unable to unearth truth in cases where others could not.

However, for victims of abuses by police, there is a real or perceived conflict of interest, and this may impact the ability of such persons to access human rights justice.

Notwithstanding the justifications provided, the SCA remains concerned that these practices have a real impact on the perceived independence of the NHRCI. The SCA therefore recommends that:

- the Secretary General be recruited through an open, merit-based selection process; and

- the NHRCI consider policy options to address the perceived independence issue created by having former police officers investigate complaints, for example, by providing for civilian oversight of these activities.

The SCA refers to Paris Principle B.2 and to its General Observation 2.5 on “Staffing by secondment”.

4. **Political representatives on NHRI**

The NHRCI reports that the Chairperson of the National Commission for Scheduled Castes is a Member of Parliament, and that this individual has voting rights in the full statutory commission.
The SCA notes that the Paris Principles require an NHRI to be independent from government in its structure, composition, decision-making and method of operation. It must be constituted and empowered to consider and determine the strategic priorities and activities of the NHRI based solely on its determination of the human rights priorities in the country, free from political interference.

For these reasons, government representatives and members of parliament should not be members of, nor participate in, the decision-making organs of an NHRI. Their membership of, and participation in, the decision-making body of the NHRI has the potential to impact on the real and perceived independence of the NHRI.

The SCA recognizes that it is important to maintain effective working relationships, and where relevant, to consult with government. However, this should not be achieved through the participation of government representatives in the decision-making body of the NHRI.

Where government representatives or members of parliament, or representatives of government agencies, are included in the decision-making body, the NHRI’s legislation should clearly indicate that such persons participate only in an advisory capacity. In order to further promote independence in decision-making, and avoid conflicts of interest, an NHRI’s rules of procedure should establish practices to ensure that such persons are unable to inappropriately influence decision-making by, for example, excluding them from attending parts of the meeting where final deliberations and strategic decisions are made.

The participation of government representatives or members of parliament, or representatives of government agencies, should be restricted to those whose roles and functions are of direct relevance to the mandate and functions of the NHRI, and whose advice and cooperation may assist the NHRI in fulfilling its mandate. In addition, the number of such representatives should be limited and should not exceed the number of other members of the NHRI’s governing body.

The SCA refers to Paris Principles B.1, B.3 and C(c) and to its General Observation 1.9 on ‘Government representatives on NHRIs’.

The SCA further notes:

5. **Cooperation with other human rights bodies**

The NHRCI highlights the existence of Core/Expert Groups as the means by which it complies with the Paris Principles’ requirement for pluralism and engagement with civil society and other human rights defenders. However, the SCA
notes that it has received information from civil society organizations that these mechanisms are not functioning effectively as a means of engagement and cooperation between the NHRCI and civil society. The SCA notes that this was raised as an issue of concern during the SCA’s May 2011 review of the NHRCI.

The SCA again highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRI’s to effectively fulfil their mandates. It encourages the NHRCI to take steps to facilitate increased engagement and cooperation with all civil society organizations.

The SCA refers to Paris Principle C(g) and to its General Observation 1.5 on ‘Cooperation with other human rights bodies’.

6. **Access to NHRC’s complaints process**

The SCA has received information from civil society groups alleging that the NHRCI’s complaint handling functions suffer from extended delays. The SCA notes with concern that the NHRCI confirmed to have a substantial backlog of 40,000 cases.

In fulfilling its complaint handling mandate, the NHRI should ensure that complaints are dealt with fairly, transparently, efficiently, expeditiously, and with consistency. In order to do so, a NHRI should:

- ensure that its facilities, staff, and its practices and procedures, facilitate access by those who allege their rights have been violated and their representatives; and
- ensure that its complaint handling procedures are contained in written guidelines, and that these are publicly available.

The SCA encourages the NHRCI to handle complaints in timely manner and permit all individuals, regardless of their legal status, to access to its complaint process.

The SCA refers to Paris Principle D(c) and to its General Observation 2.10 on ‘The quasi-judicial competence of NHRI’s’.

