



POLICY BRIEF

# PREVENTING AND ADDRESSING REPRISALS AND INTIMIDATION IN RELATION TO ENGAGEMENT WITH THE UN SECURITY COUNCIL

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## About ISHR

The International Service for Human Rights (ISHR) is an independent, non-governmental organisation dedicated to promoting and protecting human rights. We achieve this by supporting human rights defenders, strengthening human rights systems, and leading and participating in coalitions for human rights change.

ISHR seeks to ensure that national, international and regional human rights systems have the tools and mechanisms in place to prevent reprisals and ensure accountability where they occur. In addition, ISHR provides protective publicity to human rights defenders at risk and works to bring cases of alleged intimidation and reprisals to the attention of relevant officials in an effort to press for effective preventative measures and responses.

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# Introduction



*'In recent days we have been very concerned by reports that Myanmar security forces threatened Rohingya villages not to talk openly with the Security Council delegation, and told them that the people who did so were now being looked for by security forces. It is obviously unacceptable that anyone should feel intimidated to speak to the Security Council, which, after all, undertakes these missions on behalf of the international community. I would be most grateful if the Myanmar authorities could clarify that as a matter of urgency.'*<sup>1</sup>

*Remarks by Ambassador Pierce (United Kingdom) Briefing by Security Council mission to Bangladesh and Myanmar, 14 May 2018.*

## Overview

This Briefing Paper aims to shed light on the situation of intimidation and reprisals related to the engagement of civil society representatives, including human rights defenders and victims, with the UN Security Council. It also aims to provide concrete recommendations to relevant stakeholders on how to prevent and address reprisals and intimidation in relation to that engagement. It builds on emerging good practice and civil society recommendations and provides a tool to guide UN bodies, mechanisms, and agencies, as well as diplomatic missions to the UN and in the field, on how to ensure that civil society representatives, including human rights defenders and victims, can engage meaningfully and safely with the Security Council.

## Background and context

### *Nature and extent of intimidation and reprisals*

*According to the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), there have been cases of reprisals perpetrated by State actors and non-State armed groups against individuals who collaborate with the Mission, including the Human*

*Rights and Protection Division. Intimidation and death threats are strategies that have been used by terrorist and extremist armed groups to threaten populations for any collaboration with national and international forces, including MINUSMA.*

2018 Report of the Secretary-General on Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, *A/HRC/39/41*.

Preventing and addressing cases of intimidation and reprisals are 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. However, in recent years there has been increased concern at the intimidation and reprisals experienced by human rights defenders, whether at the local, regional, or international levels.

Whether it be by speaking to local media, taking part in a protest, publishing a research paper, taking part in a meeting at or submitting information to the UN, human rights defenders face risks when raising their voices in any context against States or other powerful bodies. Govern-

<sup>1</sup> United Nations Security Council, Briefing by Security Council mission to Bangladesh and Myanmar (28 April to 2 May 2018), 8255th meeting, SIPV.8255m, 14 May 2018.

ments have no desire to be portrayed as human rights violators on the international stage.

Many cases of intimidation and reprisals take place in a context of systematic harassment, threats and attacks against human rights defenders. Reprisals are often carried out by powerful State agents, such as the police, military or security forces, or the judiciary, who act to protect the State from criticism. They are also often carried out by non-State agents, such as businesses, members of criminal groups, or armed groups, whose links to the State can be more or less direct, indirect, or totally absent.

Abuses come in many forms, including the use and abuse of laws to criminalise the work of human rights defenders, the use of arbitrary legal proceedings intended to hinder such work, unreasonable restrictions on their work, unfair scrutiny of their organisations, spying on or defaming defenders, denying access to funding, or arbitrarily arresting, physically attacking, or even killing defenders. In addition to being used punitively, reprisals are often used as a deterrent measure. These cases are harder to measure but the UN,<sup>2</sup> the Inter-American Commission<sup>3</sup> and the Council of Europe<sup>4</sup> have recognised the deterrent effect of reprisals and the obligation of States to ensure that human rights defenders can access and fully engage with these mechanisms.<sup>5</sup>

While reprisals often take place in defenders' home countries, they can also take place at the very moment that defenders are participating in UN meetings. For example, civil society representatives participating in meetings of the Security Council in New York have faced threats and harassment from members of their country's delegation. Incidents at UN meetings can be combined with press campaigns at home in which defenders are publicly denounced and threatened. Threats against human rights defenders can come from as high up as government ministers and heads of State.

It is extremely detrimental to the effective functioning of the UN system that in some circumstances, as a result of the risks faced, human rights defenders avoid interacting with it. Defenders bring crucial information and perspectives regarding situations on the ground and the UN depends on that knowledge and input to make informed decisions. However, there are unfortunately cases where State institutions are simply unable, wilfully neglectful, or deliberately obstructive when it comes to ensuring that defenders can cooperate safely with

UN bodies and mechanisms. In those situations, defenders who dare to speak out face heightened risks.

Because of the intergovernmental nature of the UN, and because the UN system can seem remote, defenders may underestimate the risks that can be faced when engaging with it. All stakeholders should be aware of the importance some States place on being able to control what information is heard in international and regional fora, and therefore of the potential risks human rights defenders can face when cooperating or seeking to cooperate with international human rights bodies and mechanisms.

### **Civil society engagement with the Security Council**

*'I may not know the destiny that might face me after leaving the Security Council, or my dear colleagues. This is a very critical moment in our country and as I said earlier the attacks on women human rights defenders are on the rise. I just want to say that we are taking this risk today and we are relying on the Security Council to take firm action to protect women and girls and women human rights defenders in Libya.'*

Remarks by Ms. Inas Miloud at UN Security Council Open Debate on Sexual Violence in Conflict, 23 April 2019.

The Security Council has a tendency to be perceived among some actors as a forum that precludes the participation of civil society.<sup>6</sup> However, as with other parts of the UN system, the views and experiences of civil society have been a crucial source of knowledge, expertise, and analysis to the Security Council and indeed have grown in significance in recent years. This includes the increase in the number of so-called 'briefers', i.e. civil society representatives participating in Security Council meetings in New York. It also includes Council Visiting Missions, which have become more frequent in recent years, and through which a wealth of information is gained by virtue of witnessing conditions on the ground and collecting testimonies.<sup>7</sup> Another important aspect of cooperation is the engagement of civil society representatives, including human rights defenders and victims, with peace operations mandated by the Security Council, in order to strengthen the quality and legitimacy of action. Lastly, some Special Representatives are mandated through Security Council resolutions, and thus the risks of intimidation and reprisals faced by civil society representatives engaging with those mandates should also be an area of concern for the Security Council.<sup>8</sup>

2 United Nations General Assembly, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/18/19, 21 July 2011, at para 69, available at: <http://bit.ly/oA14o1>.

3 IACHR Deplores Reprisals Against Individuals Who Come Before the Inter-American Commission, Inter-American Commission for Human Rights, November 4, 2011, available at: <http://bit.ly/XTA6t6l>.

4 Parliamentary Assembly of the Council of Europe, 'Member States' duty to cooperate with the European Court of Human Rights', resolution 1571, 2007, at para 7, available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17576&lang=en>.

5 Parliamentary Assembly of the Council of Europe, 'Member States' duty to cooperate with the European Court of Human Rights', resolution 1571, 2007 at para 7, available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17576&lang=en>.

6 Civil Society Involvement in the UN Security Council, Duc Dao Duy Anh and Alexia Jablonski, March 13, 2015, <https://www.internationalaffairs.org.au/australianoutlook/civil-society-involvement-in-the-un-security-council/>.

7 Human Rights and the Security Council – An Evolving Role, Security Council Report, 2016, No. 1, 25 January 2016, [https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/research\\_report\\_human\\_rights\\_january\\_2016.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/research_report_human_rights_january_2016.pdf), page 12.

8 For example, the Special Representative of the Secretary General on Sexual Violence in Conflict was established by Security Council Resolution 1888 on 30 September 2009, United Nations Security Council, S/RES/1888, 30 September 2009, available at: [https://undocs.org/S/RES/1888\(2009\)](https://undocs.org/S/RES/1888(2009)).

Several developments in the Security Council in recent years have led to greater civil society engagement in various aspects of its work, including in New York, on Visiting Missions, and through its peace operations.

*'The Security Council has in recent years started to bring civil society representatives to their meetings to brief on country and thematic situations. This is very welcome. But regrettably, we have several reported cases where individuals have been harassed, threatened, and slandered online for speaking out at the Security Council. This is happening right under our noses in the diplomatic hallways at headquarters.'*

Comments by Assistant Secretary-General for Human Rights, Andrew Gilmour, at OHCHR side event *Intimidation and reprisals against those engaging with the UN on human rights: Examining trends and patterns*, New York, 24 October 2018.

While positive in many ways, the greater engagement of civil society representatives, including human rights defenders and victims, with the Security Council could also lead to greater risks of intimidation and reprisals. This is a particular concern in light of the current global crackdown on civil society,<sup>9</sup> as well as the increase in reprisals documented by the Secretary-General. These factors suggest that stakeholders would be prudent to take steps to better prevent and mitigate the risk of intimidation and reprisals against those engaging with the Security Council, and put in place effective policies on how to respond to incidents when they arise.

#### *Specific risks faced by women civil society briefers*

The 2015 resolution on Women, Peace and Security (S/RES/2015/2242), in which the Council expressed its intention to invite civil society, including women's organisations, to brief the Council in country-specific considerations and relevant thematic areas, was a watershed moment. The resolution triggered a significant increase in civil society participation in Council meetings and as a result of the resolution's focus, the majority of civil society briefers overall are women.

This may have important consequences, as women are exposed to the same risks as other civil society representatives but may also be at risk of gender-based violence and gender-specific risks because of who they are and the work they do, which may challenge existing gender norms within their communities and societies. These can include threats of or sexual and gender-based violence, sexual harassment, and the targeting of family members. Such acts of intimidation and reprisal are aimed at discouraging women from participating in political and public life, and can thus be a barrier to the effective implementation of Women, Peace and Security resolutions. Because the risks faced by women

civil society representatives may be specific, it is important to consider the gender dimension in order to obtain a full understanding of the risks and challenges faced, and best respond to incidents that may arise.<sup>10</sup>

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

Report of the Secretary-General on 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/39/41 (13 August 2018), para 81.



*'The work of women human rights defenders remains essential for both protection of basic human rights and peace and security in Libya, as well as for providing life-saving services to survivors of sexual and gender-based violence such as food, medical care, and free counseling. However, attacks against them remain on the rise – over ten cases have been documented since 2017. Sexual and gender-based violence is systematically used to intimidate and silence women activists and political figures. Reprisals for our activism and criminalization of our work has led to severe restrictions on freedom of movement, assembly, and speech. Numerous women's organizations have simply stopped working due to such harassment and threats.'*

Statement by Ms. Inas Miloud at UN Security Council Open Debate on Sexual Violence in Conflict, 23 April 2019.<sup>11</sup>

9 Regarding the global crackdown on civil society, see for example *Civil rights 'under serious attack' across the globe*, *The Guardian*, November 27, 2018, <https://www.theguardian.com/global-development/2018/nov/27/civil-rights-under-serious-attack-across-the-globe>; *Laws Designed to Silence: The Global Crackdown on Civil Society Organizations*, Amnesty International, February 20, 2019, <https://www.amnestyusa.org/reports/laws-designed-to-silence-the-global-crackdown-on-civil-society-organizations/>.

10 *Guidance for Member States when engaging with civil society briefers to the Security Council*, Permanent Mission of the United Kingdom to the UN, 2018.

