

Ending reprisals against those who cooperate with the UN in the field of human rights

**Submission to the UN Secretary-General on recent
developments, cases and recommendations**

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I. INTRODUCTION

ISHR is pleased to make the following submission to the Secretary-General to inform his upcoming report on cooperation with the United Nations, its Mechanisms and Representatives in the field of human rights.

This submission addresses developments in United Nations (UN) and regional human rights bodies regarding the prevention of and response to reprisals during the reporting period (1 June 2017 to 31 May 2018). It also provides details of cases of reprisals that ISHR was made aware of during the period and our understanding of how these cases have been addressed both by the mechanisms and relevant States.

ISHR works to bring cases of alleged intimidation and reprisals to the attention of relevant UN officials, including the Assistant Secretary-General in his capacity as senior official, the President of the Human Rights Council and President of the General Assembly, as well as independent experts, in an effort to press for effective preventative measures and responses to alleged cases of reprisals.

Several of the individual cases of intimidation and reprisals described below have taken place in a context of systematic harassment, threats and attacks against human rights defenders. These come in many forms, including through the use and abuse of laws to criminalise the work of human rights defenders, together with the initiation of arbitrary legal proceedings intended to hinder such work. Preventing and addressing cases of intimidation and reprisals is closely associated with States' obligations to ensure a safe and enabling environment for human rights defenders and other civil society actors to carry out all aspects of their work.

II. LEGAL OBLIGATION OF STATES AND THE UN TO ADDRESS REPRISALS

International law provides for a right to unhindered access to and communication with international bodies on matters of human rights and fundamental freedoms. This right is derived from the human rights to freedom of expression, association, assembly and movement contained in international human rights instruments and in customary international law.¹

The right to unhindered access to and communication with international bodies is also explicitly recognised in the Declaration on Human Rights Defenders² and is codified in certain UN human rights treaties.³

¹ In 2012, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association called on States to ensure that these rights 'are enjoyed by everyone and any registered or unregistered entities' and that no one is subject to 'harassment, persecution, intimidation or reprisals' for exercising them.

² UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, Annex to UN Doc A/RES/53/144, 8 March 1999, Articles 5(c) and 9(4).

³ See: Optional Protocol to the Convention on the Prevention of Torture, Article 15; Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women, Article 11; Optional Protocol to the international Covenant on Economic, Social and Cultural Rights, Article 13; and Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, Article 4.

Enjoyment of this right implies that those accessing or attempting to access or communicate with these bodies should not face any form of intimidation or reprisal for doing so. The Declaration on Human Rights Defenders recognises the right of human rights defenders to protection from reprisals for their communication or cooperation, or attempted communication or cooperation, with the UN's human rights bodies.⁴

The right to be free from reprisals that threaten an individual's life or physical liberty is also an aspect of the protection afforded by other international human rights, such as freedom from arbitrary arrest, detention or deprivation of liberty; torture; cruel, inhuman and degrading treatment; and arbitrary deprivation of life. ISHR further notes that international human rights jurisprudence establishes that States that confiscate passports, issue travel bans or prevent human rights defenders or representatives of NGOs from attending international meetings may contravene the right to freedom of movement under Article 12 of the International Covenant on Civil and Political Rights.⁵

States have the primary duty to uphold the co-related rights to unhindered access to the UN and to be protected from intimidation and reprisals in connection with any cooperation or attempted cooperation. As subjects of international law, UN bodies such as the Human Rights Council and the ECOSOC Committee on NGOs may also be bound by these obligations.⁶

III. DEVELOPMENTS WITHIN HUMAN RIGHTS SYSTEMS

APPOINTMENT OF SENIOR OFFICIAL ON REPRISALS

Civil society and a core group of States warmly welcomed the appointment of Andrew Gilmour, Assistant Secretary-General for Human Rights, as senior official on the issue of reprisals in October 2016.⁷ As the senior official, Gilmour leads the UN's efforts to put a stop to all intimidation and reprisals against those cooperating with the UN on human rights, a much-needed initiative to help combat the growing number of reprisals against human rights defenders and other civil society actors.

ISHR acknowledges on-going efforts to provide clarity on the functioning of this mandate and how defenders can best engage with it, including consultations in Bangkok in February 2018 and Bishkek in May 2018. However, ISHR reiterates that a clearer, accessible, public-facing policy on how the senior official addresses cases of reprisals is necessary to ensure that victims can effectively access the protection the senior official can provide.

⁴ Declaration on Human Rights Defenders, Articles 2(1), 9(1) and 12(2).

⁵ Human Rights Committee, 'Concluding Observations: Morocco', UN Doc CCPR/CO/82/MAR, 1 December 2004, §18.

⁶ Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt (Advisory Opinion) [1980] ICJ Rep 73, pp 89–90. See also Reparations for injuries suffered in the service of the UN (Advisory Opinion) [1949] ICJ Rep 174, p 179.

⁷ <https://www.ishr.ch/news/reprisals-high-level-un-official-should-ensure-access-victims-and-accountability-perpetrators>.

ISHR acknowledges that the senior official is complementary to existing UN mechanisms to address reprisals, and encourages coordination and collaboration amongst mechanisms. We continue to emphasise that the establishment of the senior official does not in any way diminish the obligation of other UN bodies and mechanisms to develop and implement policies and take necessary steps to prevent, investigate and remedy cases of reprisals.

We understand that the senior official primarily fulfils his mandate through private representations, addressing cases of reprisals bilaterally with the relevant State, although he may also make public statements and representations. ISHR notes very few instances thus far in which the senior official has spoken publicly about cases of reprisals. He addressed cases of reprisals in Egypt and Bahrain while presenting the Secretary-General's Reprisals Report to the Human Rights Council in September 2017.⁸ In a May 2018 opinion piece, the ASG also addressed cases of reprisals against human rights defenders in Asia, including against mandate holders.⁹ ISHR reiterates that in relevant circumstances, public statements can play a key role in deterrence, denunciation, prevention and protection.

HUMAN RIGHTS COUNCIL

The Human Rights Council is legally obliged to take action if it possesses information about a credible risk or allegation of reprisals and to protect individuals who communicate, cooperate or seek to engage with the Human Rights Council, its independent experts or the Universal Periodic Review process.¹⁰ The Human Rights Council's President and Bureau have the responsibility to protect the Human Rights Council's processes and defend its integrity, particularly as it relates to the right of civil society to participate fully and safely in its work.¹¹ Attacks against those that cooperate with the Human Rights Council, or its mechanisms, constitute an attack not only on those individuals but on the institution itself.

While the President and Bureau of the Human Rights Council maintain their rhetorical commitment to addressing reprisals, visible action to prevent and if necessary respond and ensure accountability for cases of reprisals remains weak.

The minutes of the Human Rights Council Bureau meeting in May 2018 note that the President informed the Bureau that to date he had received a number of complaints of acts of reprisal and intimidation, and underscored his practice to carefully consider and respond promptly to allegations brought to his attention. The President further informed the bureau that he had discussed the issue of reprisals with the Assistant Secretary-General for Human Rights in his

⁸ A copy of the statement can be found here:

https://extranet.ohchr.org/sites/hrc/HRCSessions/HRCDocuments/16/OTH/OTH_272_56_416d12d8_bfb7_4c28_9244_5bd5036fff5f.docxln

⁹ <https://www.theguardian.com/commentisfree/2018/may/18/imprisoned-threatened-silenced-human-rights-workers-across-asia-are-in-danger>

¹⁰ See further Memorandum of Advice from Freshfields Bruckhaus Deringer, Sir Nicolas Bratza and Professor Egbert Myjer of October 2014: available at <http://www.ishr.ch/news/human-rights-council-time-act-legal-obligation-end-reprisals>.

¹¹ See further Memorandum of Advice from Freshfields Bruckhaus Deringer, Sir Nicolas Bratza and Professor Egbert Myjer of October 2014: available at <http://www.ishr.ch/news/human-rights-council-time-act-legal-obligation-end-reprisals>.

capacity as senior official during his April 2018 visit to New York, including how to strengthen the cooperation and coordination among the Presidency, the Assistant Secretary-General and OHCHR in this area in order to strengthen the response.

At its 36th session, the Human Rights Council adopted resolution 36/21¹² on reprisals. Notably, the resolution asks the senior official to present the annual report of the Secretary-General on reprisals to the Council and for it to serve as the basis of an interactive dialogue with a view to ensuring adequate attention to the report and to sharing good practices, challenges and lessons learned. In practice, the Council's discussion of cases in the reprisals report and follow-up to those cases has not been very systematic. Even though follow-up on previous cases is included in the reprisals report, States have not used this information effectively to hold other States accountable during the presentation of the report to the Council. The Report is not intended as a protection mechanism, but through giving publicity to cases and calling for accountability it can serve a deterrent function. It is hoped this aspect of the Report will be strengthened through more systematic follow-up and the interactive dialogue in the Human Rights Council.

TREATY BODIES

With the endorsement of the Guidelines against Intimidation or Reprisals (the 'San José Guidelines') in July 2015, the Treaty Body Chairpersons sent a strong signal that the intimidation of individuals and groups cooperating with the Treaty Bodies is unacceptable. During their annual meeting in June 2017, the Chairs further recommended the endorsement and implementation of the Guidelines by all Treaty Bodies and reaffirmed their decision to include reprisals as a standing item on the agenda of the annual meeting of the Chairs. The Chairs reiterated their recommendation that the rapporteur(s) or focal point(s) on reprisals appointed in the respective Treaty Bodies should work together to align the approaches taken to prevent intimidation and protect individuals and groups against reprisals in order to enhance consistency across the treaty body system, including through meetings as appropriate.¹³

The San José Guidelines emphasise the responsibility of States 'to avoid acts constituting intimidation or reprisals and to prevent, protect against, investigate and ensure accountability and to provide effective remedies to victims of such acts or omissions'. They further acknowledge that the Treaty Bodies have to take action, including reactive measures when allegations of intimidation or reprisals are received as well as preventative measures to protect individuals or groups at risk.

The San José Guidelines envisage the appointment within each treaty body of a rapporteur or focal point on intimidation or reprisals to coordinate proactive implementation of the policy, which includes receiving and assessing allegations, and determining the appropriate course of action.