7. **Annual report**

The most recent annual report of the NHRCI publicly available is for 2011-2012. The SCA notes that, in accordance with section 20(2) the Act, an annual report cannot be made public until it is tabled in Parliament by the government, and that this cannot be done until the government has prepared a response for follow-up and recommendations made by the NHRCI in the report. The SCA acknowledges that the NHRCI reports that its annual reports for 2012-2013, 2013-2014, and 2014-2015 have been submitted to the government, but as the government has not developed
its responses to the recommendations in those reports, they have not been tabled in Parliament or made public.

The SCA notes that this was raised as an issue of concern during the SCA’s May 2011 review of the NHRCI.

The SCA considers it important that the enabling laws of an NHRI establish a process whereby its reports are required to be widely circulated, discussed and considered by the legislature. It again notes that the SCA finds it difficult to assess the effectiveness of an NHRI and its compliance with the Paris Principles in the absence of a current annual report.

The SCA acknowledges that the NHRCI reports that it has mitigated this limitation in its ability to publicize current annual reports by publishing other reports on thematic issues or the state of human rights generally. The SCA encourages the NHRCI to seek a solution to this issue, and to continue to advocate for its annual reports to be tabled in Parliament and made public as soon as possible.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs.'
GLOBAL ALLIANCE OF NATIONAL HUMAN RIGHTS INSTITUTIONS (GANHRI)

Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)

Geneva, 13-17 November 2017
2.3 India: The National Human Rights Commission of India (NHRCI)

Recommendation: The SCA recommends that the NHRCI be re-accredited with A status.

The SCA commends the efforts taken by the NHRCI to address its previously noted concerns. It notes that the NHRCI has proposed amendments to its enabling law, and encourages the NHRCI to strengthen its legislative framework by continuing to advocate for passage of these amendments.

The SCA wishes to highlight its expectation that NHRIs who have been accredited with A status will take the necessary steps to pursue continuous efforts at improvement and to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review.

With respect to ongoing issues of concern, the SCA notes:

1. Composition and pluralism

In November 2016, the SCA was of the view that the requirement that the Chair be a former Chief Justice of the Supreme Court and that the majority of members be recruited from the senior judiciary severely restricts the potential pool of candidates, particularly as it relates to the representation of women in the governing body of the NHRCI. The SCA acknowledged that the justification for these requirements is based on the NHRCI’s quasi-judicial function. However, it noted that: 1) the quasi-judicial function is but one of the ten (10) functions enumerated in section 12 of the Act; 2) section 3(2) also provides for the appointment of two (2) members amongst persons having knowledge of, or practical experience in, matters relating to human rights, who are not required to be chosen from the judiciary; and 3) no women had been appointed to any of the positions on the governing body of the NHRCI since 2004.

The SCA further noted that, of the 468 staff positions in the NHRCI, only 92 (or 20%) were women. The SCA acknowledges with appreciation the steps that the NHRCI has taken to address the concerns noted by the SCA regarding gender balance in its membership and staff.

With respect to its membership, the SCA notes that a woman was appointed in April 2017, and that the NHRCI has advocated for changes to its Act to increase the number of members and provide that one (1) be a woman. The SCA notes, however, that the proposed amendment has not been adopted, and that having only one (1) member who is a woman does not represent appropriate gender balance. It
encourages the NHRCI to continue to advocate for changes to its enabling law to provide for appropriate gender balance in the composition of its membership.

With respect to its staff, the SCA notes the efforts made by the NHRCI in recent appointments to increase the representation of women, as well as the gender sensitization programme it organized for its staff in July 2017 in collaboration with APF. It encourages the NHRCI to continue these efforts, in particular by ensuring that diversity of Indian society is represented including, but not limited to, Dalits and other religious or ethnic minorities.

The SCA again refers to Paris Principle B.1 and to its General Observation 1.7 on ‘Ensuring pluralism of the NHRI’.

2. **Selection and appointment**

In accordance with section 4 of the Act, the Chairperson and other members of the NHRCI are appointed by the President of India based on the recommendation of a Committee consisting of the Prime Minister, the Speaker of the House of the People, the Minister in-charge of the Ministry of Human Affairs in the government of India, the Leader of the Opposition in the House of the People, the Leader of the Opposition in the Council of States, and the Deputy Chairperson of the Council of States.