11 *Statement by Ms. Inas Miloud at UN Security Council Open Debate on Sexual Violence in Conflict*, NGO Working Group on Women, Peace and Security, April 23, 2019, <http://www.womenpeacesecurity.org/resource/statement-unscc-sexual-violence-open-debate-april-2019/>.

*References to civil society engagement with the Security Council or its mandated peace operations in relevant documents*

- In a 2005 Presidential Statement on conflict prevention (S/PRST/2005/42), the Council recognized the important supporting role of civil society; reaffirmed the need for a broad strategy to be based on engagement with, inter alia, civil society organisations; underlined the potential contributions of a vibrant and diverse civil society in conflict prevention, as well as in the peaceful settlement of disputes; noted that civil society provides specialised knowledge, capabilities, experience, links with key constituencies, influence and resources; noted that civil society provides community leadership, helps shape public opinion, and facilitates as well as contributes to reconciliation between conflicting communities; underscored the role that civil society could play in providing a bridge to dialogue and other confidence-building measures between parties in conflict; and underscored that it will strengthen its relationship with civil society, including as appropriate, through, inter alia, the use of 'Arria-formula' meetings<sup>12</sup> and meetings with local civil society organisations during Security Council missions.
- In a 2010 Note by the President on enhancing the Council's transparency (S/2010/507), members of the Security Council agreed to consider using 'Arria formula' meetings to enhance their contact with civil society and non-governmental organisations, including local non-governmental organisations suggested by United Nations field offices.<sup>13</sup> The same Note encouraged Security Council missions to hold, as appropriate, meetings with local civil society leaders, non-governmental organisations and other interested parties.<sup>14</sup>
- In a 2013 resolution on peacemaking, peacekeeping and peacebuilding, the Security Council emphasised that multidimensional peacekeeping missions 'may be mandated to ... facilitate consultation processes among local population and civil society to help them contribute to national processes and discussions' (S/RES/2086) and in a 2016 resolution on post-conflict peacebuilding to 'strengthen partnerships between the United Nations and key stakeholders, including ... civil society organizations' (S/RES/2282).
- In a 2014 resolution on the prevention of armed conflict (S/PRST/2005/42), the Council expressed its 'willingness to strengthen its relationship with civil society', acknowledging the importance of civil society organisations in matters of peace and security.
- Also, in 2014, the Integrated Planning Policy (IAP) reiterated the importance of civil society in peacekeeping by requiring that mandatory strategic assessments undertaken by all missions should include consultations with 'relevant interlocutors...including, to the extent possible, national authorities, civil society, and other local representatives...'.<sup>15</sup>
- In a 2015 resolution on Women, Peace and Security (S/RES/2015/2242), the Council encouraged 'the meaningful participation of civil society organisations at international and regional peace and security meetings' (OPI) and expressed its intention to invite civil society, including women's organisations, to brief the Council in country-specific considerations and relevant thematic areas (OP5(c)).

12. The Arria Formula is an informal arrangement that allows the Council greater flexibility to be briefed about international peace and security issues. It has been used frequently and assumed growing importance since it was first implemented in March, 1992. The Arria Formula assumed special importance because under long standing Council practice, only delegations, high government officials (of Council members) and United Nations officials could speak at regular Council meetings and consultations. The Arria Formula enables a member of the Council to invite other Council members to an informal meeting, held outside of the Council chambers, and chaired by the inviting member. The meeting is called for the purpose of a briefing given by one or more persons, considered as expert in a matter of concern to the Council. Source: <https://www.globalpolicy.org/component/content/article/185-general/40088-the-arria-formula.html>.

13. United Nations Security Council, 'Note by the President of the Security Council, S/2010/507, 26 July 2010, at para 65, available at: <https://www.un.org/en/sc/repertoire/Notes/S-2010-507.pdf>.

14. United Nations Security Council, 'Note by the President of the Security Council, S/2010/507, 26 July 2010, at para 68, available at: <https://www.un.org/en/sc/repertoire/Notes/S-2010-507.pdf>.

## Resolution 2242 (2015): A Seminal Moment for Civil Society Participation in the Security Council:

The adoption of Resolution 2242 in 2015 was a watershed moment as shortly after, a woman civil society briefer first addressed the Council on a country situation in December 2016,<sup>15</sup> and then again in January 2017, under the presidencies of Spain and Sweden, respectively.<sup>16</sup> Between 2016 and the end of April 2019, Member States had invited 98 civil society briefers (including 63 women civil society briefers) to formally brief the Council on thematic and geographic agenda items.<sup>17</sup> This practice has largely been welcomed by relevant stakeholders as it ensures the Security Council has a more comprehensive understanding of particular situations and is therefore better positioned to respond. It also assists with highlighting the successes, opportunities and challenges for women and girls, as well as other groups such as minorities, who are often excluded from decision-making and formal peace and security processes and analyses.<sup>18</sup> Finally, engaging civil society as briefers, and across cycles of work in the Security Council, provides a key opportunity for building strong partnerships for change.<sup>19</sup>

- A study – ‘Understanding and Improving Engagement with Civil Society in Peacekeeping’ – was conducted in 2015 to identify ways of improving the effectiveness of the engagement of peace operations with civil society.<sup>20</sup> The study concluded that there is growing consensus on the need to improve the engagement of civil society with peace operations, given its essential role in a state’s transition from conflict and fragility to sustainable peace and resilience.<sup>21</sup> Those recommendations led to the formulation of a set of Guidelines on Engagement with Civil Society.<sup>22</sup> Those Guidelines point to the need for peacekeeping personnel to develop an understanding of any risks that engagement with the mission may pose for civil society actors, which will contribute to identification and prevention of possible risks and reprisals against civil society actors.
- In a 2017 Note by the President on working methods (S/2017/507), the Council encouraged Security Council missions to continue to avoid restricting their meetings to those with governmental interlocutors and interlocutors of conflict parties and to hold, as appropriate, meetings with local civil society leaders, non-governmental organisations and other interested parties (para. 123). The Security Council also agreed to consider using ‘Arria formula’ meetings to enhance their contact with civil society and non-governmental organisations, including local non-governmental organisations suggested by United Nations field offices, and encouraged the introduction of such measures as lengthening lead times, defining topics that participants might address and permitting their participation by video teleconference (para. 98).<sup>23</sup>
- Various peace operations mandated by the Security Council have included language on civil society, including: to support civil society participation to promote and advance political reconciliation, rehabilitation and reconstruction activities;<sup>24</sup> to assist in strengthening societal capacity for human rights promotion, protection and monitoring;<sup>25</sup> to support civil society participation as part of national reconciliation and political dialogue;<sup>26</sup> to support civil society participation in the electoral process;<sup>27</sup> to support civil society development to promote political inclusion;<sup>28</sup> to promote interaction with civil population to identify

15 On 2 December 2016, Victoria Wollie, the National Coordinator in Liberia for the West Africa Network for Peacebuilding, addressed the Council.

16 Ms. Fatima Yerima Askira, Borno Women Development Initiative and Youth Programmes Coordinator at Search for Common Ground Nigeria, addressed the Council on 12 January 2017.

17 NGO Working Group on Women Peace and Security.

18 Guidance for Member States when engaging with civil society briefers to the Security Council, Permanent Mission of the United Kingdom to the UN, 2018.

19 Civil Society Briefers, Women’s International League for Peace & Freedom, <https://www.peacewomen.org/node/1103504>.

20 Understanding and Improving Engagement with Civil Society in UN Peacekeeping: From Policy to Practice, UN Department of Peacekeeping Operations and Department of Field Support, PK/IG/2017, 2017.

21 Understanding and Improving Engagement with Civil Society in UN Peacekeeping: From Policy to Practice, page 39.

22 2017.06 Engagement with Civil Society (Guidelines), PK/IG/2017.06, UN. Department of Peacekeeping Operations - UN. Department for Field Support - DPKO-DFS/DPET/Policy and Best Practice Service. Date, 2017-05-01.

23 Towards a Feminist Security Council: A Guidance Note for Security Council Members, Women’s International League for Peace & Freedom, [https://www.peacewomen.org/sites/default/files/WILPF\\_Feminist%20Security%20Council%20Guide\\_Print.pdf](https://www.peacewomen.org/sites/default/files/WILPF_Feminist%20Security%20Council%20Guide_Print.pdf), page 18.

24 United Nations Security Council, ‘Somalia’, S/RES/814, 26 March 1993, available at: [https://undocs.org/S/RES/814\(1993\)](https://undocs.org/S/RES/814(1993)).

25 United Nations Security Council, ‘Timor-Leste’, S/RES/1704, 25 August 2006, available at: [https://undocs.org/S/RES/1704\(2006\)](https://undocs.org/S/RES/1704(2006)).

26 United Nations Security Council, ‘Democratic Republic of the Congo’, S/RES/1756, 15 May 2007, available at: [https://undocs.org/en/S/RES/1756\(2007\)](https://undocs.org/en/S/RES/1756(2007)); United Nations Security Council, ‘Democratic Republic of the Congo’, S/RES/1856, 22 December 2008, available at: [https://undocs.org/S/RES/1856\(2008\)](https://undocs.org/S/RES/1856(2008)); United Nations Security Council, ‘Mali’, S/RES/2100, 25 April 2013, available at: [https://undocs.org/S/RES/2100\(2013\)](https://undocs.org/S/RES/2100(2013)).

27 S/RES/1917 (2010) on UNAMA.

28 S/RES/2040 (2012) on UNAMSIL, S/RES/2095 (2013) on UNSMIL.



security threats to the public;<sup>29</sup> to promote the meaningful participation of civil society;<sup>30</sup> to support civil society participation as part of national and local reconciliation, and social cohesion facilitation;<sup>31</sup> to include civil society representatives in political dialogues;<sup>32</sup> to emphasise the role that civil society can play to advance peacebuilding and ensure all segments of society are taken into account;<sup>33</sup> to welcome peace agreements concluded with the support of civil society;<sup>34</sup> to stress the importance of the participation of civil society and to urge the sides to step up efforts to promote the active engagement of civil society;<sup>35</sup> to note the importance of the full and effective participation of civil society in peace processes and to coordinate with civil society in activities related to the protection of IDPs and refugees;<sup>36</sup> and to maintain contact with civil society groups.<sup>37</sup>

- The Secretary-General reported in 2018 that, in the context of protection of civilians, the Department of Peacekeeping Operations has reinforced a policy commitment to the principle of 'do no harm' in its cooperation with communities and civil society. The force commanders, in cooperation with civilian components, must ensure that threat assessments and situational awareness are informed by regular engagement with communities and civil society groups, such as youth and women's groups, which affirms their accountability for ensuring that such engagement does not expose any persons to harm.<sup>38</sup>
- In a 2019 resolution on sexual violence in conflict (S/RES/2467 (2019)), the Security Council recalled the important contribution of civil society to conflict prevention, resolution, and peacebuilding, affirmed the importance of their sustained engagement and meaningful participation in all peace processes, and said it remains deeply concerned about threats, attacks and restrictions on the work of civil society organizations that inhibit their ability to contribute to international peace and security (PP22); expressed its intention to make better usage of periodical field visits to conflict areas, through the organization of interactive meetings with the local women and women's organizations in the field ... and engage with victims, affected communities and civil society, including women's organizations (OP13); recognized the importance of supporting, and promoting civil society (OP19); and welcomed the regular briefings by women from civil society, particularly in country-specific meetings ... and called upon States to condemn acts of discrimination, harassment and violence against civil society, and journalists who report on sexual violence in conflict and who are important to changing norms on roots causes, namely structural gender inequality and discrimination, and develop and put in place measures to protect them and enable them to do their work (OP21).