To date, eight Treaty Bodies out of ten have adopted the San José Guidelines or a policy on

¹² Human Rights Council, 'Cooperation with the UN, its representatives and mechanisms in the field of human rights', A/HRC/RES/36/21, 29 September 2017, <http://undocs.org/A/HRC/RES/36/21>.

¹³ A/72/177.

reprisals. Only the Committee on Economic Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women have not formally endorsed or adopted the guidelines or a policy on reprisals.

In an [open letter](#) endorsed by 18 human rights organisations, ISHR called on the OHCHR Unit dealing with complaints to the Treaty Bodies, as well as the Treaty Bodies themselves, to make use of protective measures whenever they are required to protect the life and integrity of complainants. In addition, the letter calls on the OHCHR field presences to proactively follow and monitor the situation of complainants on the ground.

Drawing on a case of torture by the Mexican military, the open letter welcomes steps taken by the UN Committee against Torture requesting that Mexico adopt protective measures for the victims who faced a range of threats following the Committee's ruling on their case.

The letter spells out a range of recommendations to the Chairs of Treaty Bodies and to the OHCHR Petitions Unit, including to:

- Promptly react to allegations of human rights violations, threats or intimidation as a consequence of communications to the Treaty Body by requesting the State party to take all appropriate measures urgently;
- Request the concerned States to submit written explanations and clarifications on how the protection measures have been implemented;
- Proactively monitor the situation of petitioners, their family members and representatives alleging or facing a risk of reprisals related to the submission of their complaint, with a view to preventing and/or mitigating reprisals related to their complaint; and
- Wherever possible and relevant, engage OHCHR field presences to monitor the personal situation of petitioners, their family members and representatives.

SPECIAL PROCEDURES AND UN EXPERTS

In line with the commitment made by Special Procedures mandate holders, the annual report on their 24th meeting included a section on acts of intimidation and reprisals.¹⁴ The report noted that mandate holders stressed the need for a trends analysis and comprehensive assessment of the phenomenon and for strengthened coordination with the other parts of the UN system in this context. Mandate holders also underlined that the Special Procedures are the most agile mechanisms with regard to providing a response to potential reprisals and intimidation and suggested greater engagement was needed with States on this issue.

During the meeting, mandate holders received an overview from the focal point of the 2016-2017 Coordination Committee, Catalina Devandas Aguilar, on the implementation of the modalities for an enhanced response to reprisals. These included a section on reprisals in the annual report of Special Procedures, the maintenance of a dedicated webpage on the Special Procedures website,¹⁵ receiving and transmitting information to Member States concerned, and cooperating

¹⁴ http://www.ohchr.org/Documents/HRBodies/SP/A-HRC-37-37_EN.docx

¹⁵ <http://www.ohchr.org/EN/HRBodies/SP/Pages/Actsofintimidationandreprisal.aspx>

with the Assistant Secretary-General for Human Rights in his capacity as senior official leading the UN efforts to put an end to reprisals for cooperation with the UN on human rights. The Committee, in consultation with the mandate holders concerned, also raised this issue with various stakeholders, including the Secretary-General, the High Commissioner, the President of the Human Rights Council and civil society.

As of 1 July 2017, the focal point of the Coordination Committee on this issue is Gabor Rona, Chair of the Working Group on mercenaries.

Attacks against mandate holders

ISHR is very concerned about attacks of a personal nature against Special Procedure mandate holders, as well as members of Expert Mechanisms and Commissions of Inquiries¹⁶ by several UN member States over the past year. ISHR views these attacks as reprisals against mandate holders for their work to investigate and report on allegations of human rights violations and abuses. It is wholly unacceptable that these individuals have been targeted simply for trying to fulfil the mandates given to them by the Human Rights Council. Beyond the impact on these individuals themselves, these acts of intimidation and reprisal constitute an attack on the Human Rights Council and the UN human rights system more broadly. We are particularly concerned at the proliferation of attacks, which speaks to a ‘copycat’ phenomenon regarding States’ tactics to effectively discredit, disparage, defame, threaten, and otherwise undermine these experts, ultimately hampering their abilities to fulfil their mandates. Furthermore, prominent UN experts being attacked without consequence may deter civil society from engaging with the mechanisms and is likely to increase fear in those seeking the protection of the UN.

Erika Yamada, Vice-Chair of the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), is facing political pressure, retaliation and reprisal from representatives of the State of Brazil due to her activism for human rights, and her cooperation with the UN human rights system. Yamada’s unpaid leave from her position in the State Government was rescinded, requiring her to return to an administrative position, unable to contribute to the field in which she is an expert – indigenous rights. Furthermore, Yamada’s offer of a position to work in the field of indigenous people’s human rights at the Federal Prosecutor Office / MPF (institution equivalent to National Ombudsman) was rescinded. Yamada believes these events resulted from political pressure in the form of a request from Federal Congressman Alceu Moreira to the Ministry of Justice, who is known for his position against indigenous peoples. Moreira questioned Yamada’s critical opinions in defence of indigenous peoples’ rights in Brazil and the possibility of her working in a position of independence from the government. The following month the Ministry of Justice rescinded her authorisation to work at the Federal Prosecutor Office / MPF. In March 2018, information about her personal and professional life was sent from the Ministry of Justice to the Congressman. On 29 May, Yamada was officially informed that her unpaid leave was re-established, which allows her to continue to serve as an independent expert on EMRIP. She understands this was the result of requests for information sent from the UN to the government and of various protestations in her favour on the part of a number of indigenous and human rights organizations and networks. The

¹⁶ See also <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22421&LangID=E>

case was mentioned at sessions of the Human Rights Commission at Congress and of the National Human Rights Council, because beyond the personal effects it caused, it was understood to be representative of the situation that many indigenous leaders, human rights defenders and public servants face when defending human rights and particularly when working with the UN Human Rights System.

Cecilia Jimenez-Damary, Special Rapporteur on internally displaced people, and Victoria Tauli-Corpuz, Special Rapporteur on the rights of indigenous peoples, have been accused of ‘embarrassing’ the government of the Philippines. In response to their work on the impact of on-going militarisation in Mindanao on the rights of some Lumads or indigenous peoples, Presidential spokesperson Harry Roque claimed they were using their positions to embarrass the Duterte Government before the international community. In an effort to discredit and intimidate them, the spokesperson accused them of being partisan and advised them to be more circumspect in their statements.

In February 2018, Tauli-Corpuz was placed on a list of ‘terrorists’ by the government of the Philippines. Tauli-Corpuz views her inclusion on the list as retaliation for her criticism of the military over the forced displacement of indigenous people in Mindanao.¹⁷ In this regard, the Assistant Secretary-General for Human Rights has pointed out that if high profile human rights defenders and those associated with the UN can be targeted with impunity, it is likely to increase fear in those seeking the protection of the UN and other human rights actors at community level who are not afforded the same visibility.¹⁸

Yanghee Lee, the Special Rapporteur on the situation of human rights in Myanmar, has been the target of vulgar, hateful, and violent threats on social media because of her work speaking out on behalf of Muslims and other religious minorities in Myanmar. The Special Rapporteur has repeatedly stated that Myanmar needs to enact legislation to counter incitement to discrimination, hostility and violence that complies with international standards.¹⁹

These attacks take place notwithstanding that Human Rights Council resolution 36/2 urges States to take all appropriate measures to prevent the occurrence of acts of intimidation or reprisal, including, where necessary, by adopting and implementing specific legislation and policies in order to effectively protect against, ensure accountability for, and ensure impartial, prompt and thorough investigations of any alleged act of intimidation or reprisal in order to bring the perpetrators to justice; to provide access to effective remedies for victims in accordance with their international human rights obligations and commitments; and to prevent any recurrence.

CIVIL SOCIETY ACCESS AND PARTICIPATION AT THE UN

UN Committee on NGOs

The UN’s Committee on NGOs, which recommends NGOs to the Economic and Social Council

¹⁷ <https://www.nytimes.com/2018/05/03/world/asia/human-rights-philippines.html>

¹⁸ <https://www.theguardian.com/commentisfree/2018/may/18/imprisoned-threatened-silenced-human-rights-workers-across-asia-are-in-danger>

¹⁹ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22806&LangID=E>

(ECOSOC) for consultative status, has continued to come under fierce criticism for failing in its core task of giving civil society a voice at the UN and for deviating from the guiding principles in ECOSOC resolution 1996/31 in its handling of applications for consultative status.²⁰

Some Member States on the Committee have continued to defer applications by posing questions on issues that applicants are not required to provide information on, or through repetitive questioning. Human rights organisations are most likely to be deferred, with only 7% of deferred applications from human rights organisations recommended for accreditation, compared to 23% of deferred applications from other kinds of NGOs. Amongst human rights organisations, those most likely to be targeted include those working on the rights of LGBTI people, women's rights, sexual and reproductive rights, the rights of minorities, freedom of expression and association, and caste-based discrimination.

Since applying for accreditation in 2008, the International Dalit Solidarity Network (IDSN) has received 83 questions from the Committee – all posed by India. This is but the most egregious example of an unreasonable deferral of an application by the NGO Committee, which constitutes a reprisal against an NGO for seeking to cooperate with the UN.

Member States in ECOSOC have also acted to block NGOs from gaining accreditation over the last year. On 26 July 2017, the United Arab Emirates (UAE) introduced a resolution in the Economic and Social Council (ECOSOC) to reject the recommendation made by the ECOSOC Committee on NGOs in May of that year to accredit the Alkarama Foundation. The Alkarama Foundation's mission is to engage with the UN human rights mechanisms on behalf of victims of severe human rights violations in the Middle East and North Africa region since 2004. The UAE claimed that Alkarama had 'clear connections with terrorism' despite the thorough examination of Alkarama's application by the NGO Committee, during which the Foundation responded to seven different requests for information and provided supporting documentation. The Alkarama Foundation was not informed of the ECOSOC decision nor provided any opportunity to respond to the allegations made by the UAE during the ECOSOC session. On 4 January 2018, the Special Rapporteur on freedom of expression and the Special Rapporteur on human rights defenders sent a letter to the ECOSOC expressing concern at the denial of status to Alkarama, which 'does not seem to be based on an objective assessment of facts, and may constitute an act of reprisal for their work and engagement with UN mechanisms'. In May 2018, responding to a complaint filed by Alkarama with the UNESCO, the UAE referred to the denial of the ECOSOC consultative status to respond to the communication and stated that Alkarama used 'systematic exploitation of UN human rights agencies and mechanisms to target particular States'.