The SCA continues to be of the view that the selection process currently enshrined in the Act is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which all parties assess the merit of eligible applicants; and
- specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.

The SCA acknowledges that the NHRCI has advocated for changes to the selection process to include requirements to require the advertisement of vacancies and the establishment of clear and uniform criteria upon which to assess the merit of eligible applicants. The SCA notes, however, that 1) these proposed changes would not address the previously-stated concerns of the SCA with respect to the requirement that there be broad consultation and/or participation in the application, screening, selection and appointment process, and 2) it is unclear whether the process would be formalized in legislation, regulation, or in another binding administrative guideline.

It is critically important to ensure the formalization of a clear, transparent and participatory selection and appointment process for an NHRI’s decision-making body
in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

The SCA again encourages the NHRCI to advocate for the formalization and application of a process that includes requirements to:

a) Publicize vacancies broadly;

b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;

c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;

d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria;

and

e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

3. The appointment of the Secretary General

Section 11 of the Act requires that the Central Government seconds to the NHRI a civil servant with the rank of Secretary to take the role of Secretary General of the Commission.

In November 2016, the SCA emphasized that a fundamental requirement of the Paris Principles is that an NHRI is, and is perceived to be, able to operate independent of government interference. Where an NHRI’s members are seconded from the public service, and in particular where this includes those at the highest level in the NHRI, it raises question about its capacity to function fully independently.

The SCA again acknowledges the NHRCI’s position that the fact that this individual is seconded from senior levels in the civil service means that he or she has wide knowledge of government functioning and standing among various levels of government, and that the NHRCI is able to reject the candidates proposed by government. The SCA further acknowledges that the NHRCI has advocated for
changes to the way in which the Secretary General is appointed to provide that an invitation be made for those who have less than one (1) year of service prior to their retirement from the civil service.

The SCA continues to be of the view that, notwithstanding the justifications provided and the changes proposed, these practices have a real impact on the perceived independence of the NHRI. It again recommends that the Secretary General be recruited through an open, merit-based selection process. In the interim, the SCA encourages the NHRCI to pursue policy and/or administrative measures to provide the NHRCI with greater control over the process, including by setting the selection criteria and by participating in the evaluation of candidates.

The SCA refers to Paris Principle B.2 and to its General Observation 2.5 on ‘Staffing of the NHRI by secondment.’

4. **Involvement of police officers in investigations**

Section 11 of the Act requires that the Central Government seconds to the NHRI a police officer of the rank of Director General of the Police or above to take the position of Director (Investigations).

Further, the NHRCI reports that its investigative officers are taken on a deputation basis from various police forces and the Intelligence Bureau.

The SCA again emphasizes that a fundamental requirement of the Paris Principles is that an NHRI is, and is perceived to be, able to operate independent of government interference. Where an NHRI’s members are seconded from the public service, and in particular where this includes those at the highest level in the NHRI, it raises question about its capacity to function fully independently.

The SCA acknowledges the position of the NHRCI that 1) these individuals know how the system works and, as a result, are able to unearth truth in cases where others could not, 2) they are thorough professionals who are selected after a detailed background check as to their integrity and professional acumen, 3) they are accountable to the NHRCI and no one else, and 4) their reports are not determinative but rather are meant to inform the decisions of Members who decide the formal course of action.

The SCA continues to be of the view that for victims of abuses by police, there may be a real or perceived conflict of interest in having police officers engaged in the investigation of human rights violations, particularly those committed by the police, and this may impact on the ability to conduct impartial investigations as well as the ability of victims to access human rights justice.
The SCA acknowledges with appreciation the efforts made by the NHRCI to ensure that investigations involving allegations of human rights violations against the police or security forces are carried out in a way that ensures civilian involvement and oversight. It encourages it to continue these efforts with a view to standardizing this practice for investigations involving police and security forces, with a view to strengthening the independence and impartiality of these investigations. The SCA further encourages the NHRCI to diversify the composition of its investigative team beyond police officers.

The SCA refers to Paris Principles B1, B.2 and B.3 and to its General Observation 2.5 on ‘Staffing of the NHRI by secondment’.

5. **Cooperation with other human rights bodies**

The SCA notes that, prior to its November 2017 session, the SCA received extensive information from various civil society organizations which indicated that the relationship between the NHRCI and civil society is not effective or constructive, particularly with respect to ongoing dialogue and follow-up on issues raised.