***'We have also seen individuals threatened for speaking to Council members during their field visits, and several Member States have spoken out against this. During a Security Council visit to Rakhine State in Myanmar, it was reported that Rohingya villages were threatened with reprisals if they talked with the Security Council delegation. This also happened in South Sudan during the Council's visit two years ago.'***

Comments by Assistant Secretary-General for Human Rights, Andrew Gilmour, at OHCHR side event *Intimidation and reprisals against those engaging with the UN on human rights: Examining trends and patterns*, New York, 24 October 2018.

29 United Nations Security Council, 'Central African Republic', S/RES/2149, 10 April 2014, available at: [https://undocs.org/S/RES/2149\(2014\)](https://undocs.org/S/RES/2149(2014)).

30 United Nations Security Council, 'Mali', S/RES/2100, 23 April 2013, available at: [https://undocs.org/S/RES/2100\(2013\)](https://undocs.org/S/RES/2100(2013)); United Nations Security Council, 'Mali', S/RES/2164, 25 June 2014, available at: <https://undocs.org/S/RES/2164>; United Nations Security Council, 'Mali', S/RES/2423, 28 June 2018, available at: [https://undocs.org/en/S/RES/2423\(2018\)](https://undocs.org/en/S/RES/2423(2018)).

31 United Nations Security Council, 'Mali', S/RES/2227, 29 June 2015, available at: [https://undocs.org/S/RES/2227\(2015\)](https://undocs.org/S/RES/2227(2015)); United Nations Security Council, 'Mali', S/RES/2165, 14 July 2014, available at: [https://undocs.org/S/RES/2165\(2014\)](https://undocs.org/S/RES/2165(2014)).

32 United Nations Security Council, 'Cote d'Ivoire', S/RES/2226, 25 June 2015, available at: [https://undocs.org/S/RES/2226\(2015\)](https://undocs.org/S/RES/2226(2015)); United Nations Security Council, 'Cote d'Ivoire', S/RES/2162, 25 June 2014, available at: [https://undocs.org/S/RES/2162\(2014\)](https://undocs.org/S/RES/2162(2014)).

33 United Nations Security Council, 'Haiti', S/RES/2350, 13 April 2017, available at: [https://undocs.org/S/RES/2350\(2017\)](https://undocs.org/S/RES/2350(2017)).

34 United Nations Security Council, 'Sudan and South Sudan', S/RES/2429, 13 July 2018, available at: [https://undocs.org/S/RES/2429\(2018\)](https://undocs.org/S/RES/2429(2018)).

35 United Nations Security Council, 'Cyprus', S/RES/2398, 30 January 2018, available at: [https://undocs.org/S/RES/2398\(2018\)](https://undocs.org/S/RES/2398(2018)).

36 United Nations Security Council, 'South Sudan', S/RES/2406, 15 March 2018, [https://undocs.org/S/RES/2406\(2018\)](https://undocs.org/S/RES/2406(2018)).

37 United Nations Security Council, 'The situation in Afghanistan and its implications for international peace and security: Report of the Secretary-General', A/56/875 S/2002/278, 18 March 2002, at para 104, available at: <https://reliefweb.int/report/afghanistan/situation-afghanistan-and-its-implications-international-peace-and-security-9>; This report was endorsed in United Nations Security Council, 'Afghanistan', S/RES/1401, 28 March 2002, at OP 1, available at: [https://undocs.org/S/RES/1401\(2002\)](https://undocs.org/S/RES/1401(2002)).

38 United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/39/41, 13 August 2018, at para 19, available at: <https://undocs.org/A/HRC/39/41>.



## The obligation of States and the UN to address reprisals

This section aims to clarify the obligations of States and the UN to address reprisals, including a particular focus on the Security Council. While States have the primary duty to prevent reprisals, the Security Council bears a special responsibility to mitigate the risk of harm to individuals arising from their cooperation and communication with it, based on moral and political imperatives. The Security Council should act responsibly in its interactions with civil society representatives, including human rights defenders and victims, given that these interactions may place individuals at heightened risk of intimidation and reprisals.

***'As the Secretary-General has said, we should all be deeply shocked and angered by the extent to which civil society actors suffer reprisals because of their work, including when they cooperate with the UN. But shock and anger must translate into real action. Governments can do much more to stop reprisals, ensure that they do not recur, and hold those responsible to account for their actions.'***

Assistant Secretary-General for Human Rights Andrew Gilmour, the senior UN official designated to address the reprisals and intimidation, 12 September 2018<sup>39</sup>

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 enshrined in the Declaration on Human Rights Defenders and a number of human rights treaties, as well as being a necessary incident of the rights to freedom of expression, association, assembly and movement contained in international human rights instruments and in customary international law.<sup>40</sup> 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. Furthermore, 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.<sup>41</sup> As mentioned above, the

39 UN report warns of alarming scope and effect of reprisals on victims, activists and human rights defenders, OHCHR, September 12, 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23540&LangID=E>.

40 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.

41 United Nations Human Rights Committee, 'Concluding Observations: Morocco', CCPR/CO/82/MAR, 1 December 2004, at para 18, available at: <https://undocs.org/CCPR/CO/82/MAR>.

right to unhindered access to and communication with international bodies is also explicitly recognised in the Declaration on Human Rights Defenders<sup>42</sup> and is codified in certain UN human rights treaties.<sup>43</sup>

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.<sup>44</sup>

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.<sup>45</sup> However, the role that Member States can play in upholding these obligations is but one piece of the wider protection strategies to be considered and implemented to ensure that civil society representatives, including human rights defenders and victims, are able to engage safely and effectively with the Security Council.

The Security Council itself has a responsibility to protect individuals who cooperate with it from reprisals and defend its integrity, particularly as it relates to the right of civil society representatives, including human rights defenders and victims, to participate fully and safely in its work. Attacks against those that seek to cooperate, or cooperate with the Security Council, or its peace operations, constitute an attack not only on those individuals but on the institution itself.

At this stage it is not clear what measures the Security Council takes, if any, to prevent and address cases of intimidation and reprisals, beyond some limited action on the part of individual Member States. The Security Council should take steps to more systematically prevent and address intimidation and reprisals against those engaging with it. To do so would be consistent with the purposes and principles of the Charter, give effect to the Security Council's special responsibility to mitigate the risk of harm to those cooperating with it based on moral and political imperatives, would be consistent with customary international human rights law, and would assist the Security Council to fulfil its mandate.<sup>46</sup>



42 *United Nations 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 A/RES/53/144, 8 March 1999, at Articles 5(c) and 9(4).

43 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.

44 *United Nations 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, at Articles 2(1), 9(1) and 12(2).

45 *United Nations General Assembly, 'United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms'*, A/RES/53/144, 8 March 1999, Annex, at preambular para 7, Article 2; *United Nations General Assembly, 'Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms'*, A/RES/66/164, 19 December 2011, at preambular para 15. For the manner in which human rights treaties link States' obligations to ensure respect for human rights and the exercise of territorial control and jurisdiction, see, e.g., the *International Covenant on Civil and Political Rights*, at Article 2(1)–2(3).

46 A detailed analysis of whether the Security Council must comply with international law and general principles of law, including human rights law, in the context of reprisals is beyond the scope of this briefing, though some of the human rights implicated in the intimidation and reprisals context can be said to exist at customary international law and therefore the question may benefit from further consideration.

# The UN response to intimidation and reprisals



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

*2018 Report of the Secretary-General on Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, A/HRC/39/41.*

Over the last several years, different UN bodies and mechanisms have evolved piecemeal responses to preventing and addressing intimidation and reprisals. This includes the treaty bodies and the Human Rights Council, including the Universal Periodic Review and the Special Procedures.<sup>47</sup> These are covered in greater detail in Annex I: The role of key UN human rights mechanisms and bodies in addressing intimidation and reprisals for cooperation with the UN in the field of human rights. The aspects of the UN's response that are more relevant to the Security Council are covered in greater depth in the present section. In addition to the more fragmented responses by individual UN bodies and mechanisms, the Secretary-General also produces an annual report on reprisals, also known as the 'Reprisals Report', and the Assistant Secretary-General for Human Rights is mandated as the 'senior official' to lead the efforts within the UN system to address intimidation and reprisals. No specific mechanism exists to prevent or address intimidation or reprisals related to engagement with the Security Council.

## **The 'Reprisals Resolution' and Secretary-General's 'Reprisals Report'**

The issue of reprisals has formally been on the UN's agenda for almost 30 years. Reacting to a number of reports to the Commission on Human Rights that raised concerns about reprisals, Hungary began leading a resolution in 1990 on 'Co-operation with representatives of United Nations human rights bodies'.<sup>48</sup> Recognising from the start that the UN itself had

<sup>47</sup> See *Reprisals Handbook*, International Service for Human Rights, 2018, [https://www.ishr.ch/sites/default/files/documents/ishr\\_reprisals018\\_eng\\_new\\_web3\\_0.pdf](https://www.ishr.ch/sites/default/files/documents/ishr_reprisals018_eng_new_web3_0.pdf).

<sup>48</sup> United Nations Economic and Social Council, 'Cooperation with representatives of United Nations Human Rights Bodies', E/CN.4/1990/76, 7 March 1990.

a role in addressing the issue, the so-called 'Reprisals Resolution' requested the Secretary-General to submit an annual report including 'any available information, from all appropriate sources, on reprisals against witnesses or victims of human rights violations'<sup>49</sup> and called on all representatives of the UN human rights bodies to take urgent steps to help prevent intimidation or reprisals and to devote special attention to the question in their respective reports.<sup>50</sup> This report, entitled 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', is also known as the 'Reprisals Report'.

The Reprisals Resolution continued to be adopted annually for the remainder of the Commission's existence<sup>51</sup> and the Human Rights Council picked up where the Commission left off. Human Rights Council resolution 12/2<sup>52</sup> invites the Secretary-General to submit an annual report to the Human Rights Council containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals, as well as recommendations on how to address the issue of intimidation and reprisals, and has been produced annually since 1991.<sup>53</sup>

Consistent with the mandate given to the Secretary-General, the Reprisals Report may include cases of intimidation and reprisals related to cooperation with the whole of the UN in the field of human rights. It may therefore include cases in relation to engagement with *all* UN organs, entities or agencies, *anywhere* in the world including: UN headquarters, country offices and peace operations, the General Assembly, the Human Rights Council, the Security Council, the Economic and Social Council (ECOSOC), the International Criminal Court, the International Labour Organization, the World Bank/International Monetary Fund, as well as UN meetings and conferences on trade, development and environment issues.

The Report is not comprehensive. Not all cases are reported, either due to lack of awareness of the Report's existence, or fear of further reprisals. The Secretary-General does not include cases in which the defender's situation will be made worse if the case is publicly reported or if consent by the victim is not obtained. Also, though the Report addresses intimidation, it clearly does not include cases where defenders have chosen to 'self-censor' and not engage at all with the UN system due to fear of reprisals. The Secretary-General has also reported that there is under-reporting of reprisals cases against defenders who work on the human rights of women or gender issues.

Since reporting began in 1991, the Secretary-General has documented several cases of intimidation and reprisals against those engaging with the Security Council and peace operations. These include cases of defenders being intimidated, questioned, threatened, including death threats, targeted, harassed, arrested, arbitrarily detained, beaten, brutalised, tortured, disappeared, imprisoned, had their movement restricted, ordered not to speak to UN observers, forced to leave the country, prevented from passing checkpoints providing access to a UN peace operation, publicly condemned, and threatened to have their citizenship revoked.