²⁰ <http://www.ishr.ch/news/ngo-committee-politics-front-and-centre-human-rights-ngos-get-deferred-again>, <http://www.ishr.ch/news/ngo-committee-will-un-benefit-full-participation-ngos-expert-north-korea>, <http://www.ishr.ch/news/ngo-committee-ngos-blocked-delivering-statement>, <http://www.ishr.ch/news/ngo-committee-10-years-and-anti-discrimination-network-still-blocked-un-consultative-status>, <http://www.ishr.ch/news/ngo-committee-lets-get-civil-society-through-door-un>, <http://www.ishr.ch/news/ngo-committee-ecosoc-member-states-call-committee-consult-and-meet-ngos>, <http://www.ishr.ch/news/ecosoc-ngos-call-ecosoc-ensure-ngo-committee-protects-civil-society-engagement>

Member States working within multilateral institutions are legally obligated to ensure the full and effective participation of civil society. The Declaration on Human Rights Defenders affirms ‘the right, individually and in association with others, to unhindered access and communication with international bodies’.²¹ The NGO Committee must ensure apolitical, fair and transparent consideration of all NGO applications for consultative status.

ECOSOC and the NGO Committee are legally obliged to exercise their functions consistent with international human rights standards that include the rights to due process, non-discrimination, and the fundamental freedoms of expression, association and assembly. These standards apply in the interpretation and application of ECOSOC Resolution 1996/31, in respect of the NGO Committee when developing and applying its own procedures and practices and making recommendations in relation to NGO consultative status, and in respect of ECOSOC to reject recommendations made in manner inconsistent with, or that do not comply with, international human rights standards.

The No-Objection Procedure

For NGOs without consultative status, the process for accreditation to high-level UN events can be deeply problematic. While NGOs in consultative status with ECOSOC are, by default, invited to these events, others are subject to the powers of member States.

General Assembly resolutions that outline modalities for specific high-level events usually contain a variation of the ‘no-objection’ procedure.²² The procedure dictates that NGOs not in consultative status with ECOSOC can be excluded if a Member State object to their participation. In these cases, the objecting Member State has no obligation to provide a reason for its objection and can remain anonymous. There are no clear criteria as to what would justify a rejection. There is no clear process for appealing a decision. Decisions are frequently made so close to the start of the event that, even if there were a clear process for appealing, an NGO still might not be able to attend. At times, no information is made public as to who has been refused accreditation. NGOs may not realise that political interests lie behind the denial of their accreditation.

The use of the ‘no-objection’ procedure appears to date back to at least the year 2000.²³ Due to the lack of formal rules for unaccredited NGOs seeking access to high-level events, organisers came up with procedures on an ad-hoc basis, rewriting the rules from conference to conference. In early resolutions on modalities the practice came with a disclaimer — that they were not to be used as precedent. As time went on, however, the process was institutionalised, and has become almost ubiquitous.

²¹ General Assembly resolution 53/144 (1998)

<http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>.

²² International Service for Human Rights, ‘States should reject procedure that results in exclusion of non-government organisations from UN,’ 1 February 2013 <http://www.ishr.ch/news/states-should-reject-procedure-results-exclusion-non-government-organisations-un>

²³ ‘United Nations Mandates on NGO Accreditation and Participation in United Nations Conferences and Meetings,’ Civil Society and Outreach Unit, Division for Social Policy and Development (DSPD), United Nations Department of Economic and Social Affairs (DESA)

K-Monitor, an anti-corruption NGO in Hungary, applied to participate in the 7th Session of the Conference of the States Parties to the UN Convention against Corruption (UNCAC/COSP7) in 2016. A State vetoed their participation.²⁴ The NGO was not informed who had objected to their participation, nor provided with a justification or with any means to challenge the decision. They were not alone in having their application blocked.²⁵

Restrictions on Travel

Restrictions on the ability of civil society seeking access to UN spaces to travel, range from non-recognition or confiscation of passports, to travel bans and denial of access to particular countries. For some, the location of principal UN headquarters in Europe or North America makes access difficult, as visas can be denied.

Two human rights defenders from Khyber Pakhtunkhwa and the Federally Administered Tribal Areas (FATA) in Pakistan were prevented from traveling to Geneva in November 2017. As the defenders waited for their Swiss visa applications to be approved, the funding agency withdrew financial support. The defenders indicated that the withdrawal of funds may have come about after interventions by the Pakistan Ministry of Foreign Affairs. The defenders had been actively involved in the shadow report for the Universal Periodic Review (UPR) of Pakistan, submitted to the Human Rights Council on March 24 2017. Other human rights defenders from other provinces in Pakistan were able to attend that particular session of the Council, suggesting that this restriction was specific to representatives from the Khyber Pakhtunkhwa and FATA.

In November 2017, a number of NGOs accredited by the World Trade Organisation (WTO) were advised that the Argentinian Government would not allow them to enter the country to attend a WTO conference in Buenos Aires. The NGO CELS reports that the Argentinian government then sent a list of 65 people whose accreditations had been rejected to immigration officials as a 'security alert'.²⁶ In some cases, organisations were accredited to participate in the event but the security officials rejected their accreditation for 'unspecified reasons.' Later, authorities indicated that the refusals were based on individuals' supposed 'intent to generate intimidation and chaos'. On the back of diplomatic and media pressure and the threat of legal action, the Argentinian government reaccredited some of those on the list. CELS noted in their public statement that, '(t)hese actions by the Argentine government send a chilling message regarding the country's commitment to civil society participation.'

Oral Statements Denied or Interrupted

During the 35th Session of the Human Rights Council (June, 2017) the chairing officer and Council Vice President (the Ambassador of Egypt) interrupted several civil society speakers. On

²⁴ 'So who blocked out participation at the UN Anti-Corruption Conference in Vienna?', K-Monitor; 6/11/17. Available at: <http://k.blog.hu/2017/11/06/uncac-vienna>

²⁵ The European Centre for Not-for-Profit Law was also informed an objection had been made to their application. See: Transparency International and UNCAC Coalition letter to UNCAC COSP President and Secretary, 10 November 2017. http://uncaccoalition.org/en_US/transparency-international-and-uncac-coalition-letter-to-uncac-cosp-president-and-secretary/

²⁶ CELS, Criminal Justice and Security. See: <https://www.cels.org.ar/web/en/2017/12/wto-meeting-in-argentina-rejected-accreditations-and-deportations/>

interrupting ISHR, the Vice President instructed the representative to 'stick to the topic', without elaborating further. ISHR had been delivering a statement on the lack of cooperation with human rights bodies and mechanisms, which clearly fell within the parameters of the agenda item 'human rights bodies and mechanisms'. Indeed, when several States, including Belgium, Luxembourg and the Netherlands spoke on the topic, they were not interrupted. ISHR expressed concern about a conflict of interest in the case of the Vice President, who interrupted ISHR as they were speaking about Egypt.

Other Access and Participation Issues

During the 2017 session of the Third Committee of the General Assembly, ISHR sought to hold a side event on the strengthening of Treaty Bodies. The event was co-sponsored by Finland, Belgium and Costa Rica. As required under Third Committee procedures, any room booking request needs to be made by the co-sponsoring State. The State must provide the UN's Meeting Management Services Department with information regarding any NGO associated with the event. In response to the information provided by Finland, the Department advised that ISHR was in violation of the UN policies regarding the use of UN photos. They stated that ISHR would need to remove photos from its website before it could be listed as an associate. ISHR has been associated with numerous events at the UN over decades. Finally, confirmation came through that ISHR was not, in fact, in violation of any policies, with no such prior problem. However, the matter had taken some days to resolve and required the intervention of co-sponsoring States. The co-sponsoring States indicated that they would be willing to make a statement about this treatment. ISHR views the attempt to block its participation in the event as a reprisal for its work supporting human rights defenders and strengthening human rights systems at the UN.

REGIONAL MECHANISMS

Inter-American Commission on Human Rights

The Commission does not have a mechanism explicitly dedicated to monitoring and responding to reprisals, but has the capacity to send 'requests for information' to States regarding allegations of reprisals, to adopt 'precautionary measures' to prevent irreparable harm to someone, and to issue press releases.

Under Article 41 of the American Convention on Human Rights, and Article 18 of the IACHR Statute, the Commission can request information from a member State on the measures adopted by them in matters of human rights.²⁷ This is a confidential procedure in which the Commission can raise allegations of human rights violations with member States and require States to respond within a timeframe (usually 15 days).

Requests for information sent to States do not need the approval of the entire Commission. The requests for information are handled by the IACHR Rapporteur on human rights defenders,²⁸ and

²⁷ American Convention on Human Rights, 22 November 1969, <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>, OAS General Assembly, Statute of the Inter-American Commission on Human Rights, October 1979, <http://www.oas.org/en/iachr/mandate/basics/statuteiachr.asp>

²⁸ <http://www.oas.org/en/iachr/defenders/default.asp>

require further approval by the relevant country rapporteur and the President of the Commission. Thus, action can be taken relatively quickly (usually within a week).

The IACHR has the capacity to request States to adopt ‘precautionary’ or ‘interim’ measures to prevent irreparable harm to someone.²⁹ These precautionary measures have been requested in cases where human rights defenders are facing reprisals.³⁰

The mechanism for precautionary measures is established in Article 25 of the Rules of Procedure of the IACHR³¹, that in serious and urgent situations, the Commission may, on its own initiative or at the request of a party, ‘request that a State adopt precautionary measures. Such measures, whether related to a petition or not, shall concern serious and urgent situations presenting a risk of irreparable harm to persons or to subject matter of a pending petition or case before the organs of the inter-American system.’ The measures may be of a collective nature to prevent irreparable harm to persons due to their association with an organisation, a group, or a community with identified or identifiable members.