In describing its engagement with civil society, the SCA notes that the NHRCI relies to a substantial degree on its Core/Expert Groups as the mechanism for engagement. However, the SCA has received information from civil society at both its November 2016 session and its November 2017 session that these mechanisms are not functioning effectively as a means of engagement and cooperation between the NHRCI and civil society.

The SCA again highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRs to effectively fulfil their mandates. The SCA encourages the NHRCI to take additional steps to ensure that it engages in ongoing, constructive dialogue and cooperation with civil society and human rights defenders and that this should include regular and ongoing modes of collaboration outside of the Core/Expert Groups.

The SCA refers to Paris Principle C(g) and to its General Observation 1.5 on ‘Cooperation with other human rights bodies’.

6. **Annual report**

The most recent annual report of the NHRCI publicly available is for 2012-2013. The SCA acknowledges that the NHRCI annual reports for 2013-2014 and 2014-2015 have been submitted to the government, but as the government has not developed
its responses to the recommendations in those reports, they have not been tabled in Parliament or made public.

The SCA considers it important that the enabling laws of an NHRI establish a process whereby its reports are required to be widely circulated, discussed and considered by the legislature. It again notes that the SCA finds it difficult to assess the effectiveness of an NHRI and its compliance with the Paris Principles in the absence of a current annual report.

The SCA notes that NHRCI has proposed amendment to section 20(2) of the Act whereby its annual reports can be tabled in Parliament without Government’s memorandum of action. The SCA further notes that the NHRCI reports that it has mitigated this limitation in its ability to publicize current annual reports by publishing other reports on thematic issues or the state of human rights generally. The SCA encourages the NHRCI to continue to advocate for changes to its enabling law and to ensure that, in the interim, it releases additional public reports to inform the public about the situation of human rights and the activities of the NHRCI.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs.'
The Marrakech Declaration

“Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions”

1. The 13th International Conference of the Global Alliance of National Human Rights Institutions (GANHRI) took place in Marrakech, Morocco, from 10 to 12 October 2018. It was co-hosted, under the High Patronage of His Majesty King Mohammed VI, by GANHRI and the National Human Rights Council of Morocco (CNDH), in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR). The theme of the Conference was “Expanding the civic space and promoting and protecting Human Rights Defenders, with a specific focus on women: The role of National Human Rights Institutions”.

2. The Conference marked the 70th anniversary of the Universal Declaration of Human Rights; the 25th anniversary of the adoption of the Paris Principles by the United Nations General Assembly and the establishment of the global network of NHRIs, today known as GANHRI; and the 20th anniversary of the Declaration on Human Rights Defenders.

3. National human rights institutions (NHRIs) expressed their gratitude to the CNDH for the excellent organization and the warmth of their hospitality. The Conference was enriched by the interactive and productive discussions and debates which reflected the wide range of experience and perspectives from NHRIs and partners from all regions.

The NHRIs participating in the 13th International Conference declare:

4. We recall the inherent dignity, equal and inalienable rights of all human beings, the need for universal and effective recognition of human rights and fundamental freedoms, as expressed in the Universal Declaration of Human Rights and codified in the international and regional human rights instruments and reaffirmed in the Vienna Declaration and Programme of Action.

5. States have the primary responsibility and are under the obligation to respect, protect, promote and fulfill all human rights and fundamental freedoms of all persons, including the exercise of due diligence with respect to protecting against all violations committed by
non-state actors. States also have the obligation to progress on implementing these human rights instruments and report on this to national and international levels.

6. We welcome that States have adopted the 2030 Agenda for Sustainable Development, and recall in this regard that human rights, development and peace and security are central, inter-related and mutually reinforcing pillars of the United Nations system. We recall the Mérida Declaration, and reaffirm that the implementation of the 2030 Agenda must be based on human rights and participation of all, including through the empowerment of women and girls (Goal 5). In line with this is the fact that Goal 16 indicates that the existence of independent National Human Rights Institutions in compliance with the Paris Principles is a contribution to promote peaceful and inclusive societies (Goal 16).