- 49 United Nations Economic and Social Council, 'Cooperation with representatives of United Nations Human Rights Bodies', E/CN.4/1990/76, 7 March 1990, at para 4.
- 50 United Nations Economic and Social Council, 'Cooperation with representatives of United Nations Human Rights Bodies', E/CN.4/1990/76, 7 March 1990, at para 3b.
- 51 United Nations Economic and Social Council, 'Cooperation with Representatives of United Nations Human Rights Bodies', E/CN.4/1992/59, 3 March 1992; United Nations Economic and Social Council, 'Report on the Forty-Ninth Session', E/CN.4/1993/122, 10 March 1993, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G93/131/00/PDF/G9313100.pdf?OpenElement>; United Nations Economic and Social Council, 'Report on the Fiftieth Session', E/CN.4/1994/132, 9 March 1994, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G94/124/65/PDF/G9412465.pdf?OpenElement>; United Nations Economic and Social Council, 'Report on the Fifty-First Session', E/CN.4/1995/176, 8 March 1995, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G95/124/38/PDF/G9512438.pdf?OpenElement>; United Nations Economic and Social Council, 'Report on the Fifty-Second Session', E/CN.4/1996/177, 23 April 1996, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G96/132/30/PDF/G9613230.pdf?OpenElement>; United Nations Economic and Social Council, 'Report on the Fifty-Third Session', E/CN.4/1997/150, 15 April 1997, available at: <https://undocs.org/E/CN.4/1997/150>; United Nations Economic and Social Council, 'Report on the Fifty-Fourth Session', E/CN.4/1998/177, 21 April 1998; United Nations Economic and Social Council, 'Report on the Fifty-Fifth Session', E/CN.4/1999/167, 23 April 1999, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G99/144/57/PDF/G9914457.pdf?OpenElement>; United Nations Economic and Social Council, 'Report on the Fifty-Sixth Session', E/CN.4/2000/167, 18 April 2000, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G00/155/27/PDF/G0015527.pdf?OpenElement>; United Nations Economic and Social Council, 'Report on the Fifty-Seventh Session', E/CN.4/2001/167, 18 April 2001; United Nations Economic and Social Council, 'Report on the Fifty-Eighth Session', E/CN.4/2002/200, 19 April 2002, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G02/152/72/PDF/G0215272.pdf?OpenElement>; United Nations Economic and Social Council, 'Report on the Fifty-Ninth Session', E/CN.4/2003/135, 16 April 2003, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G03/162/27/PDF/G0316227.pdf?OpenElement>; United Nations Economic and Social Council, 'Report on the Sixtieth Session', E/CN.4/2004/127, 15 April 2004, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G04/162/00/PDF/G0416200.pdf?OpenElement>; United Nations Economic and Social Council, 'Report on the Sixty-First Session', E/CN.4/2005/135, 14 April 2005, available at: <https://undocs.org/en/E/CN.4/2005/135>.
- 52 United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/RES/12/2, 12 October 2009, available at: [http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_12\\_2.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_12_2.pdf). The resolution was originally adopted in the Commission on Human Rights beginning in 1990, stemming from a number of reports that raised concerns about reprisals, United Nations Economic and Social Council, 'Co-operation with representatives of United Nations human rights bodies', E/CN.4/1990/76, 7 March 1990. It was adopted yearly while the Commission was in existence and in 2009 the Human Rights Council picked up where the Commission left off.
- 53 See for example the report submitted to the 36th session of the Human Rights Council in September 2017, <http://www.ohchr.org/Documents/HRBodies/SPIA-HRC-36-31.docx>.

These incidents of intimidation and reprisals have taken place in response to defenders' possible future cooperation and contacts with UN peace operations, for suggesting that a head of state should testify before a tribunal set up by the Security Council, for having shared information regarding human rights violations with a UN peace operation, for mobilising parliamentarians to sign a letter to the Secretary General and Security Council, for attempting to deliver a petition to an SRSG and Deputy High Commissioner for Human Rights, for denouncing ill treatment to a UN peace operation, for interacting or cooperating with a peace operation, for sending a letter to a peace operation, for wanting to speak with a UN team, for sharing reports on allegations of human rights violations with a peace operation, for talking to a Security Council delegation, for collaborating with an investigation, and for facilitating access of a peace operation.

As repeatedly made clear by the Secretary-General, these cases are but the 'tip of the iceberg'. In 2008 and 2009, the Secretary-General's report specifically stated that it did not include 'a far greater number of cases in which individuals have been victims of equal or more serious reprisals for having cooperated with United Nations human rights components other than special procedures and/or treaty bodies, such as the Office of the High Commissioner for Human Rights field presences, human rights components of the Department of Peacekeeping Operations and human rights advisers to United Nations country teams.'<sup>54</sup> A selection of case summaries involving defenders engaging with the Security Council is included in Annex 2: Cases of intimidation and reprisals related to engagement with the Security Council and its peace operations.

### The Senior Official

Alarmed by the increase in the number of reported cases of intimidation and reprisal, in October 2016, then Secretary-General Ban Ki-moon designated Andrew Gilmour, Assistant Secretary-General for Human Rights, as 'senior official' to lead the efforts within the UN system to address intimidation and reprisals against those cooperating with the UN on human rights. The designation was warmly welcomed by civil society as well as by a core group of countries.<sup>55</sup>

This function is complementary to existing UN mechanisms to address reprisals and does not in any way diminish the obligation of other bodies and mechanisms to develop and implement policies and take necessary actions to prevent, investigate and remedy cases of reprisals. It includes intimidation and reprisals related to the larger UN family (which includes all UN bodies and agencies, including the International Criminal Court and the World Bank, for example). It does not include cases related to intimidation and reprisals in the context of cooperation with regional human rights mechanisms. The Assistant Secretary-General primarily fulfils this work through outreach and engagement with victims and those who may be in a position to prevent and address reprisals. He also raises awareness about the need to prevent reprisals more generally during speeches and statements and encourages other UN agencies to adopt a zero-tolerance policy against reprisals.

When the Assistant Secretary-General receives allegations, he takes action on certain cases by sending confidential letters to, and meeting bilaterally with, high-level government officials. Although he does not exclude the possibility of public statements, there are very few instances thus far in which he has spoken publicly about cases of reprisals. The letters to, and meetings with, government officials have the objective of engaging the government on an alleged case or pattern, and governments are encouraged to investigate and respond to the allegations.

54 United Nations Human Rights Council, 'Report of the Secretary-General on the progress of reports and studies relevant to cooperation with representatives of United Nations human rights bodies', A/HRC/17/45, 2008, at para 19; United Nations Human Rights Council, 'Progress on reports and studies relevant to cooperation with representatives of United Nations human rights bodies', A/HRC/11/36, at para 20, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09110671/PDF/G09110671.pdf?OpenElement>.

55 High-level UN Official should Ensure Access for Victims and Accountability for Perpetrators, International Service for Human Rights, March 16, 2017, <https://www.ishr.ch/news/reprisals-high-level-un-official-should-ensure-access-victims-and-accountability-perpetrators>.



# Challenges in preventing and addressing intimidation and reprisals related to engagement with the Security Council

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This section aims to set out some of the challenges currently involved in preventing and addressing intimidation and reprisals related to engagement with the Security Council.

*'Human rights officers face limited access to affected areas to corroborate information or interview witnesses and victims for many reasons, including restrictions imposed by government authorities, security considerations for staff members and increasing threats of reprisal against witnesses, victims and sources, which raises the need to ensure their protection.'*<sup>56</sup>

*Special report of the Secretary-General on the review of the mandate of the United Nations Mission in South Sudan, 10 November 2016.*

## Lack of awareness

A central challenge is the lack of awareness of the phenomenon of intimidation and reprisals against those engaging with the Security Council. There may be several reasons for this including underreporting of cases, which can be due to fear of further reprisals, or even lack of awareness of avenues for raising cases and seeking protection. Greater prioritisation and visibility of the issue by the Security Council may also lead to more reporting. Until recently, the overall small number of actors engaging with the Security Council has presented a challenge for advocates wanting to raise awareness of the issue while maintaining victims' anonymity. This should be less of an issue going forward as

greater numbers of civil society representatives continue to engage with the Security Council.

## Need to focus on prevention

The fact that in a number of cases, intervention by States or UN actors has come at a late stage when intimidation or reprisals are already taking place, suggests in particular a need to consider approaches to risk mitigation and prevention more generally. A number of recommendations are made in this regard in the section below on recommendations.

## Limited mandates for protection

One challenge relates to limited mandates. As is the case with the response to intimidation and reprisals elsewhere in the UN system, there are no mandates or enforcement mechanisms to physically protect, and limited capacity to directly safeguard, human rights defenders from the negative consequences of their engagement. In addition, due to these constraints, stakeholders must be mindful not to raise expectations beyond reasonable limits, and not put people further at risk. That being said, several actors that can provide support can be identified, e.g. NGOs with expertise working with individuals and groups at risk of reprisals or a UN field presence or diplomatic missions that could activate protection mechanisms where risk of reprisals is imminent. At present the European Union

<sup>56</sup> United Nations Security Council, 'Special report of the Secretary-General on the review of the mandate of the United Nations Mission in South Sudan,' S/2016/951, 10 November 2016, at para 15, available at: <https://undocs.org/S/2016/951>.

(EU),<sup>57</sup> Ireland,<sup>58</sup> Norway,<sup>59</sup> Switzerland,<sup>60</sup> Canada,<sup>61</sup> Finland,<sup>62</sup> the Netherlands,<sup>63</sup> and the United Kingdom (UK)<sup>64</sup> have developed guidelines for their diplomats on the protection of human rights defenders in the countries in which their missions operate, and the responses their embassies and consulates should provide. Therefore, those missions may be particularly responsive to human rights defenders who have faced or are facing reprisals as a result of their engagement with the UN.

### Impossibility of eliminating risk

An additional challenge is that the risks some civil society representatives, including human rights defenders and victims, face cannot be entirely eliminated. This is at least in part because human rights defenders engaging with the Security Council are often already pursuing advocacy publicly in other contexts, whether in-country or with other mechanisms and bodies, and may already be at risk of threats and attacks as a consequence. Therefore, the focus must be on minimising risk that might otherwise be aggravated.

### False sense of security

While most defenders are aware of the risks involved in doing their work, it is possible that engaging with the UN provides some defenders with a so called 'false sense of security', stemming from a misconception that they will be protected from any reprisals related to engaging with the UN. While relevant stakeholders should do everything possible to prevent and address reprisals, civil society representatives, including human rights defenders and victims, must be aware that it may not be possible to eliminate risk entirely. In addition, the nature and degree of risk can evolve.

### Specific nature of each incident

Each incident of intimidation and reprisals is specific and must be addressed as such, as the risks and therefore effective mitigation strategies will depend on a range of factors in each situation and must be determined on a case by case basis. Even in the same context, different actors will face different risk – for example formal, well established

and well-known organisations that tend to enjoy privileged access to peacekeeping missions may be less at risk than other local civil society representatives. That being said, several general recommendations and measures are suggested below that can be adapted to preventing and addressing intimidation and reprisals in specific situations.

### Nature and degree of risks are dynamic

Just as the nature and extent of reprisals are not static, so should the responses by relevant stakeholders continue to be evaluated for their effectiveness and continue to evolve. Best practices should be documented in order to shape more successful approaches in the future.

### Limited influence

There is a reality to contend with that relevant stakeholders may have little influence over certain actors and perpetrators. This may be exacerbated by other factors, e.g. in a conflict situation.

### Limited capacity to intervene at country level

While a number of States have developed guidelines for their diplomats on the protection of human rights defenders in the countries in which their missions operate, many embassies can be limited in what they can do, for example because of insufficient staff to dedicate resources in this area, and/or if their actions would put their own staff at risk.