The IACHR also frequently addresses the issue of reprisals in its end of session reports and press releases.³² These reports and press releases may contribute to shining light on the State’s activities and making it harder for authorities to act with impunity against human rights defenders. Press releases are frequently used in situations in which defenders experience reprisals related to their participation in sessions of the IACHR. Press releases can be particularly useful for countries that do not react to Requests for Information and Precautionary Measures.

Several civil society organisations and defenders attending IACHR hearings have also adopted the practice of making specific requests at the end of a hearing exhorting the concerned State not to take any reprisals against those who have collaborated with the IACHR. The Commissioners that are present in the hearings generally respond to these requests by reminding the concerned State of its obligations under Article 63 of the Rules of Procedure of the IACHR. In some circumstances, Commissioners have also expressed their concern regarding statements made by the State representatives during the hearings.

Nonetheless, these mechanisms have not been consistently used to address allegations of reprisals. The IACHR should implement a consistent and coherent response to allegations of reprisals and intimidation and clearly communicate to human rights defenders what avenues they can pursue when they are exposed to these risks.

²⁹ Inter-American Commission on Human Rights, Resolution 8/18, 21 February 2018, <http://www.oas.org/en/iachr/decisions/precautionary.asp>

³⁰ See for instance, the precautionary measure adopted in favour of a Venezuelan human rights defender Inter-American Commission on Human Rights, Resolution 9/15, 20 March 2015 <https://www.oas.org/es/cidh/decisiones/pdf/2015/MC71-15-es.pdf>

³¹ Inter-American Commission on Human Rights, Rules of Procedure, Article 25, available at <http://www.oas.org/en/iachr/mandate/basics/rulesiachr.asp>

³² Report on the 161st Session of the IACHR, Annex to Press Release 35/17, http://www.oas.org/en/iachr/media_center/docs/report-161.doc

African Commission on Human and Peoples' Rights

The African Commission created a monitoring mechanism by extending the mandate of the Special Rapporteur on Human Rights Defenders to include the role of Focal Point on Reprisals following the 'grave concern' expressed by the Commission in the face of frequent and serious reprisals against civil society activists, particularly human rights defenders.³³ This ought to provide the basis for a systematised response, but has yet to be fully operational despite being in existence since May 2014.

In order to operationalise the mandate of the Focal Point on reprisals and contribute effectively to the prevention and fight against reprisals, the Special Rapporteur organised a regional meeting with civil society actors in February 2015 to brainstorm on appropriate strategies to be adopted in order to adequately address the issue of reprisals. Three important documents were adopted at the end of this meeting: A Procedural Guide for Communication between the African Commission's Focal Point on Reprisals, Alleged Victims and States Parties; A form to collect and transmit information relating to allegations of reprisals and intimidation of human rights defenders; and A Briefing and guidance note on communication with the African Commission focal point on reprisals. These three documents have been merged into an 'Information Note', which will be published as a brief document that provides information on the focal point's mandate, how to submit cases, and working methods. At the time of writing this document had yet to be published.³⁴

The mandate of the Focal Point on reprisals should be operationalised without further delay.

IV. NATIONAL LAWS FOR THE RECOGNITION AND PROTECTION OF HUMAN RIGHTS DEFENDERS

The legal recognition and protection of defenders is crucial to ensuring that they can work in a safe, supportive environment, free from attacks, reprisals and unreasonable restrictions.

In 2016, ISHR developed in consultation with over 500 defenders from every region, and settled and adopted by 28 of the world's leading human rights experts and jurists, a [Model Law for the Recognition and Protection of Human Rights Defenders](#).³⁵ The Model Law provides authoritative guidance to States on how to implement the UN Declaration on Human Rights Defenders at the national level and specifically contains provisions relating to the protection of defenders from reprisals.

In recent years laws for the recognition and protection of human rights defenders have been developed and enacted, including in Mexico, Colombia, Brazil, Cote d'Ivoire, Mali and Burkina Faso. More recently we have seen steps being taken towards development of defender protection laws as a means to seek to address cases of intimidation and reprisal.

³³ ACHPR/Res.273 (LV) 14 of 12 May, 2014,

³⁴ Mandate of the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa, End Of Mandate Report, presented by Madam Reine Alapini-Gansou, Commissioner and Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa, November 2017
http://www.achpr.org/files/sessions/61st/inter-act-reps/295/comm_gansou_srhrrd_61_act_report_eng.pdf

³⁵ <https://www.ishr.ch/news/model-law>.

In other countries civil society and national human rights institutions have prepared and presented draft laws. The initial drafts of laws in Sierra Leone, Mongolia and the Philippines contain provisions placing obligations on the States or granting rights to defenders regarding the protection of defenders and their families from intimidation and reprisal.

V. CASES OF INTIMIDATION AND REPRISALS

During the reporting period, ISHR received information regarding a number of allegations of intimidation and reprisals against human rights defenders and others cooperating with the UN and its human rights mechanisms.

BURUNDI

In July 2016, the Public Prosecutor at the Court of Appeal of Bujumbura requested the President of the Bar Association to disbar lawyers Armel Niyongere, Lambert Nigarura, Dieudonné Bashirahishize and Vital Nshimirimana. The four lawyers had contributed to a joint shadow report submitted to the Committee against Torture for the consideration of the special report of Burundi, and three of them had attended the interactive dialogue between Burundi and the Committee against Torture on behalf of the Burundian civil society organisations they represented.

The Committee against Torture sent a letter to the State Party on 5 August 2016 asking for information on the measures taken to stop all reprisals against members of civil society working with the Committee. On 11 August 2016, the State replied by stating that the request for disbarment had been made within the framework of on-going criminal investigations of these lawyers.

On 16 January 2017, the Court of Appeal of Bujumbura disbarred Armel Niyongere, Dieudonné Bashirahishize and Vital Nshimirimana, and suspended Lambert 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.

The Committee against Torture considers the verdict of the court as an act of reprisal for their engagement with the Committee and the UN human rights system.³⁶ Communications were sent by the President of the Committee and the Rapporteur on reprisals in February 2017 to the Representative of the Permanent Mission of Burundi in Geneva but, to date, no reply has been received.

CAMEROON

Maximilienne Ngo Mbe and Alice Nkom, senior leaders of the Network of Human Rights Defenders in Central Africa (REDHAC) have been intimidated and harassed due to their human rights work in Cameroon. In a press conference on 9 October 2017, the Minister of Communication and Spokesman of the Government of Cameroon publically threatened REDHAC, Ngo Mbe and Nkom for condemning the violation of human rights in the so-called Anglophone crisis.³⁷ Further, on 20 October 2017, police surrounded REDHAC offices, and as a

³⁶ http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BDI/INT_CAT_RLE_BDI_26799_F.pdf.

³⁷ See cut of the newspaper Governmental Cameroon Tribune published October 10.

result both Ngo Mbe and Nkom were required to go to extraordinary lengths to escape the scrutiny of those that surrounding them to travel to Geneva. On 30 May 2017 Ngo Mbe received death threats, as well as death threats to members of her family. On 8 October 2017, four young men physically assaulted Ngo Mbe. Nkom continues to receive insults from strangers, intimidation and permanent denigration for her work related to the protection of LGBTI people and the fight against the criminalisation of homosexuality. Mbe and Nkom travelled to Geneva to present their report to the UN Human Rights Committee from 23 to 25 October 2017. Both were fearful of what would happen to them on their return.

CHINA

During and after the visit of the Special Rapporteur on extreme poverty, Philip Alston, to China in August 2016, certain individuals he met or was supposed to meet 'were subjected to what appear to be acts of intimidation and reprisal'.³⁸ Jiang Tianyong, a prominent legal rights activist who met Alston on his trip, disappeared on 21 November 2016. A press release from UN experts in December 2016 indicates that his disappearance is considered to be in the context of his human rights work, and in part due to his efforts to cooperate with the UN human rights mechanisms, including the Special Procedures.³⁹ The Special Rapporteur on extreme poverty made a specific reference to Jiang Tianyong during the presentation of his country mission report to the Human Rights Council in June 2017.⁴⁰ Making a 'special plea' to China to release him, the Special Rapporteur stated that the charges were 'the equivalent of a legal sledgehammer and should have no place in such contexts.' Jiang Tianyong was accused of inciting subversion of State power. A State-run newspaper published a purported interview with him in March 2017 in which he allegedly confessed to peddling 'fake news' to overseas media. A group of Special Procedures mandate holders expressed concern that his alleged confession in August 2017 to seeking to overthrow China's political system, may have been coerced by the use of torture in September 2017.⁴¹

Jiang was found guilty of the incitement charge on 21 November 2017 by the Changsha Intermediate People's Court and sentenced to two years in prison. A group of Special Procedures mandate holders condemned the verdict. That month, a group of Special Procedures mandate holders appealed to the Government of China to unconditionally release him. In March of 2018, a group of Special Procedures mandate holders expressed deep concern over his deteriorating health.⁴²

In October 2016, Alston told the Chinese Government that he had received information that the wives of two detained lawyers had allegedly been intimidated and harassed, with one of them allegedly arrested, partly in retaliation for their 'cooperation' with him. The Chinese Government's official response to the communication stated that neither Wang Qiaoling's nor Li Wenzu's movements were restricted, nor were they illegally monitored or harassed. Contrary to China's

³⁸ A/HRC/35/26/Add.2.

³⁹ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20987#sthash.dH7MxnQP.puf>.

⁴⁰ <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21772&LangID=E>

⁴¹ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22028>

⁴² <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22890&LangID=E>

claims that the two women are not surveilled or targeted, a group of Special Procedures sent an additional communication about on-going harassment on 28 April 2017.⁴³ In April 2018, media reports covered the wives' commemoration of Wang Quanzhang's 1000 days in detention, highlighting on-going intimidation tactics.⁴⁴

There continues to have been no independent investigation into the death of human rights defender Cao Shunli in March 2014. In 2013, Cao Shunli was arrested as a result of her campaigning for transparency and greater participation of civil society in international human rights mechanisms. State authorities at Beijing Capital International Airport stopped her as she was about to board a flight to Geneva to participate in a UN human rights training course and attend a session of the Human Rights Council. For the first five weeks following her disappearance, her family was given no information about her whereabouts. During the five months she was detained, Cao was repeatedly denied access to medical treatment. Requests by her lawyer and family to release her on medical grounds were denied. Cao's health deteriorated and she died on 14 March 2014, nominally of organ failure caused by tuberculosis.