7. Human rights and fundamental freedoms including the right to freedom of expression, to peaceful assembly and association, and to participate, play a decisive role in the emergence and existence of peaceful and inclusive societies, as they are a channel allowing for dialogue, pluralism, and tolerance, and are preconditions for the enjoyment of all human rights by all.

8. We recall the Declaration on Human Rights Defenders, adopted by United Nations General Assembly in December 1998\(^1\) as the international normative framework on human rights defenders.

9. Human rights defenders have a positive, important and legitimate role in contributing to the realisation of all human rights, at the local, national, regional and international levels, including by engaging with Governments and contributing to the efforts in the implementation of the obligations and commitments of States in this regard.

10. We reaffirm the principle of self-identification of human rights defenders. In line with the Declaration on Human Rights Defenders this includes anyone working for the promotion and protection of human rights, which encompasses: professional as well as non-professional human rights workers; those working for women’s rights and gender equality; those working on the rights of ethnic, linguistic, sexual or religious minorities; persons with disabilities; defenders working on environmental and land issues; those working on indigenous rights; volunteers; journalists; lawyers; and anyone else carrying out, even on an occasional basis, a human rights activity.

\(^1\) General Assembly resolution 53/144 of 9 December 1998.
11. We recall the resolution on women human rights defenders, adopted by the General Assembly in November 2013.\textsuperscript{2} We stress the important role that women human rights defenders have in the promotion and the protection of all human rights, and that they often champion human rights issues that are overlooked and ignored.

12. We are deeply concerned about reports on the increasing number of physical attacks against human rights defenders particularly where this includes sexual violence or killings.

13. We are also concerned about reports on shrinking civic space and on threats, risks and reprisals faced by human rights defenders, worldwide. This happens through restrictions on the rights to freedom of opinion, expression, association or peaceful assembly, and the right to privacy, or through arbitrary use of civil or criminal proceedings, prosecution, cruel, inhuman and degrading treatment, or acts of intimidation or reprisals.

14. Women human rights defenders, whilst facing similar risks as other human rights defenders, may also face additional gender-specific discrimination and violence, not only by State agents but also private actors. This comes in the form of intimidation, threats, and sexual violence. This may also happen not only in their own organizations, in their communities, and in their families. They also face social, political, cultural and religious barriers.

15. Recent and increasing reports from all regions on reprisals, threats, attacks and other acts of intimidation against NHRIs, their members and staff are extremely worrying.

16. We recognise that independent and effective NHRIs, as well as their members and staff, are human rights defenders themselves.

17. Paris Principles compliant NHRIs can play an important role in promoting and protecting human rights for all by contributing to safeguarding and promoting civic space and protecting human rights defenders and women human rights defenders in particular. We therefore stress the importance of establishing NHRIs where they do not exist and strengthening those that exist in full compliance with the Paris Principles, and encourage them to seek accreditation with GANHRI.

\textsuperscript{2} General Assembly resolution A/RES/68/181, adopted in November 2013.
18. We recognise the important role of the Special Rapporteur on human rights defenders, in promoting and protecting human rights defenders, including NHRIs, and the mandate’s regional counterparts. We call on all to cooperate with them.

19. During the International Conference, we discussed several areas such as: what are the crucial elements of an enabling environment; how to monitor civic space and threats to it; how to protect human rights defenders; how specifically to protect women human rights defenders; how to protect NHRIs who are themselves human rights defenders; and how to develop effective communication on human rights and promotion of positive narratives.

20. On the basis of all this, and taking inspiration from NHRIs’ lessons and good practices exchanged in Marrakech, we resolve to:

A. **Promotion**

   a) Call on states to ratify and implement all international human rights instruments;

   b) Advise on national legislation, policies and programmes to ensure compliance with the State’s international human rights obligations. For instance, any restrictions on fundamental freedoms such as the rights to freedom of peaceful assembly and association, and expression must be prescribed by law, should not be unreasonably or arbitrarily applied and should only be applied under due process. Legislation and policies must be in line with the principle of equality and thus protect against any discrimination on the basis of sex and gender;

   c) Contribute to the establishment of national protection systems for human rights defenders, who need an enabling environment which is accessible and inclusive and in which all rights are respected. This should be done in consultation with those human rights defenders and civil society, media and other non-state entities and individuals (such as ethnic, indigenous and religious leaders);