### Lack of political will

Regardless of how well-designed mitigation strategies and mechanisms for protection are, they will be constrained by States' lack of political will to consistently and comprehensively implement commitments. States must make a commitment to preventing and addressing reprisals – civil society representatives, including human rights defenders and victims, will remain vulnerable to attacks as long as perpetrators enjoy impunity.

### Risk of prioritising protection to the detriment of participation

With regard to women human rights defenders<sup>65</sup> in particular, the Security Council has largely focused on

57 EU Guidelines on Human Rights Defenders, available at: [https://eeas.europa.eu/sites/eeas/files/eu\\_guidelines\\_hrd\\_en.pdf](https://eeas.europa.eu/sites/eeas/files/eu_guidelines_hrd_en.pdf).

58 Irish Department of Foreign Affairs, 'Guidelines for Irish Embassies and Missions on Human Rights Defenders', 2010, [https://www.humanrights.ch/upload/pdf/150415\\_irish\\_hrd\\_guidelines\\_en.pdf](https://www.humanrights.ch/upload/pdf/150415_irish_hrd_guidelines_en.pdf).

59 Norwegian Ministry of Foreign Affairs, 'Norway's efforts to support human rights defenders, Guide for the foreign service', 2010, <https://www.regjeringen.no/globalassets/upload/ud/vedlegg/menneskerettigheter/menneskerettighetsforkjaempere/veiledningmrforkjengelskfin.pdf>.

60 Federal Department of Foreign Affairs, 'Swiss Guidelines on the Protection of Human Rights Defenders', 2013, [https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtehumanitaerePolitikundMigration/Leitlinien-zum-Schutz-von-HRD\\_en](https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtehumanitaerePolitikundMigration/Leitlinien-zum-Schutz-von-HRD_en).

61 Voices at risk: Canada's guidelines on supporting human rights defenders, [http://international.gc.ca/world-monde/issues\\_development-enjeux\\_developpement/human\\_rights-droits\\_homme/rights\\_defenders\\_guide\\_defenseurs\\_droits.aspx?lang=eng](http://international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/rights_defenders_guide_defenseurs_droits.aspx?lang=eng).

62 Ministry for Foreign Affairs of Finland, 'Protecting and Supporting Human Rights Defenders - Public Guidelines of the Foreign Ministry of Finland on the implementation of the European Union Guidelines on Human Rights Defenders', 27 November 2014, [https://um.fi/documents/35732/48132/protecting\\_and\\_supporting\\_human\\_rights\\_defenders\\_public\\_guidelines\\_of](https://um.fi/documents/35732/48132/protecting_and_supporting_human_rights_defenders_public_guidelines_of).

63 Dutch Ministry of Foreign Affairs, 'Action Plan for Human Rights Defenders', 15 June 2012, <https://www.government.nl/topics/human-rights/documents/reports/2012/06/15/action-plan-for-human-rights-defenders>.

64 The UK guidelines are not publicly available.

65 For the purpose of this report, women human rights defenders (WHRDs) are defined as women or non-binary individuals who engage in the defense of any and all human rights, and people of all genders who engage in the defense of women's rights and rights related to gender, sexuality and bodily autonomy. This definition is adapted from that employed by the Women Human Rights Defenders International Coalition. The definition has been adapted to include non-binary individuals, which mirrors the definition provided by the latest Human Rights Council report from Michel Forst, the Special Rapporteur on the situation of human rights defenders. United Nations, General Assembly, 'Situation of women human rights defenders: Report of the Special Rapporteur on the situation of human rights defenders', A/HRC/40/60, 10 January 2019, available at: <https://undocs.org/A/HRC/40/60>.



protecting women who come to speak at the UN and who, as a result, may face reprisals. However, reprisals for speaking at the UN is not the only protection issue that women human rights defenders face. Furthermore, the Council must guard against focusing only on their protection, as this does a disservice to women human rights defenders, who are also seeking greater participation.<sup>66</sup> There is a risk that the effort required in risk mitigation could – inadvertently or intentionally – result in decreased participation from experts close to the ground. Ultimately civil society representatives are best placed to make decisions about their participation.

### The risk of self-censorship

There remain gaps in information, not only due to the serious risk that civil society representatives, including

human rights defenders and victims, face for sharing information, and those cases not documented because consent has not been obtained from the victims or their families. The Assistant Secretary-General has noted the fact that reprisals and intimidation are more likely to occur in countries where there is a relatively vibrant civil society that has been able to engage with the UN (and then suffered reprisals). In that sense, existing documentation, including the Secretary-General's report, may present a slightly distorted picture insofar as there is more coverage of those countries than of others which may be even more closed and repressive and where it is impossible for civil society to engage with the UN at all.<sup>67</sup>



66 Are peace and security possible without women human rights defenders? And why this question matters to the United Nations Security Council, *International Service for Human Rights*, 2019, at page 13.

67 Intimidation and reprisals against those engaging with the UN on human rights: Examining trends and patterns, Assistant Secretary-General for Human Rights Andrew Gilmour, Oct. 24, 2018, available at: <https://www.ohchr.org/Documents/Issues/Reprisals/CommentsReprisalsEvent24Oct2018.docx>.

# Recommendations



The steps taken by UN agencies, mechanisms and bodies in response to intimidation and reprisals, either through establishing mechanisms or making use of existing mechanisms, illustrate that the UN is attempting to meet its obligation to ensure that defenders who engage or attempt to engage with it have some form of protection. However, given the recent sustained and significant increase in engagement of civil society with the Security Council, greater attention is needed by relevant stakeholders to ensure that civil society representatives, including human rights defenders and victims, can engage safely and effectively. The following recommendations are offered as a starting point.

## To the Secretary-General

- Uphold the moral authority and values of the UN by speaking out strongly and consistently against attacks on defenders and restrictions on civil society space and in support of vibrant, independent civil society at the UN. Such statements are important to show solidarity with defenders, and increase public awareness and support for their work.
- Ensure that all UN staff, particularly senior staff, including in peace operations, understand and champion the legitimate and important work of human rights defenders and provide all necessary protection and support to defenders at risk.
- Recognise that the work of human rights defenders is essential to international peace and security and that widespread and systematic attacks and restrictions on defenders may undermine international peace and security.



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- Recognise that systematic attacks and restrictions on human rights defenders may be an early warning sign of more widespread gross and systematic violations and take steps to promote prevention when such signs arise, including by bringing such situations to the attention of the Security Council through Article 99 of the UN Charter.
- Adopt a UN-wide policy on the participation, promotion and protection of human rights defenders.

### To the Assistant Secretary-General for Human Rights

- Take steps to raise awareness with relevant stakeholders of the issue of intimidation and reprisals related to engagement with the Security Council and ensure that the issue is understood in the broader context of risks faced by civil society representatives, including human rights defenders and victims, engaging across the UN system.
  - Relevant targets for greater awareness building should include members of the Security Council, the relevant actors in UN Women and Security Council Affairs Division involved in facilitating the participation of civil society briefers, NGOs, the Informal Expert Group (IEG) on Women, Peace and Security<sup>68</sup>, and the Gender Champions Initiative<sup>69</sup>, which many Permanent Representatives are a part of.
  - Brief incoming members of the Security Council each year on the issue of intimidation and reprisals.

68 The Informal Expert Group (IEG) on Women, Peace and Security is an official Security Council working Group on Women, Peace and Security, created in 2016. It affirms the Council's 2015 commitment in UNSCR 2242 (OP 5a) to strengthen more systematically the oversight and coordination of Women, Peace and Security implementation work. The 2242 IEG is co-chaired by the United Kingdom and Spain and meets to discuss countries on the Security Council's agenda.

69 The International Gender Champions is a 'leadership network that brings together female & male decision-makers determined to break down gender barriers and make gender equality a working reality in their spheres of influence.' It was launched in July 2015. The network currently numbers over 235 active Champions and Alumni who are the heads of international organisations, Permanent Missions, and civil society organisations. Source: <https://genderchampions.com/about>.

- Ensure coordination of relevant actors, including information sharing, to ensure effective action when incidents arise.
- Ensure that data, including sex-disaggregated data, on intimidation and reprisals is collected and disseminated.
- Develop a guidance document, including a risk assessment tool, with a gender perspective, for stakeholders involved in facilitating the engagement of civil society representatives with the Security Council.

### To all Member States of the UN

- States must refrain from intimidation and reprisals against those who cooperate or seek to cooperate with the UN Security Council, UN peace operations deployed on the basis of mandates from the UN Security Council, and Special Representatives whose work is mandated by the Security Council.
- States must 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 cooperate fully, substantively and promptly in cases of alleged intimidation or reprisals, including by providing good faith undertakings to prevent and investigate cases and to report back – including to the Security Council and the Assistant Secretary-General, as relevant – as to investigative, protective, prosecutorial and remedial steps taken.
- 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 bodies 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.
- Candidate States for membership of the Security Council should commit in their campaigns to ensuring that civil society representatives, including human rights defenders and victims, 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 Security 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 Human Rights Council.
- States should consider making voluntary contributions, and otherwise support and enable the work of the Assistant Secretary-General on reprisals.
- States should include the need and means to prevent and address intimidation and reprisals in National Action Plans on Women, Peace and Security.

### To the Security Council

- Act in conformity with its moral obligation to respect and protect the right of all persons to communicate with it and its mandated peace operations, and should take all necessary steps to prevent, protect against, and promote accountability for any alleged acts of intimidation or reprisals.
- Be explicit regarding its condemnation of intimidation and reprisals against those who seek to cooperate, and cooperate with it and its peace operations.

- Include references to civil society, human rights defenders, and the risks of intimidation and reprisals in Security Council mandates, in order to more systematically consider the issue across the work of the Security Council, and consider threats against defenders, including intimidation and reprisals, as early indicators of conflict and instability.
- Contribute through public statements or language in relevant documents to a positive narrative about civil society representatives, including human rights defenders and victims, and their work, including as they contribute to the attainment of peace and security, with a view to ensuring an enabling environment.
- Where relevant, address issues of reprisals and the imperative of prevention, investigation, accountability and remedy for acts of intimidation or reprisal in resolutions, decisions and statements.
- Consider raising the issue of reprisals in consultations and briefings with a view to increasing awareness and discussion of the issue.
- Raise the issue of intimidation and reprisals in the open debate on working methods with a view to ensuring that preventing and addressing reprisals are addressed in the compendium of working methods by the Informal Working Group on Documentation and other Procedural Questions (IWG).
- Raise specific cases of intimidation or reprisals, including publicly, in order to increase the political cost for perpetrating States committing them.
- Include an item on reprisals in its annual report and discuss means to prevent and address intimidation and reprisals in its debates on working methods.
- Consider adopting a public policy or guidance document on preventing and addressing intimidation and reprisals.
- Document cases of reprisals to systematically record knowledge of past instances of reprisals and actions taken to address them.
- Engage with the Assistant Secretary-General on strategies to prevent and address intimidation and reprisals.
- Submit cases to the annual report of the Secretary-General.