The Committee against Torture in its 2015 Concluding Observations expressed concern over deaths in custody in China, including the case of Cao Shunli, specifically citing the lack of investigation.⁴⁵ Despite Cao's death being included in previous reports of the Secretary-General,⁴⁶ the 2017 report of the Secretary-General does not include Cao's case. To date, no independent investigation has taken place about Shunli's death, and no Chinese official or government body has been held responsible for it. At the 30th session of the Human Rights Council, the Chinese government claimed that Shunli was 'not a human rights defender' and that she had 'received good medical care.' These statements do not accord with the facts and in light of the Chinese government's on-going harassment of defenders for their human rights work, including for efforts to promote universal human rights and engage with the UN, these statements should not be seen as fulfilling any of the State's obligations to respond to these serious allegations. In a joint statement in 2014, UN Special Rapporteurs said, 'the death of Cao Shunli is a tragic example of the results of criminalisation of the activities of human rights defenders in China and reprisals against them. It is unacceptable that civil society activists pay the ultimate price for peaceful and legitimate interaction with the UN and its human rights mechanisms.'

On 17th April 2018 Dolkun Isa, Vice President of the Unrepresented Nations and Peoples Organisation (UNPO) and World Uyghur Congress President, was denied entry into the meeting of the UN Permanent Forum on Indigenous Issues in New York. This was despite the fact that he had received confirmation of his registration for the Forum several weeks before, and had entered the US. Staff at the UN Department of Economic and Social Affairs (DESA) in New York cited

⁴³ CHN 5/2017 available at

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23092>

⁴⁴ <https://www.theguardian.com/world/2018/apr/06/its-been-1000-days-wife-of-jailed-chinese-lawyer-on-march-for-answers>; <https://www.japantimes.co.jp/news/2018/04/11/asia-pacific/li-wenzu-wife-detained-chinese-rights-lawyer-wang-quanzhang-house-arrest/#.Wvn4b6Qvwkl>

<https://www.rfa.org/english/news/china/colleagues-04302018113935.html>

⁴⁵ CAT/C/CHN/CO/5.

⁴⁶ A/HRC/27/38 and A/HRC/30/29.

'security' concerns as the reason for denying him a badge to enter the UN headquarters. Diplomatic efforts made at the highest levels from at least two Permanent Missions finally led to the decision being reversed. Mr Isa was able to enter the UN building and participate at the Forum on the 25 April.

This was the second year in a row Isa's right to participate at the Forum has been severely compromised. In 2017 Isa was attending the Forum meeting in New York. Upon leaving one of the sessions, he was approached by UN security officers who instructed him to leave the premises, despite the fact he was fully accredited to participate in the event. No reason was given for this decision, and he was not permitted to re-enter the building despite his accreditation remaining valid. The following day, Isa's request for a new badge was denied, and he was asked by UN security 'not to come [there] again'. Based on past incidents and NGO and media reporting, there is reason to believe this act was the result of pressure from the Chinese delegation. For indigenous organisations, the Forum provides an important space to engage with the international community around human rights and other issues.

COLOMBIA

On January 27, the head of Interinstitutional Committee for the Defense of Territories Temistocles Machado was assassinated near his house, where he was known for his work for in defense of the territories of the Afro-Colombian population. Just two days later and during the funeral proceedings of Machado, the apartment of Adriel Jose Ruiz Galvan, a human rights defender and director of Fundescodes, was broken into. Galvan's computer and documents were stolen. These acts were not only intended to obtain information on their legitimate work, but to intimidate and discourage them from continuing that work.

The Interinstitutional Committee and Ruiz previously submitted alternate reports to the UN Committee on Economic, Social and Cultural Rights during its reviews of Colombia at both Session 62 in 2017 and Session 44 in 2010.

This takes place within a context where human rights defenders in Colombia, especially those working in indigenous and Afro-Colombian communities, are subject to countless acts of intimidation and violence. According to the Office of the UN High Commissioner for Human Rights, [105 human rights defenders were killed in Colombia last year](#).

CUBA

Dora L. Mesa, Executive Director of Asociación Cubana para el Desarrollo de la Educación Infantil (ACDEI) (Cuban Association for the Development of Education), was planning to travel to Geneva to participate in the UPR-Info pre-sessions associated with the UPR of Cuba on April 8 2018. However, on February 18 2018, when renewing her passport, she was advised at the passport office (Oficinas de la Dirección de Inmigración y Extranjería) that an indefinite travel ban had been imposed on her. The travel ban notes that she has been restricted from travelling due to 'Public Interest'. In Cuba, such travel bans are generally imposed in circumstances where an individual has a pending criminal or judicial charge. No such charge has been filed against Mesa.

Mesa believes this travel ban has been imposed in relation to her previous engagement with international and regional human rights mechanisms, including providing information to and attending the February 2018 session of the Inter-American Commission in Bogota, Colombia, as well as providing information to the previous UPR of Cuba in 2013, the review by the UN Committee on the Rights of the Child of Cuba's implementation of the Optional Protocol on the involvement of children in armed conflict in 2014 and the Optional Protocol on sale of children, child prostitution and child pornography in 2015, and the UN Committee on Enforced Disappearances in 2016.

Mesa was one of several human rights defenders from Cuba banned from traveling to the UPR pre session. During the pre-session, two of the scheduled panellists were not in attendance on account of having been detained by Cuban authorities at the airport. NGOs participating in the pre-session condemned these reprisals by the Cuban government, and noted that the OHCHR and the High Commissioner for Human Rights had been informed of the incident. During the pre-session, representatives from Germany, the Czech Republic, Sweden, Belgium, Denmark, the UK, Finland, USA, Ireland, Slovakia, Croatia and Mexico all made interventions reinforcing this point.

In May 2018, Juan Antonio Madrazo, who was traveling for the UPR session, was intercepted in airport premises and detained by the police long enough that he missed his flight to Geneva (via Madrid).

EGYPT

Law 70/2017 regulating civic associations was adopted in mid 2017 over the [strenuous objections of Egyptian rights organisations and political parties](#).⁴⁷ Its practical effect is to eradicate development-focused and charitable organisations, to say nothing of rights advocacy. Egyptian civil society has called for its repeal.⁴⁸ The law will have devastating effects on the engagement of NGOs in Egypt with the UN.

A particular effect of the Bill will be to severely curtail the ability of Egyptian NGOs to engage with the UN, which is considered a reprisal for their engagement in the country's UPR in 2014. Ahead of the UPR in November 2014, NGOs were given an ultimatum to register with the Ministry of Social Solidarity under the deeply restrictive Law 84/2002. The Ministry had further proposed a new draft bill on associations. After receiving threats as well as a general worsening climate of intimidation, many members of Egyptian NGOs decided to not attend the UPR working group's session fearing their participation might result in reprisal or possible persecution.

Under Article 19 of the Civil Associations and Foundations Bill, civil society will be effectively prohibited from cooperating with the UN without prior approval.⁴⁹ Further, Article 87 provides that

⁴⁷ <https://cihrs.org/مصر-6-احزاب-و-22-منظمة-تسير-فضول-قانون-الجمعي/?lang=en>

⁴⁸ <https://cihrs.org/egypt-a-year-after-the-laws-approval-by-the-egyptian-parliament-rights-groups-no-alternative-but-to-repeal-new-association-law-revision-pointless/?lang=en>

⁴⁹ Unofficial translation: 'It is permissible for an association to cooperate, join, associate, or participate in a civil activity,

anyone found to have breached any article, including Article 19, shall be punished by imprisonment of 1-5 years and a fine between 50,000 Egyptian pounds (approximately USD 2,800) and 1 million Egyptian pounds (approximately USD 55,650).

In an urgent [joint statement](#) on 15 September 2017, the Chair of the UN Working Group on enforced or involuntary disappearances (WGEID) and the Special Rapporteur on the situation of human rights defenders expressed dismay about the arrest of lawyer and activist, Ibrahim Abdelmonem Metwally Hegazy. Metwally, the co-founder of the Association of the Families of the Disappeared - a network of families of forcibly disappeared in Egypt - was arrested and prevented from boarding a flight to Geneva on 10 September to attend the 113th Session of the WGEID. Metwally founded the Association of the Families of Disappeared following the disappearance of his son in July 2013, whose whereabouts remain unknown.

The WGEID and Special Rapporteur denounced the way he is treated, stating that 'the fact that Metwally was arrested while en route to meet the Working Group suggests that this is an act of reprisal for his cooperation with a UN human rights mechanism, as well as a deliberate obstruction of his legitimate human rights activity to seek to establish the fate and whereabouts of his son and other disappeared people in Egypt.' Metwally's whereabouts remained unknown for two days following his arrest. Metwally reported that he was tortured during that time.

The UN experts called on the Egyptian authorities to, '[immediately provide us with all relevant information concerning his arrest and detention, to fully ensure Mr Metwally's right to physical and psychological integrity as well as to due process.](#)' The experts expressed serious concern with regard to the allegations that Metwally had been tortured. Their statement has also been endorsed by the UN Working Group on arbitrary detention.

Since the arrest, he has been charged with 'running a group that was illegally established, spreading false news, and cooperating with foreign organisations'. He was issued with a 15-day detention order and transferred to the Maximum Security Prison known as Scorpion (*al-Aqrab*) at the Tora Prisons Complex in Cairo, a prison notorious for inhumane detention conditions and the ill-treatment of prisoners. Since then Metwally's pre-trial detention continued to be renewed.

The conditions in detention are inhumane, being solitary in a dim and dirty cell with little ventilation and no visitors. He reported his conditions of detention both when he was originally detained and in pre-trial detention to the prosecutor, however no investigation has taken place.