   d) Advance positive narratives on the importance of human rights in every aspect of our societies, and on the important and legitimate role of human rights defenders, in particular women human rights defenders. This should be done by communicating about human rights in an innovative way with the use of new technologies and a focus on youth;

   e) Raise awareness about the Declaration on Human Rights Defenders, translate it into local languages and disseminate it widely;
f) Support the State in implementing the Declaration on Human Rights Defenders. This includes ensuring that the judiciary, administrative and law enforcement officials are trained to respect the Declaration and other human rights norms, and that human defenders can self-identify. This should be done with a specific focus on the position of women human rights defenders;

g) Promote gender equality and develop strategies to combat all forms of discrimination against women human rights defenders;

h) Raise awareness among private actors about their responsibility to respect the rights of human rights defenders and advise them on actions and measures to ensure that they meet this responsibility.

B. Protection

a) Monitor and report on civic space – online and offline - through the collection and analysis of disaggregated data, including gender-based disaggregation and statistics related to killings, fabricated legal charges, misuse of specific laws and other attacks against human rights defenders, journalists and trade unionists, lawyers, students, academics, in line with SDG indicator 16.10.1;

b) Identify when policy implementation disproportionately impact on human rights defenders and civic space;

c) Set up efficient and robust early warning mechanisms and focal points within NHRI. This should be done with specific attention to groups at risk: human rights defenders, women human rights defenders and all those that advocate for the rights of those left behind. These mechanisms should have the mandate, capacity and expertise to initiate urgent actions;

d) Interact with the international and regional human rights systems in support of human rights defenders, and monitor follow-up and implementation of recommendations;

e) Report cases of intimidation, threats and reprisals against human rights defenders, including against the NHRI members or staff, and do what is possible to ensure protection;

f) Ensure that international, regional and national mechanisms available for the protection of human rights defenders are widely known, gender-sensitive and accessible also for persons with disabilities;
g) Monitor places of detention including where appropriate by conducting preventive visits, and provide legal aid to persons in detention;

h) Promote that victims of violations of rights and fundamental freedoms have access to justice, and work closely with the judiciary in that regard.

C. Cooperation and partnerships

a) Interact with human rights defenders and civil society in a regular manner and include them in the planning and implementation of, as well as follow-up on, the NHRI's activities, in a gender and disability-sensitive manner;

b) Look for ways to cooperate with organisations including human rights organisations, the media, academia, business organisations, trade unions, national statistics offices, and local, national, regional and international intergovernmental and non-governmental organisations and institutions;

c) Support the development of national and regional defenders’ networks and strengthen existing ones, in coordination with human rights defenders. Specifically support networks of women human rights defenders.

21. We encourage GANHRI, its regional networks and all NHRI's, in line with their mandates under the Paris Principles, to collaborate in mutual capacity building and sharing of experiences and knowledge, including but not limited to the following:

a) In close collaboration with the United Nations, continue to promote the establishment and strengthening of effective and independent NHRI's worldwide in full compliance with the Paris Principles. States and NHRI's must ensure that NHRI's are independent in law and practice, and be pluralistic in order to increase the NHRI's accessibility and ability to credibly engage on all human rights issues with all;

b) Ensure that NHRI's can rely on effective protection measures when the NHRI, its members or staff are at risk or under threat. This includes cases of political pressure, intimidation of any kind, harassment or unjustifiable budgetary limitations;

c) Support capacity-building, sharing of experiences and good practices as well as knowledge management with and among NHRI's in relation to civic space and human rights defenders, with particular attention to the situation of women human rights defenders;

d) Encourage regional networks to elaborate regional action plans to follow-up on this Declaration. Regional Chairs are encouraged to report thereon to the GANHRI.
Annual Meeting in March 2019 and to subsequent regional and international meetings of NHRIs;

e) Establish a mechanism on human rights defenders within GANHRI, mandated to identify emerging global trends and challenges in the area of civic space and human rights defenders and provide advice and support to the strategic work of GANHRI, regional networks and individual NHRIs in that regard.

Adopted in Marrakech, Morocco, on 12 October 2018