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## To Member States and UN agencies<sup>70</sup> facilitating the participation of civil society representatives in meetings of the Security Council

- Prioritize a 'do no harm' approach<sup>71</sup>, while ensuring that such an approach is not used or abused to prevent or obstruct civil society participation.
- Liaise with key stakeholders that can support efforts to prevent or reduce the risk of reprisals and be engaged in protection should reprisals occur. These include interlocutors such as NGOs working with the civil society representative in question, NGOs specialised in the protection of individuals and groups at risk, and relevant UN agencies or UN peace operations and embassies in the country concerned.
- Make public statements to the effect that intimidation and reprisals will be monitored, will not be tolerated and will be addressed.
- Undertake a risk screening and, where there is a prima facie apprehension of risk, ensure that a thorough risk assessment is undertaken.
  - Any plans should be made with sufficient time to carry out a risk screening, and if necessary thorough risk assessment, and put in place any required mitigation strategies.
  - Risk assessments should: be undertaken jointly with the civil society representative and other relevant actors, e.g. NGOs, UN agencies, or other third parties involved in facilitating the civil society representative's engagement with the Security Council; include associates of the civil society representative (e.g. family members, colleagues) who may also be at risk; be reviewed in situations where there is a change in the political or security environment; be done in full consultation with civil society representatives; and must take care to avoid reducing or eliminating civil society representatives' agency in decision making about their own risk, protection needs and capacities, in particular women human rights defenders.
  - Special attention should be paid to the specific risks and vulnerabilities of women human rights defenders, who may face additional risks because of who they are or the work that they do.
  - An agreement should be reached with the civil society representative involved on potential measures to reduce risk and to respond in the event that reprisals occur.
- Consider practical measures to reduce risk to civil society briefers prior to arriving and while in New York including:
  - Inviting briefers to brief via videoconference if and where that would reduce the risk of intimidation and reprisals.
  - Establishing jointly agreed means for the safe exchange of information and wherever possible, communicating using secure channels.
  - Not seating civil society briefers next to representatives of the country concerned during the briefing, or other meetings.
  - Taking care to plan itineraries such that civil society briefers are not unintentionally in spaces that may present risks of intimidation or reprisals, e.g. UN corridors, hotel lobbies.
  - Ensuring that civil society briefers have adequate financial resources in place to support their subsistence while in New York and if that support is being provided, that it be provided in a timely manner.
  - Ensuring that relevant local embassies/missions abroad in the briever's home country are aware that the briever is returning and be prepared to respond in the event that reprisals occur. Where relevant, several countries' missions could be alerted and efforts could be made to coordinate approaches.
  - Ensuring that any plans regarding public communications, including through social media, related to the civil society representative's engagement with the Security Council, are shared and considered with the civil society representative, and follow a 'do no harm approach'.
- Following engagement:
  - Re-assess risk prior to the civil society representative's return to their country of residence.

<sup>70</sup> This would typically be UN Women, given their significant role in facilitating the participation of civil society representatives in meetings of the Security Council but would apply equally to any UN agency involved in similar activities.

<sup>71</sup> The term 'do no harm' is being used to refer to the principle that requires actors to endeavour not to cause further damage and suffering as a result of their actions.

- Follow up with civil society representatives once they have returned to their home countries, using secure communication channels.
- Inform peace operations and embassies of Security Council Members of the civil society representative's return to their country of residence, and take steps to ensure that any risks known at that stage are mitigated. Practical steps could include being informally present at the airport upon the civil society representative's return and/or outside UN premises at any follow-up meetings.
- In situations where intimidation or reprisals have occurred, with the consent of the victim:
  - Consider a response in close consultation with the victim and maintain a 'do no harm' approach. Where direct contact is not possible, communication should take place with third parties that have the authority to represent the victim.
  - Promptly communicate any intimidation or reprisal to the Assistant Secretary-General.
  - Address the situation directly with the Permanent Mission in New York of the country concerned.
  - States should consider raising the incident in subsequent Security Council briefings, meetings of Informal Expert Groups, other UN meetings.

### To Peace Operations, or others facilitating engagement with civil society representatives in meetings of the Security Council while on mission

- Ensure the Guidelines on Engagement with Civil Society are properly disseminated among peacekeeping personnel and implemented.
- Liaise with key stakeholders that can support efforts to prevent or reduce the risk of reprisals and be engaged in protection should reprisals occur. These include interlocutors such as NGOs working with the civil society representative in question, NGOs specialised in the protection of individuals and groups at risk, and relevant UN agencies or UN peace operations and embassies in the country concerned.
- Undertake a risk screening and, where there is a prima facie apprehension of risk, ensure that a thorough risk assessment is undertaken.
  - Any plans should be made with sufficient time to carry out a risk screening, and if necessary thorough risk assessment, and put in place any required mitigation strategies.
  - Risk assessments should: be undertaken jointly with the civil society representative and other relevant actors, e.g. NGOs, UN agencies, or other third parties involved in facilitating the civil society representative's engagement with the Security Council mission; include associates of the civil society representative (e.g. family members, colleagues) who may also be at risk; be reviewed in situations where there is a change in the political or security environment; be done in full consultation with civil society representatives; and must take care to avoid reducing or eliminating civil society representatives' agency in decision making about their own risk, protection needs and capacities, in particular women human rights defenders.
  - Special attention should be paid to the specific risks and vulnerabilities of women human rights defenders, who may face additional risks because of who they are or the work that they do.
  - A risk assessment for Security Council missions should also include an evaluation of whether confidentiality can be maintained, as this may be an effective way to reduce the risk of reprisals. However, consideration should be given as to whether discretion or visibility and publicity offer more as a protection strategy, and the role that public statements, media attention, or other public actions (e.g. use of official vehicles) might play.
  - An agreement should be reached with the civil society representative involved on potential measures to reduce risk and to respond in the event that reprisals occur.
- Consider practical measures to reduce risk to civil society briefers prior to meetings, including:
  - Considering inviting civil society representatives to engage via videoconference if and where that would reduce the risk of intimidation and reprisals.

- Establishing jointly agreed means for the safe exchange of information and wherever possible, communicating using secure channels.
  - Taking care to plan itineraries (meeting times and places) such that civil society briefers are not unintentionally in spaces that may present risks of intimidation or reprisals, e.g. leaving a UN compound as government representatives are arriving.
  - Ensuring that civil society briefers are able to travel safely to and from meeting locations.
  - Ensuring that relevant local embassies/missions are aware that civil society representatives are meeting with the Security Council and be prepared to respond in the event that intimidation or reprisals occur. Where relevant, several countries' missions could be alerted and efforts could be made to coordinate approaches.
  - Ensuring that any plans regarding public communications, including through social media, related to the civil society representative's engagement with the Security Council, are shared and considered with the civil society representative, and follow a 'do no harm approach'.
  - Considering whether discretion or visibility and publicity offer more as a protection strategy, and the role that public statements, media attention, or other public actions (e.g. use of official vehicles) might play.
- Following engagement:
    - Re-assess risk to civil society representatives.
    - Follow up with civil society representatives once the mission has concluded.
  - In situations where intimidation or reprisals have occurred:
    - Consider a response in close consultation with the victim and maintain a 'do no harm' approach. Where direct contact is not possible, communication should take place with third parties that have the authority to represent the victim.
    - With the consent of the victim, promptly communicate any intimidation or reprisal to the Assistant Secretary-General.

### To Member States engaging with civil society representatives in meetings of the Security Council while on mission

- Prioritise a 'do no harm' approach.
- Consider making public statements ahead of missions to the effect that intimidation and reprisals will be monitored, will not be tolerated and will be addressed.
- Consider whether discretion or visibility and publicity offer more as a protection strategy, and the role that public statements, media attention, or other public actions (e.g. use of official vehicles) might play.

### To UN peace operations

- Work towards overall strengthening of partnerships with civil society, including by continuing to invite civil society to provide briefings, integrate analysis, expertise and recommendations from civil society, meet with civil society during Security Council Missions, and include in relevant mission and expert body terms of references specific responsibility to actively engage with civil society.
- Require all peace operations to actively work, and report on engagement with, local civil society as part of mandated responsibilities.
- Ensure that peace operations personnel adequately document incidents of intimidation and reprisals and systematically alert the Assistant Secretary-General, and the Security Council, of any acts of intimidation and reprisals against civil society related to engagement with the peace operation, with the consent of the victim, and of any relevant factors indicating a risk that intimidation or reprisals may occur.
- Ensure the Guidelines on Engagement with Civil Society are properly disseminated among peace-keeping personnel.



## To the Security Council Affairs Division

- Include information on the risk of intimidation and reprisals against civil society representatives engaging with the Security Council, and good practices to prevent and mitigate such risk, in annual briefings and information shared with incoming members of the Security Council. This could include coordinating a briefing with the Assistant Secretary-General. This could also include ensuring that the 'Hitting the Ground Running' workshop for incoming members includes a discussion on the issue of intimidation and reprisals.
- Consider following the developing practice in UN bodies and mechanisms of designating a reprisals focal point or rapporteur among relevant staff, to at minimum coordinate and strengthen the prevention of reprisals, and to serve as a liaison to the office of the Assistant Secretary-General, and make the position and contact information clear to victims.

## To the Informal Expert Group on Women, Peace and Security

- Take steps to address the issue of intimidation and reprisals against civil society engaging with the Security Council, including:
  - Systematically raising the issue when considering country situations.
  - Coordinating responses to incidents of intimidation and reprisals when these arise, with the consent of the victim.

## To the Gender Champions Initiative

- Commit to supporting the role and protection of civil society representatives, in particular women human rights defenders, including by raising awareness of their work and the risks they face, in relevant discussions.

# Annex I: The role of key UN mechanisms and bodies in addressing intimidation and reprisals related to cooperation with the UN

Over the last several years, different UN bodies and mechanisms have evolved piecemeal responses to preventing and addressing intimidation and reprisals. This includes the treaty bodies and the Human Rights Council, including the Universal Periodic Review and the Special Procedures.<sup>72</sup> It also includes agencies such as the UN Development Program (UNDP). A brief overview of each is included herein for context.

### Treaty Bodies

With the endorsement of the Guidelines against Intimidation or Reprisals (the 'San José Guidelines')<sup>73</sup> in July 2015, the treaty bodies Chairpersons sent a strong signal that the intimidation of individuals and groups cooperating with the treaty bodies is unacceptable. During their annual meeting in July 2016, the Chairs further recommended the 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.<sup>74</sup> To date, nine treaty bodies out of ten have adopted the San José Guidelines or a policy on reprisals. Only the Committee on Economic, Social and Cultural Rights (CESCR) has not adopted the guidelines or a policy on reprisals.

72. See *Reprisals Handbook*, International Service for Human Rights, 2018, [https://www.ishr.ch/sites/default/files/documents/ishr\\_reprisals018\\_eng\\_new\\_web3\\_0.pdf](https://www.ishr.ch/sites/default/files/documents/ishr_reprisals018_eng_new_web3_0.pdf).

73. United Nations International Human Rights Instruments, 'Guidelines against Intimidation or Reprisals (San José Guidelines)', HRI/MC/2015/6, 30 July 2015, available at: <https://undocs.org/en/HRI/MC/2015/6>.

74. United Nations General Assembly, 'Implementation of human rights instruments', A/71/270, 2 August 2016, available at: <http://undocs.org/A/71/270>.

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.

### Special Procedures

Addressing acts of intimidation and reprisal is a stated priority for Special Procedures. As a result of the growing attention given to this phenomenon and the increasing instances of intimidation and reprisals observed by mandate holders, the Special Procedures agreed during their 22nd Annual Meeting in June 2015 to consolidate and enhance their response by establishing a coherent framework for action.<sup>75</sup>

The Special Procedures' toolkit for action includes: confidential and public actions, such as meeting with government officials, sending communications to States and other stakeholders, raising cases with UN representatives in the field and at headquarters, including the UN Secretary-General, the High Commissioner for Human Rights and the President of the Human Rights Council, raising cases in public statements, press releases, reports to the Human Rights Council and the General Assembly, or during their interactive dialogues with these two bodies. Special Procedures consider these options on a case-by-case basis, always with the consent of the persons concerned and in line with the principle of 'do no harm'.