Bahey el-Din Hassan, the Director of Cairo Institute for Human Rights Studies (CIHRS), has received death threats and incitement to violence. On 21 March 2018, in reaction to a memo sent by seven Egyptian independent human rights groups, including CIHRS, to the UN Secretary-General regarding the presidential elections in Egypt, a TV show host called on the Egyptian authorities to 'deal with him [Bahey el-Din Hassan] the same way the Russian spy was dealt with.'

with another association or entity, domestic or foreign, that does not contradict its mandate, on the condition that it submits a request for and receives a permit from the administrative body.' Complementary bylaws set out regulations for cooperating, joining, associating, or participating with the domestic or foreign entity, as well as the data and information necessary for the permit request. Associations may appeal the decisions pertaining to this issue before the relevant court.

This was in reference to the nerve agent attack on Sergei Skripal in the United Kingdom. This incitement has occurred in a context in which 'Egyptian media outlets are being taken over by businessmen linked to the government and intelligence services.'⁵⁰

On April 18th of this year, 22 international rights organisations urged European States and the United States to take all necessary measures to protect Egyptian human rights defenders at home and abroad. The statement called on the Egyptian authorities to immediately conduct a transparent investigation into the recent threats against Hassan.⁵¹ These events constitute the latest example of the harassment that Mr Hassan has faced in recent years. It was such harassment that forced him into exile in 2014 just after President el-Sisi was elected.

Dr Othman is a human rights defender who documented cases of enforced disappearances in Egypt for submission to the WGEID, she also assisted women in inquiring about their disappeared relatives.

On 6 May 2017, Dr Othman went to the Al Qanater Al Khayriyah Prison in the Governorate of Qalyubiya to inquire about the whereabouts of her husband, Khaled Mohamed Hafez Mohamed Azzedine, who was disappeared four years earlier following arrest by State security agents. However, in response a group of National Security forces, some wearing uniforms and others civilian clothes, proceeded to arrest her without any warrant or informing her of the reasons for her arrest. She was taken to an unknown police station close by the Al Qanater prison, where she was subject to severe psychological pressure while being interrogated for long hours. Despite her requests, she was not allowed to inform her family of her whereabouts.

The next day, Dr Othman was brought before the Public Prosecutor of Shubra El Kheima of the Qalyubiya Governorate and was officially charged with 'joining a banned group' and 'forming a women's organisation'. Since her arrest, her pre-trial detention at the Al Qanater Al Khayriyah Prison for women has been continuously extended every 45 days in spite of her lawyer's requests to release her in the absence of evidence or any reason justifying her detention. She remains subjected to severe psychological pressure, however she is now able to receive family visits.

On 9 June 2017 a complaint was submitted on behalf of Dr Othman to the Special Rapporteur on the situation of human rights defenders, requesting the expert to urgently intervene and call on Egyptian authorities to immediately release her, to put an end to the prosecution and drop all charges brought against her.

On 22 November 2017, the Working Group on Arbitrary Detention (WGAD) issued [Opinion Number 78/2017](#) on 18 individuals, including Dr Othman, in which it characterised her detention as arbitrary under categories I, II and III, and recommended that the appropriate remedy would be to release her immediately and accord her an enforceable right to compensation and other

⁵⁰ See Reporters without Borders (2017) 'Egyptian Intelligence Services Extends Control Over Media'. Available at: <https://rsf.org/en/news/egyptian-intelligence-services-extend-control-over-media>

⁵¹ <https://www.ishr.ch/news/egypt-death-threats-against-egyptian-human-rights-defender-bahey-el-din-hassan-during-tv-show>.

reparations, in accordance with international law. The WGAD underlined that the sole reason for her arrest was her peaceful activism and referred her case to the Coordination Committee of Special Procedures and the Assistant Secretary-General for Human Rights in his capacity as senior official on reprisals.

While at the airport to board a flight on 26 May 2016, Mohammed Zaree was informed that he was banned from traveling outside Egypt by order of the investigative judge in case 173/2011, commonly known as the 'Foreign Funding Case against NGOs.' One year after his travel ban – in May 2017 – the investigative judge pressed three charges, including two felonies, against Zaree; and released him under an exorbitant bail. The charges were a clear case of reprisal against him for his work on the UPR, and his advocacy and mobilisation efforts. The Foreign Funding Case is a repressive tool used by the Egyptian Government to restrict civil society. The case carries a potential sentence of life imprisonment for Zaree if he is found guilty of receiving funds from abroad.

ERITREA

On 21 June 2016, Eritrean human rights defender, Daniel Mekonnen, delivered a statement during the interactive dialogue of the Commission of Inquiry on Human Rights in Eritrea at the 33rd session of the Human Rights Council. Later that same day, he was chased in the streets of Geneva by a group of around ten supporters of the Eritrean government. The group yelled verbal abuse at Mekonnen, such as 'traitor', and Mekonnen sought protection from UN security personnel.

Before and after the incident, he was attacked on social media for his advocacy at the Human Rights Council. Further, he has received multiple death threats during the past years, which are considered to be in relation to his human rights work.

Daniel continues to be monitored and intimidated by Eritrean authorities. He was recently warned against travelling to Mauritania to disseminate a civil society report on the situation of human rights in Eritrea due to concerns about his security while there.

GUATEMALA

In March 2018, the head of the Guatemalan Government's delegation made a statement at the adoption of the UPR Working Group report requesting 'donor countries' to examine where resources are going because many supposed to be used to strengthen the protection of human rights are being used improperly.⁵² Given the context of attacks and initiatives to limit and hinder the work of defenders, in particular attacks against those asking for transitional justice, indigenous peoples rights, transparency and the end of impunity of public officials involved in corruption.⁵³

⁵² Intervention by Jorge Luis Borrayo, President of the Presidential Commission of Human Rights in Guatemala, 15 March 2015 during the 30th session of the Human Rights Council.

⁵³ Due to their work supporting the Attorney General Office in prosecution of high level officials (including the President of Guatemala) the UN International Commission Against Impunity in Guatemala (CICIG) became target of political attacks

Defenders view this statement an attempt to intimidate, stigmatise and discredit their work.

HONDURAS

In July 2017 Honduran defenders from Coalición contra la impunidad travelled to Geneva to take part in the review of Honduras by the UN Human Rights Committee. The defenders provided information to the Committee regarding the murder of well-known human rights defender Berta Caceres in March 2016. In response the head of the Honduran delegation discredited the information and made public statements, as well as statements to Honduran media outlets, that the information provided by civil society to the Human Rights Committee on the death of Berta Caceres was false and misleading.

On 2 March 2017, Hedme Castro, General Coordinator of a Honduran NGO called ACI-Participa, was arbitrarily detained by three security guards, including one from their criminal investigation department, at the airport in Tegucigalpa. This happened as she was about to board a plane to Geneva to take part in a side-event of the UN Human Rights Council. Claiming a random inspection of her luggage, airport security proceeded by interrogating her on 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. During her 30-minute detention in the security office, Castro was not allowed to make any phone calls, and she was not shown any detention order by the guards.

Five days later, on March 7, as she was driving to her office in Tegucigalpa, she found that her car had been sabotaged during the night. She proceeded to denounce the event to the Public Ministry, but due to logistical problems, her charge was never processed. The intimidation has continued. On 21 April, a car without plates and with tinted windows drove around the ACI Participa office a few times and then parked in front of the office for a few hours, driving away when a staff member left the office. At 1st of May protests, members of ACI Participa (including Castro) were subjected to verbal assaults by members of a company that operates in a region where ACI Participa is helping the local indigenous community that is fighting against the company. Since ACI Participa has worked in the area, its members have been surveilled, 'persecuted' and photographed. On 21 July, Hedme and her two daughters were followed and hit by a man on a motorbike as they were driving. The same man later stood outside a restaurant they took refuge in. Castro has since received a number of intimidating phone calls in which the caller says nothing and eventually hangs up.

INDIA

On 14 September 2016 Khurram Parvez, a Kashmiri human rights defender – the Chairperson of Asian Federation Against Involuntary Disappearances (AFAD) and Program Coordinator of Jammu Kashmir Coalition of Civil Society (JKCCS) – was prevented from travelling from the Indira Gandhi International airport in Delhi to Geneva Switzerland to attend the UN Human Rights Council.

Parvez was detained for one and a half hours, and subsequently told that due to orders from the Intelligence Bureau, he could not travel to Geneva. In his capacity as the Chairperson of AFAD

and Program Coordinator of JKCCS, Parvez had highlighted violations of human rights.

During his visit to Geneva, Parvez intended to brief UN bodies, including the UN High Commissioner for Human Rights, on the situation in Jammu and Kashmir, particularly over the two months prior, and participate in India's UPR. JKCCS has already submitted a report on the role of the Indian State in Jammu and Kashmir as a part of the UPR process.

Parvez was detained under a preventive detention law on 16 September 2016 and was sent to Kupwara district jail in Jammu and Kashmir. On 19 September the Srinagar District and Sessions judge quashed the detention, calling it illegal. Upon the release from Kupwara jail, Parvez was re-arrested just outside the jail and brought back to Srinagar where on 20 September, the Deputy Commissioner Srinagar ordered his detention under Jammu and Kashmir Public Safety Act (PSA), the infamous preventive detention law, under which a person can be detained from 6 months to two years.

The conditions in jails across Jammu and Kashmir are generally not good and are not disabled friendly. Parvez's family's request for him to be moved to a closer jail was disregarded and he was sent to Kot Bhalwal Jail, Jammu, more than 300 kilometers away. It was hard for Parvez to use the bathroom using crutches, and the quality of the food in the jail was very low and caused several ailments.

Parvez was detained for a period of 76 days. He was released on 30 November 2016 following the decision of the Jammu and Kashmir High Court that he had been imprisoned arbitrarily and that the authorities had abused their power in ordering his detention.

Following his arrest under the PSA Parvez learned that the government had established First Information Reports (FIRs) against him.⁵⁴ Currently three FIRs remain against Parvez. Court hearings for the three cases will take place on 24 and 26 May, and 6 July 2018.