The Coordination Committee<sup>76</sup> of the Special Procedures is comprised of six Special Procedures mandate holders and is designed to enhance coordination among mandate holders and act as a bridge between them and both the rest of the UN system and civil society. The Coordination Committee appoints a focal point on reprisals every year, who is responsible for keeping a comprehensive record of all cases of reprisals submitted to the Special Procedures. The Coordination Committee is meant to raise the issue of reprisals with the Human Rights Council, the High Commissioner for Human Rights, the Assistant Secretary-General for Human Rights and the Secretary-General. When necessary and in consultation with the mandate holder(s) concerned, the Coordination Committee may take additional action, including contacting the State or stakeholder concerned and issuing a press statement. The Annual Report<sup>77</sup> of the Special Procedures contains a section on reprisals that reflects the main concerns of, and actions taken by, mandate holders over the past year.

### The 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 it, its independent experts or the Universal Periodic Review process.<sup>78</sup> The Human Rights Council's President and Bureau have the responsibility to protect its processes and defend its integrity, particularly as it relates to the right of civil society to participate fully and safely in its work.<sup>79</sup> Attacks against those that cooperate with the Human Rights Council, or its mechanisms, constitute not solely an attack on those individuals but on the institution itself.

While the President and Bureau of the Human Rights Council maintain their rhetorical commitment to ensuring no reprisals occur, visible action to prevent, respond and ensure accountability for cases of reprisals remains weak. As the Presidency changes every year, and the effectiveness of their action depends on the personal commitment of the holder of the post, the nature and quality of the response to reprisals also varies. There have been good outcomes from engaging with the President on cases of reprisals in the past. By giving high profile visibility to particular defenders, the President shines a spotlight on them and makes explicit the responsibility of the government to ensure those defenders are safe, or face accountability for what it did or did not do to assure their safety. This can be a source of protection.

<sup>75</sup> *Acts of Intimidation and Reprisal for Cooperation with the Special Procedures*, OHCHR, <http://www.ohchr.org/EN/HRBodies/SP/Pages/Actsofintimidationandreprisal.aspx>.

<sup>76</sup> *Coordination Committee of Special Procedures*, OHCHR, <http://www.ohchr.org/EN/HRBodies/SP/CoordinationCommittee/Pages/CCSpecialProceduresIndex.aspx>.

<sup>77</sup> *Annual reports on special procedures*, OHCHR, <http://www.ohchr.org/EN/HRBodies/SP/Pages/Annualreports.aspx>.

<sup>78</sup> 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>.

<sup>79</sup> 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>.

The Secretary-General also invites the President of the Human Rights Council to orally update the Council on cases brought to their attention at each session<sup>30</sup> in line with the Council's September 2017 resolution.<sup>81</sup>

#### UNDP

The UNDP public accountability mechanism, the Social and Environmental Compliance Unit of the Office of Audit and Investigations, reports cases of harassment, intimidation and violence against persons who seek to cooperate or have cooperated with UNDP-aided projects and is developing a 'retaliation toolkit' for use by the international accountability mechanisms, in cooperation with the Inter-American Development Bank. The Secretary-General reported in 2018 that the Unit is completing compliance reviews and monitoring several cases of intimidation and reprisals for engagement with UNDP, including in Bosnia-Herzegovina, Malawi, Panama, and Uganda.<sup>82</sup>



80 United Nations Economic and Social Council, 'Report of the Secretary-General on Cooperation with Representatives of United Nations Human Rights Bodies', E/CN.4/1992/29, 13 February 1992, at para 7.

81 United Nations Economic and Social Council, 'Report of the Secretary-General on Cooperation with Representatives of United Nations Human Rights Bodies', 1995, E/CN.4/1995/53, at para 25.

82 United Nations Human Rights Council, 'Report of the Secretary-General on the progress of reports and studies relevant to cooperation with representatives of United Nations human rights bodies', A/HRC/7/45, 2008, at para 19; United Nations Human Rights Council, 'Progress on reports and studies relevant to cooperation with representatives of United Nations human rights bodies', A/HRC/10/36, at para 20, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/106/71/1/PDF/G0910671.pdf?OpenElement>.

# Annex 2: Selection of cases of intimidation and reprisals related to engagement with the Security Council and its peace operations, as reported by the Secretary General in the annual Reprisals Report

## EL SALVADOR

In 1991, information was received about a wave of death threats against members of popular organisations, political groups and foreign workers in El Salvador during the months of May and June 1991. In particular, it was alleged that death threats were issued against persons in respect of their possible future cooperation and contacts with the United Nations Observer Mission in El Salvador (ONUSAL). Other groups whose members were said to have been subjected to threats and intimidation are the Christian Committee for the Displaced of El Salvador, (Comité Cristiano Pro Desplazados de El Salvador) and the Committee of Relatives of the Political Prisoners and Disappeared of El Salvador (Comité de Familiares Pro Libertad de Presos y Desaparecidos Políticos de El Salvador).<sup>83</sup>

## ZAIRE

In 1994, the Special Rapporteur on the situation of human rights in Zaire received information according to which members of human rights organisations were subjected to acts of intimidation. On November 1994, Guillaume Ngefa Atondoko, President of the Zairian Association for the Defence of Human Rights, AZADHO, was reportedly threatened by the Zairian security services for having publicly declared that President Mobutu should testify before the International Tribunal for Rwanda set up by the United Nations Security Council. In January 1994, Mr. Ngefa Atondoko was reportedly detained at Ndjili Airport by agents of the national intelligence service (SNIP) as he attempted to travel abroad. In his report, the Special Rapporteur also mentioned the detention and incarceration of Willy Kalume Lualaba, member of the human rights organisation Voice of the Voiceless, by security forces for carrying documents considered seditious. The Special Rapporteur drew these cases to the attention of the Government of Zaire.<sup>84</sup>

## AFGHANISTAN

The Secretary-General reported in 2003 that since September 2002, at least seven individuals were arbitrarily detained, intimidated, threatened, brutalized or tortured, or had reportedly disappeared for having shared information regarding human rights violations with reporters or the United Nations Assistance Mission in Afghanistan (UNAMA), or because they were relatives of witnesses. The Secretary-General reported that UNAMA sought to take appropriate steps to remedy the situation.

In 2008 and 2009, the Secretary-General's report specifically stated that it did not include 'a far greater number of cases in which individuals have been victims of equal or more serious reprisals for having cooperated with United Nations human rights components other than special procedures and/or treaty bodies, such as the Office of the High Commissioner for Human Rights field presences, human rights components of the Department of Peacekeeping Operations and human rights advisers to United Nations country teams.'<sup>85</sup>

## MYANMAR

On 21 July 2009, the Working Group on Arbitrary Detention received allegations that Tin Min Htut and U Nyi Pu had been sentenced to 15 years of imprisonment under laws criminalising the upsetting of public tranquility and peace, following their mobilizing of 92 other members of parliament to sign a letter to the Secretary-General and the Security Council that criticised the Government of Myanmar and the United Nations itself and which was published on the Internet (A/HRC/13/30, para. 31).<sup>86</sup> The Working Group rendered an opinion in 2010 that the detention was arbitrary.<sup>87</sup>

83 United Nations Economic and Social Council, 'Report of the Secretary-General on Cooperation with Representatives of United Nations Human Rights Bodies', E/CN.4/1992/29, 13 February 1992, at para 7.

84 United Nations Economic and Social Council, 'Report of the Secretary-General on Cooperation with Representatives of United Nations Human Rights Bodies', 1995, E/CN.4/1995/53, at para 25.

85 United Nations Human Rights Council, 'Report of the Secretary-General on the progress of reports and studies relevant to cooperation with representatives of United Nations human rights bodies', A/HRC/7/45, 2008, at para 19; United Nations Human Rights Council, 'Progress on reports and studies relevant to cooperation with representatives of United Nations human rights bodies', A/HRC/10/36, at para 20, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G0910671/PDF/G0910671.pdf?OpenElement>.

86 United Nations Human Rights Council, 'Report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/14/19, 7 May 2010, at para 39, available at: [https://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.19\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.19_en.pdf).

87 United Nations Human Rights Council, 'Report of the Working Group on Arbitrary Detention', A/HRC/16/47/Add.1, 2 March 2011, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G1111598/PDF/G1111598.pdf?OpenElement>.

## SUDAN

On 19 June 2011, 16 civilians were arrested outside of the United Nations Mission in the Sudan (UNMIS) headquarters in Khartoum while attempting to deliver a petition on the violence in Southern Kordofan to the UNMIS Special Representative of the Secretary-General and to the Deputy High Commissioner for Human Rights, who was due to arrive in Khartoum on an official visit to Sudan the following day. The activists were reportedly arrested by plain-clothed national security service personnel at the entrance to the UNMIS compound and driven to Khartoum East Police Station, where they were detained for approximately six hours before being released on bail following intervention by lawyers. One of the victims reported that some of the men arrested had been beaten up at the time of their arrest. All of the arrested activists were charged with the disturbance of public peace and public nuisance under articles 69 and 77 of the Criminal Act of 1991.<sup>88</sup>

On 26 June 2011, Bushra Gamar Hussein was reportedly arrested at the home of a relative in the Al-Thawra district of Omdurman in Khartoum by the National Intelligence and Security Service for allegedly 'working with international organizations hostile to Sudan,' a crime under articles 50, 51, 53, 63, 64, 65 and 66 of the Sudanese Penal Code. Mr. Hussein is from Southern Kordofan and a member of the Nuba ethnic group. He is the founder and chair of the Human Rights and Development Organisation, a nongovernmental human rights organisation which also provides humanitarian assistance to people of Nuba ethnic origin in Southern Kordofan. Mr. Hussein had travelled to Khartoum on an official mission calling for humanitarian assistance for displaced people in Southern Kordofan. Reportedly, on 13 July 2011, the Attorney General ordered that Mr. Hussein be transferred to Kobar General Prison in Khartoum. It is alleged that the investigating authorities failed to establish evidence to substantiate the allegations against Mr. Hussein and that on 14 August, a judge ordered his release. Notwithstanding the judicial order in favour of Mr. Hussein, national security service agents allegedly re-arrested him when he left the courthouse. While in the custody of the National Intelligence and Security Service, Mr. Hussein was placed in incommunicado detention where he was reportedly beaten until he went into a coma. He reportedly received death threats, was called a 'slave' due to his Nuba ethnic origin and was forced to stand for long hours during interrogation by NISS officers. While in detention, his health reportedly deteriorated and on 22 May 2012, Mr. Hussein was taken to the General Police Hospital in Khartoum. On 19 June 2012, he declared a hunger strike in protest against his arbitrary detention. On 27 June 2012, Mr. Hussein was reportedly released on bail.<sup>89</sup>

## DEMOCRATIC REPUBLIC OF THE CONGO

On 28 August 2012, Pierre-Sosthène Kambidi, Chief Editor at Radio-TéléChrétienne in Kananga, Kasai occidental province, was arrested by agents of the National Intelligence Agency, two policemen and four civilians following an order of the 4th Military Region Commander. Mr. Kambidi was not informed about the charges against him, but was eventually charged for 'troop demoralization' and 'participation in an insurrectional movement' under article 206 of the Penal Code in relation to a broadcast he had made on a 'deserter'. In the night of 29 August 2012, he was reportedly severely beaten up with a truncheon. The following day, Mr. Kambidi was transferred to the National Intelligence Agency in Kinshasa. During a visit by the Joint Human Rights Office of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo on 26 September 2012, Mr. Kambidi denounced the acts of ill-treatment to the OHCHR team, and was later reportedly subjected again to ill-treatment. Mr. Kambidi remained in detention with the National Intelligence Agency in Kinshasha until 15 December 2012, when he was released.<sup>90</sup>

## SYRIAN ARAB REPUBLIC

The Secretary-General pointed out in a report submitted to the Security Council<sup>91</sup> that the monitoring and reporting work of the United Nations Supervision Mission in the Syrian Arab Republic (UNSMIS), established by the Council by its resolution 2043 (2012), was hampered by the stated perception of some Syrian civilians that they risked retaliation by government forces following interaction with UNSMIS. In this context, particularly during the latter stages of its deployment, the Mission documented at least one occasion on which local civilians were explicitly threatened by government security forces and ordered not to speak to United Nations observers, while on other occasions, civilians, including some seeking treatment in hospitals, specifically indicated they would not speak to observers out to fear of government retaliation. In addition, some individuals claimed to have

88 'Thirteenth periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan: preliminary report on violations of international human rights and humanitarian law in Southern Kordofan from 5 to 30 June 2011', August 2011, at para 42; United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/21/18, 13 August 2012, at para 47, available at: <https://undocs.org/A/HRC/21/18>.