MEXICO

In September 2016, the UN Committee against Torture took the unprecedented step of requesting protective measures as a consequence of ongoing reprisals and intimidations faced by the complainants and their advocates in a case of arbitrary detention and torture of four individuals by Mexican soldiers.⁵⁵ The victims had submitted an individual complaint to the Committee against Torture in March 2012, with the Committee finding violations of several provisions of the Convention Against Torture in August 2015.⁵⁶ The Committee had already requested Mexico to adopt interim measures in October 2013 to provide the appropriate specialised medical care and support required by one of the victims for injuries he sustained to his ears, with which Mexico did

⁵⁴ 74/2016 of R. M. Bagh Police Station under section 307, 147, 148, 336, 149 RPC

72/2016 of R. M. Bagh Police Station under section 147, 148, 336, 332 RPC

78/2016 of R. M. Bagh Police Station under section 147, 148, 336 RPC

39/2016 of Zadibal Police Station under section 147, 148, 149, 336 RPC

⁵⁵ http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MEX/INT_CAT_JUR_MEX_59_25952_S.pdf.

⁵⁶ CAT/C/55/D/500/2012.

not comply.

The Mexican authorities have failed to implement the protective measures, as well as the reparation measures set out in the Commission's decision. An update on the status of the implementation of the decision was submitted to the Committee in December 2017. The submission confirmed that the State had not complied with the request to adopt protective measures and urged the Committee to call on the State to adopt and implement those measures given the on-going acts of reprisal and intimidation taking place. The two victims who remain deprived of liberty have been held in extremely precarious conditions with no regard to their condition as victims of torture, they have been transferred without prior notice to prisons with even harsher conditions, and one has been diagnosed with medical conditions and has not since received any treatment. In regard to the victims that were released, their families continue to face harassment and stigmatisation, to the extent that they were forced to change residences.

In a hearing at the IACHR session this May in Santo Domingo, this case featured among the emblematic examples used of criminalisation of torture victims and their defenders in Mexico.⁵⁷

SAUDI ARABIA

Shortly after her return from attending Saudi Arabia's review by the Committee on the Elimination of all Forms of Discrimination Against Women (CEDAW) this March, Loujain Al-Hathloul was kidnapped in the United Arab Emirates and returned to Saudi Arabia against her will. She has been held incommunicado as of 23 May, and media reports that she is currently being held at al-Hai'r prison in Riyadh.

This takes place in the context of considerable restrictions and attacks against defenders in Saudi Arabia.⁵⁸ During that session of CEDAW, a report presented by human rights NGOs there found that there has been insufficient progress on women's rights in Saudi Arabia.⁵⁹

A Royal decree was issued in 2017 announcing that women would be allowed to drive as of 24 June 2018, offering the illusion that Saudi Crown Prince Mohammed bin Salman was a progressive reformer. However, following the announcement, women's rights activists were specifically warned by the royal court to remain silent and told not to give media interviews or post on social media. Those that ignored this advice now face up to 20 years in prison.

At least 12 human rights defenders are known to have been arrested in the Kingdom of Saudi Arabia since 15 May. Saudi authorities have detained advocates for women's rights, including leaders and supporters of the #Right2Drive and #IAmMyOwnGuardian campaigns who spoke openly about human rights violations in the country and are critical of the discrimination against women. On 18 May, six Saudi women's rights' defenders were arrested and a public smear

⁵⁷ https://www.youtube.com/watch?v=NhF0JaNk90s&list=PL5QlapyOGhXtsMXZJufgB9OeUbp6_I5Gk&index=10

⁵⁸ <https://www.hrw.org/news/2018/05/18/saudi-arabia-womens-rights-advocates-arrested>

⁵⁹ <https://www.gc4hr.org/news/view/1804>.

campaign launched to discredit them, calling them ‘traitors of the State’.

Among the six arrested is Loujain al-Hathloul, who has been campaigning against the ban on women drivers; Aziza Yousef who has been also advocating for an end to the male guardianship system in Saudi Arabia; and Dr Aisha al-Manea, Dr Ibrahim al-Modeimigh and Mohammad al-Rabea who have been campaigning for women’s rights issues in Saudi Arabia. Others arrested since then include Dr. Eman Al-Nafjan, founder and author of the Saudiwoman’s Weblog, who previously protested the driving ban; Abdulaziz Al-Mesha’al; and Ibrahim Fahad Al-Nafjan. Reports have also confirmed the arrests of Dr. Hessa Al-Sheikh, Dr. Madeha Al-Ajroush, and Walaa Al-Shubbar, who participated in the first women’s protest movement for the right to drive in 1990, in which 47 women were arrested for driving and lost their passports and their jobs. They are all academics and professionals who supported women’s rights and women’s survivors of violence. On 23 May, Dr. Al-Manea was released from custody, possibly due to illness.

On 19 May 2018, the official Saudi Press Agency (SPA) publicly acknowledged the arrest of seven of the activists (naming six of them) and accused them of treason and conspiracy against the country, stating that they are charged with ‘organising for trespassing the country’s religious and national foundations, suspicious communication with foreign entities recruiting people working in government positions, funding hostile groups abroad to undermine Saudi national security, stability, social peace and to destroy the social cohesion.’ Shortly after, the media outlets started naming and shaming the detained defenders in print social media platforms calling them ‘traitors’ and ‘embassy’s agents’.

THAILAND

Maitree Chamroensuksakul is a human rights defender from the Rak Lahu minority group defending minority rights, who has been seeking justice for the death of Chaiphaphum Pasae. Maitree reported receiving a death threat and other forms of intimidation after the killing of Pasae by the military during a checkpoint control on 17 March 2017.

On 29 May 2017 while on his way back from meeting with the Special Rapporteur on the situation of human rights defenders in Bangkok, Maitree’s house was raided by policemen and officers from the Narcotics Suppression Bureau. During the raid Nawa Chaoue and Chanthana Pasae were arrested.⁶⁰

Nawa was accused of being complicit in drug related offences for allegedly supplying drugs to Chaiphaphum a day before military personnel shot him. Nawa was incarcerated at the Chiang Mai Correctional Institution on 29 May 2017. Even though she was set bail at the significant amount of 2 million baht (USD20,000) and received the amount from the Justice Fund on 18 July 2017, her request for bail was denied on the basis that her charges related to drug possession and the

⁶⁰ Joint Statement by Protection International (PI) and Asia Pacific Forum on Women, Law and Development (APWLD) on Acquittal of Nawa Chaoue, Indigenous Peoples Human Rights Defender, Co-Founder of Save Lahu Group: <http://apwld.org/joint-statement-by-protection-international-pi-and-asia-pacific-forum-on-women-law-and-development-apwld-on-acquittal-of-nawa-chaoue-indigenous-peoples-human-rights-defender-co-founder-of-save/>

authorities alleged they feared she would escape.⁶¹ Nawa was eventually acquitted on 24 April 2018.

Due to the continued misuse of criminal law by the State Maitree and other members of the Save Lahu movement continue to face risks restricting them being able to return to their villages.⁶²

UNITED ARAB EMIRATES

20 March 2018 marks one year since security forces arbitrarily arrested Ahmed Mansoor, winner of the Martin Ennals Award for Human Rights Defenders in 2015, at his home in Ajman. The authorities continue to detain him in an unknown location.⁶³

The authorities have announced that he is facing speech-related charges that include using social media websites to ‘publish false information that harms national unity.’

In the weeks leading up to his arrest, Mansoor used Twitter to call for the release of the human rights activist Osama Al-Najjar, who remains in prison despite completing a three-year prison sentence in March 2017 for peaceful activities on Twitter; as well as the release of prominent academic and economist Dr Nasser bin Ghaith, sentenced in March 2017 to 10 years for his Twitter posts. Mansoor had also used Twitter to draw attention to human rights violations across the Middle East region, including in Egypt and Yemen, and signed a joint letter with activists in the region calling on Arab League leaders to release political prisoners in their countries. He has a blog, which he used to write on various topics, including about the human rights violations he is subjected to because of his peaceful activities, as well as about the situation of freedom of expression and prisoners of conscience in the UAE.

On 28 March 2017, a group of UN human rights experts called on the UAE government to release Mansoor immediately, describing his arrest as ‘a direct attack on the legitimate work of human rights defenders in the UAE.’ They said that they feared his arrest ‘may constitute an act of reprisal for his engagement with UN human rights mechanisms, for the views he expressed on social media, including Twitter, as well as for being an active member of human rights organisations.’⁶⁴

Since his arrest, Mansoor has not been allowed to make telephone calls to his family and has been allowed only two short visits with his wife, on 3 April and 17 September 2017, both under strict supervision. He was brought from an unknown place of detention to the State Security Prosecutor’s office in Abu Dhabi for both visits. The authorities have refused to inform his family about his place of detention and have ignored their requests for further visits.

In February 2018, a group of international human rights organisations commissioned two lawyers from Ireland to travel to Abu Dhabi to seek access to Mansoor. The UAE authorities gave the

⁶² Protection International (Protection Desk Thailand), Security Incident report latest 15 May 2018

⁶³ <https://www.hrw.org/news/2018/04/09/uae-one-year-award-winning-human-rights-defender-ahmed-mansoor-whereabouts-remain>

⁶⁴ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21449&LangID=E>

lawyers conflicting information about his whereabouts. The Interior Ministry, the body responsible for prisoners, denied any knowledge of his whereabouts referring the lawyers to the police. The police also said they had no information about his whereabouts. The lawyers visited Al-Wathba Prison in Abu Dhabi following statements by the authorities suggesting he was held there. However, the prison authorities told them there was nobody matching Mansoor's description in the prison. On 29 May 2018, Mansoor was sentenced to 10 years in prison. He was also fined one million Dirhams (USD \$272,294.00) and the court ordered him to be put under surveillance for three years on his release.

VI. CONCLUSIONS AND RECOMMENDATIONS

Recommendations to States

- States must refrain from intimidation and reprisals against those who cooperate or seek to cooperate with the UN or regional human rights bodies and mechanisms.
- States must investigate and ensure that any allegations of such acts, whether perpetrated by State or non-State actors, are subject to a full, independent and impartial investigation, and ensure that perpetrators are held accountable and victims are provided with effective remedies.
- States should develop and implement a comprehensive suite of measures to ensure that all persons are able to exercise, individually or in association with others, the right of unhindered access to, and communication with, international human rights bodies and mechanisms and ensure protection from any form of intimidation or reprisal associated with such cooperation, including by: (a) adopting legislative provisions that specifically enshrine this right and prohibit intimidation or reprisals; and (b) reviewing and repealing legislative provisions that may hinder, restrict or impair the enjoyment of this right.
- States should consistently and publicly acknowledge the vital role played by human rights defenders in establishing and safeguarding democratic institutions and processes, as well as the rule of law, and in the promotion and protection of human rights.
- States should cooperate fully, substantively and promptly with the UN's human rights mechanisms and bodies in cases of alleged intimidation or reprisals, including by providing good faith undertakings to prevent and investigate cases and to report back to the relevant body or mechanism — including the Human Rights Council, its Special Procedures, the General Assembly and the Assistant Secretary-General — as to investigative, protective, prosecutorial and remedial steps taken.
- Candidate States for membership of the Human Rights Council should include in their pledges a commitment to ensuring that civil society organisations can conduct their work —including expressing views critical of State authorities — without undue restriction or fear of reprisal, harassment or intimidation.
- Members of the General Assembly, as States electing the members of the Human Rights Council, should not support any candidate State for membership that has engaged in systematic or widespread reprisals or that has failed to investigate and pursue accountability

for cases of reprisals.

- States should use the interactive dialogue at the Human Rights Council called for in resolution 36/21 to ensure adequate attention is focused on the Secretary-General's report on reprisals and to share good practices, challenges and lessons learned and effectively hold other States accountable when the report is presented to the Council.
- States should consider making voluntary contributions, and otherwise support and enable the work of the senior official on reprisals.

Recommendations to UN Bodies and Mechanisms

- UN bodies and mechanisms must recognise and act in conformity with their legal obligation to respect and protect the right of all persons to communicate with the body or mechanism in all aspects of its work and should take all necessary steps to prevent, protect against, and promote accountability for any alleged acts of intimidation or reprisals
- UN bodies and mechanisms should be explicit regarding their condemnation of intimidation and reprisals against those who seek to cooperate, and cooperate with them.
- Where relevant, bodies and mechanisms should follow the developing practice of designating a reprisals focal point or rapporteur to coordinate and strengthen the prevention of reprisals as well as ensure effective follow up to allegations.
- Where States fail to adequately investigate and ensure accountability in relation to credible allegations of intimidation and reprisals, the UN should ensure an international, independent investigation into the case, including through pressure or mandates by the Secretary-General, the High Commissioner for Human Rights, the Special Procedures of the Human Rights Council and the Human Rights Council itself.

Recommendations to the Assistant Secretary-General in relation to operationalisation of his mandate as the senior official on reprisals

- Ensure that the position is visible and accessible to rights holders.
- Develop a public facing policy or working method so that rights holders and victims know where and how to submit information and what they can and cannot expect as a response and in terms of follow up.
- Ensure that rights holders and victims are kept regularly apprised of the status of their case – lack of transparency, information, and updates is a common feature of the various human rights communications mechanisms and procedures that needs to be addressed.
- Actively seek inputs and information on allegations of reprisals from the various UN bodies and agencies.
- Compile and maintain a publicly accessible database of cases and correspondence (with the consent of rights holders and victims), bringing greater visibility to cases and enabling follow-up by NGOs and States, including under the Item 5 General Debate at each Human Rights Council session.

- Use the interactive dialogue at the Human Rights Council called for in resolution 36/21 to ensure adequate attention to the Secretary-General's report on reprisals and to share good practices, challenges and lessons learned and effectively hold States accountable.
- Ensure that the Secretary-General's report, and the presentation thereof, includes all open or unresolved cases, including those in which the State has not responded or provided any follow up information. This is crucial to addressing the current situation in which some States do not respond in the knowledge that if they remain silent long enough the case will no longer be included in the report.
- Consider presenting the Secretary-General's report on reprisals at the Third Committee of the General Assembly as well.

Recommendations to the Human Rights Council

- To more effectively prevent reprisals, the Human Rights Council as a whole and/or its President and Bureau should provide guidance that clearly outlines the steps that the Human Rights Council will take upon receipt of information about credible risks of reprisals to ensure consistency of action across different terms of the presidency and memberships of the bureau.
- When acts of intimidation, harassment and reprisals occur during or in connection with Human Rights Council sessions against individuals who are seeking to participate, or participating, in Human Rights Council sessions or events, the Human Rights Council, acting through the President, has a responsibility to investigate and publicly denounce such acts, in order to ensure the integrity of its processes.
- The President, in consultation with the Bureau, should continue to follow up on cases of alleged reprisals brought to their attention. This should include:
 - Investigating the allegation;
 - Where the allegation is verified and the safety of the defender will not be put at risk, sending a communication to the State concerned which (a) strongly condemns the allegations; (b) sets out what steps are required to prevent recurrence and provide an effective remedy; and (c) requests the State to report back urgently on the steps and measures taken in this regard;
 - Following up on all communications with States in this context; and
 - In accordance with the Human Rights Council's mandate to perform its work in a transparent manner, keeping and making publicly available the minutes of any relevant meetings, together with letters of allegation and correspondence on cases where requested by the victim or their representatives.
- When appropriate, the President of the Human Rights Council and the Bureau should publicly identify and denounce specific instances of reprisals by issuing formal statements, conducting press-briefings, corresponding directly with the State concerned, and publicly releasing such correspondence with and from victims and States where requested by the victim or their representatives.

- The President of the Human Rights Council and the Bureau should also automatically submit cases brought to their attention to the Office of the Secretary-General for consideration for the annual report.
- The Human Rights Council should adopt resolutions that publicly and unambiguously identify and condemn reprisals, calling on States to uphold their human rights obligations by investigating, ensuring accountability, providing appropriate remedies and reporting back to the Human Rights Council on measures taken.
- To better ensure effective investigation and accountability, the Human Rights Council should seek information concerning actions taken by States to prevent and ensure accountability for reprisals, assess States' compliance with international human rights obligations, and call on States to take further action where they fall short of meeting those obligations.
- The Human Rights Council should require a State concerned to report back by including the discussion of its response to the risk or allegation of reprisals in Item 5 statements and in its next Universal Periodic Review report.
- The Human Rights Council should adequately monitor the very concerning pattern of attacks of a personal nature against mandate holders and Commissions of Inquiries and make clear that attacks of this kind will not be tolerated. These attacks constitute an attack on the Council itself.

Recommendations to the Special Procedures

- Special Procedures should ensure full and prompt investigations of allegations of intimidation and reprisals that take into account the victim's protection needs and the respective roles of different parts of the UN. This should include private and/or public discussion with the State concerned to ensure they uphold their obligations to protect against violations.
- Special Procedures should also undertake specific efforts to work with all involved stakeholders, including the State concerned, to ensure non-recurrence and remedy for reprisals. In some cases this might require extensive engagement and follow-up in order for meaningful action to occur.
- Special Procedures should continue to use public communications as a critical tool in raising the political costs of reprisal for States who would otherwise not be exposed.
- Special Procedures should work with Assistant Secretary-General for Human Rights, Andrew Gilmour, in his role as senior official on reprisals, to ensure a coherent and coordinated UN-wide response to acts of intimidation and reprisal.
- Special Procedures should create and maintain a comprehensive record of all cases of intimidation and reprisals against individuals and groups cooperating with Special Procedures, update the record regularly, and ensure that relevant cases are publically accessible.
- Special Procedures should communicate cases to the President of the Human Rights Council under Items 3 or 5, so that unresolved or outstanding cases can be discussed in the context of the General Debate under those Items.

Recommendation to the Treaty Bodies

- All Treaty Bodies should adopt the San José Guidelines on reprisals without further delay.
- Those Treaty Bodies that have adopted the San José Guidelines should work to ensure they are fully and effectively implemented.
- Treaty Bodies should each establish a rapporteur or focal point on reprisals, mandated to promote the right to communicate with the body, to investigate allegations of intimidation or reprisals against those cooperating with the treaty body and — to the extent that the allegation is verified and the safety of the defender will not be put at risk — communicate with the State in question regarding the steps required to provide an effective remedy and prevent recurrence.
- Treaty Bodies should each create an accessible public webpage on reprisals that includes the contact details of the individual member of the body responsible (rapporteur or focal point), as well as information regarding cases received, communications sent to States concerned, responses received and follow-up communications, while seeking to protect the confidentiality of victims when required.
- The annual meeting of Chairpersons should create a common database of cases of reprisals. This would, inter alia, enable better coordination between the treaty body system and the wider UN system.
- The annual meeting of Chairpersons should review all cases of reprisals across all Treaty Bodies, assess actions taken by States and the Treaty Body concerned and coordinate on follow up to cases.
- Treaty Bodies should share the information they receive on reprisals with the Secretary-General to feed into his reports on reprisals.

Recommendation to the Inter-American Commission on Human Rights

- Adopt a clear, public policy on how the IACHR will address allegations of reprisals so that rights holders and victims know where and how to submit information and what they can and cannot expect as a response. Any procedure or mechanism that is adopted should not preclude the adoption of a precautionary measure when the requirements have been met.
- Actively seek inputs and information on allegations of reprisals from all parts of the IACHR.
- Compile and maintain a publicly accessible database of cases and correspondence (with the consent of rights holders and victims), bringing greater visibility to cases and enabling better follow up.
- Ensure that rights holders and victims are kept regularly apprised of the status of their case.

Recommendation to the African Commission on Human and Peoples' Rights

- Operationalise the mandate of the Focal Point on reprisals without further delay, in particular

publish the 'Information Note' on the Focal Point's mandate, how to submit cases, and working methods so that rights holders and victims know where and how to submit information and what they can and cannot expect as a response and in terms of follow up.

- Document and maintain a database on cases of reprisal.
- Provide resources to the Focal Point on reprisals to effectively implement Africa Commission on Human and People's Rights resolution 273.
- Encourage the Focal Point to present a separate report on documented cases of reprisals at each Ordinary Session of the African Commission on Human and People's Rights to ensure the visibility of those cases, and follow up those cases as called for in resolution 273.
- Interact with civil society, in particular by providing civil society with guidance in how to best engage with the Focal Point on reprisals and submit cases of reprisal to the mandate.