89 United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/21/18, 13 August 2012, at para 48-50, available at: <https://undocs.org/A/HRC/21/18>.

90 United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/24/29, 31 July 2013, at para 22-23, available at: <https://undocs.org/A/HRC/24/29>. The case was raised with the Government several times, including in letters sent to the National Intelligence Agency by the Joint Human Rights Office on 16 November 2012 and 18 January 2013.

91 United Nations Security Council, 'Report of the Secretary-General on the implementation of Security Council resolution 2043', S/2012/523, 6 July 2012, at para 55, available at: <https://undocs.org/S/2012/523>.

been detained days after having interacted with UNSMIS. UNSMIS also reported a number of incidents where its personnel were requested not to visit specific towns or villages because of perceived security risks and the implications for the civilian population. Another issue of concern with regard to visits conducted by UNSMIS was the reported fear of some communities located in opposition-controlled areas that they would be shelled after UNSMIS observers concluded patrols in a nearby area.<sup>92</sup>

### IRAQ

On 29 September 2015, the Rapporteur on reprisals of the Committee on Enforced Disappearances raised allegations with the Iraqi authorities of intimidation of Salam alHashimi, an Iraqi national, who had sought to provide information to the Committee during its ninth session in relation to the review of the report submitted by Iraq (see A/71/56). On 7 September 2015, Mr. Al-Hashimi was prevented from passing a checkpoint that provides access to the Green Zone, where he was expected by staff of the United Nations Assistance Mission for Iraq, in order to communicate by video link with the Committee. On 10 September 2015, Mr. Al-Hashimi was intimidated by two individuals who stated that they belonged to the Presidential Regiment. On 28 January 2016, the Rapporteur raised additional allegations with the Iraqi authorities according to which, on 22 December 2015, the Director of the Counter-Terrorism Forces had issued an arrest warrant against Mr. Al-Hashimi on terrorism charges, reportedly related to his engagement with the Committee (ibid.). On 29 January 2016, the Iraqi authorities requested additional information on the identity of Mr. Al-Hashimi, in particular a copy of his identity documents and the full name of his mother, in order to complete their inquiries. That information was provided by the Committee on 10 March 2016, with the consent of the persons involved (ibid.). At the time of finalisation of the present [2016 Secretary-General's] report no further response had been received from the Government.<sup>93</sup>

### ISRAEL

In his report submitted to the Human Rights Council at its thirty-fourth session (A/HRC/34/70), the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 highlighted an increasingly virulent environment for human rights defenders working on issues related to the Occupied Palestinian Territory, including those addressing issues in United Nations forums. He reported that, following a statement made in October 2016 to the Security Council, the Director-General of B'Tselem, Hagai El-Ad, together with Lara Friedman of Americans for Peace Now, was publicly condemned by high-level Israeli officials; one Member of Parliament called for the revocation of his citizenship. Mr. El-Ad had warned of the expansion of settlements and the deteriorating situation of human rights for Palestinians in the Occupied Palestinian Territory (A/HRC/34/70, para. 47). The above mentioned report followed a joint press statement issued on 16 December 2016 by the Special Rapporteur and the Special Rapporteur on the situation of human rights defenders, in which they expressed their concerns for human rights activists working in the Occupied Palestinian Territory who had been subjected to harassment and threats while seeking to promote accountability and engage with the International Criminal Court.<sup>94</sup>

### SOUTH SUDAN

In the special report on the review of the mandate of the United Nations Mission in South Sudan (UNMISS) (S/2016/951), the Secretary-General pointed out that United Nations human rights officers faced limited access to affected areas to corroborate information or interview witnesses and victims for many reasons, including restrictions imposed by government authorities, security considerations for staff members and increasing threats of reprisal against witnesses, victims and sources, which raised the need to ensure their protection. During his visit to South Sudan in February 2017, the Assistant Secretary-General for Human Rights met with a number of government authorities, including cabinet ministers and heads of security forces, to whom he stressed the absolute need to avoid reprisals and threats against human rights defenders who have cooperated with the United Nations. He addressed specific cases of individuals cooperating with UNMISS and with United Nations entities abroad, including those cases in which individuals were forced to leave South Sudan due to intimidation and threats. In this connection, he drew attention to a specific incident, in September 2016, in which human rights defenders were threatened following their meeting with members of the Security Council during their visit to South Sudan. In July 2017, he also addressed the situation of reprisals to the Government of South Sudan in writing.<sup>95</sup>

92 United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/24/29, 31 July 2013, at para 35, available at: <https://undocs.org/A/HRC/24/29>.

93 United Nations Human Rights Council, 'Human rights and transitional justice', A/HRC/33/19, 5 October 2016, available at: <https://undocs.org/A/HRC/RES/33/19>.

94 OHCHR, 'Human rights defenders under growing legal pressure in the OPT – UN rights experts', press release, 16 December 2016; United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/36/31, 29 March 2018, at para 38-39, available at: <https://undocs.org/A/HRC/36/31>.

95 United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/36/31, 29 March 2018, at para 50-51, available at: <https://undocs.org/A/HRC/36/31>. See also, South Sudan: Senior UN human rights official condemns deplorable rights situation, calls for perpetrators to be held to account, OHCHR, 17 February 2017.

## BURUNDI

In March 2017, the Assistant Secretary-General for Human Rights informed the Peacebuilding Commission and members of the Security Council about allegations of reprisals against persons who had cooperated or sought to cooperate with the United Nations, including with OHCHR in Bujumbura.<sup>96</sup>

## PEACE MISSIONS, VARIOUS

During the period under review, individuals and groups wishing to engage with the United Nations human rights system have experienced acts of intimidation and reprisal for their engagement with a wide range of bodies, processes and actors. Contacts with OHCHR or human rights components of peace missions were also not exempt from these types of retributions, for example the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and the United Nations Mission in South Sudan (UNMISS).<sup>97</sup>

## MYANMAR

During a briefing by members of the Security Council on their mission to Myanmar, it was reported that Myanmar security forces had threatened Rohingya villages with reprisals if they talked with the Security Council delegation during the visit and told the villagers that those who had done so were being looked for. A Security Council member noted that it was unacceptable that anyone should feel intimidated about speaking with the Council (see S/PV.8255, page 6).<sup>13</sup> Reports indicate that Rohingya villagers from Pan Taw Pyin, Rakhine State who met with the delegation on 1 May 2018, have been forced into hiding after being targeted by Myanmar's security agencies. Tatmadaw, including members of Military Security Affairs, reportedly requested local authorities to submit a list of all the villagers who had spoken with the delegation. While young villagers were interacting with the delegation, members of the military reportedly took video footage of the youth and then chased them and scolded them after the interviews. Villagers who participated in the meeting reportedly fear intimidation, harassment, and arrests. Furthermore, before the Security Council delegation visited Rakhine, authorities in Maungdaw township had reportedly warned the Rohingya in the surrounding villages against telling members of the Security Council anything adverse about the government or security forces.<sup>98</sup>

## DEMOCRATIC REPUBLIC OF THE CONGO

The United Nations Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), reported that on 25 September 2017, in Lubumbashi, Haut-Katanga province, a human rights defender who had sent a letter alleging human rights violations committed in Kambove territory, became a victim of threats and harassment by an Agence Nationale de Renseignement (ANR) provincial agent. It is alleged that the agents formally reprimanded the human rights defender for sending such a letter to MONUSCO. On 28 October 2017, in Luebo, Kasai province, a United Nations team of joint human rights officers, accompanied by their MONUSCO military escort, was threatened by soldiers of the Forces Armées de la République Démocratique du Congo (FARDC) soldiers. FARDC soldiers and Police Nationale Congolaise agents were posted outside the hotel where the United Nations team stayed, presumably to monitor the team's movement and to identify persons coming to visit the team. It is alleged that two persons who wanted to speak with the United Nations team were arrested by FARDC soldiers and released the following day. A note verbale was sent by MONUSCO to the Congolese authorities addressing this particular incident. ... On 24 April 2018, in Kimpese, Kongo central province, a human rights defender was allegedly threatened by a police commissioner following his advocacy for the release of six detainees, including one child. The police commissioner, who was armed, allegedly intimidated him publicly for sharing reports on allegations of human rights violations with MONUSCO.<sup>99</sup>

## MALI

According to the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), there have been cases of reprisals perpetrated by state actors as well as non-state armed groups against individuals who collaborate with the United Nations.<sup>100</sup> Intimidation and death threats are strategies that have been used by terrorist and extremist armed groups to threaten populations for any collaboration with national and

<sup>96</sup> United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/36/31, 29 March 2018, at para 18, available at: <https://undocs.org/A/HRC/36/31>.

<sup>97</sup> United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/36/31, 29 March 2018, at para 16, available at: <https://undocs.org/A/HRC/36/31>.

<sup>98</sup> United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/39/41, 13 August 2018, available at: <https://undocs.org/A/HRC/39/41>.

<sup>99</sup> United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/39/41, 13 August 2018, at para 27-30, available at: <https://undocs.org/A/HRC/39/41>.

<sup>100</sup> 'Malgré la mise en œuvre de l'Accord pour la paix, la situation des droits de l'homme demeure préoccupante au Mali, MINUSMA, February 1, 2018, <https://minusma.unmissions.org/malgr%C3%A9-la-mise-en-%C5%93uvre-de-l%E2%80%99accord-pour-la-paix-la-situation-des-droits-de-l%E2%80%99homme-demeure>.

international forces as well as State actors, including MINUSMA. On 26 October 2017, the chief of Boulkessi village (close to the Burkina Faso border, Mondoro commune, Douentza cercle, Mopti region) who is a source of information for the MINUSMA Human Rights and Protection Division, reported that he had received threats relating directly to his cooperation with them regarding an investigation into allegations of extra-judicial executions committed by Forces Armées Maliennes (FAMA). It is alleged that he received three threatening phone calls from unknown callers whose voices were disguised, and who referred to his collaboration with the investigation. The chief had reported the location of a mass grave containing bodies of four individuals killed by armed forces in an extrajudicial execution then he began to receive these threats. On 2 December 2017, six unidentified armed elements shot and killed the Secretary-General of the Mayor of Dioungani commune (Koro cercle, Mopti region), and it is believed that the victim may have been targeted for being an informer to the armed forces and/or international forces, including MINUSMA. At the time of writing an investigation was ongoing. Between 9 and 11 April 2018, MINUSMA conducted a special mission to Ménaka to meet with representatives of civil society and victims of human rights abuses during 'counter-terrorism operations' conducted by elements of the Mouvement pour le Salut de l'Azawad (MSA) and the Groupe autodéfense touareg Imghad et alliés (GATIA), in the region since June 2017. The village chief of Akabar who met with the MINUSMA team reported that on 13 April 2018 he was contacted by the MSA Chief of Staff and was questioned and intimidated because of his cooperation with MINUSMA.<sup>101</sup>

### SOUTH SUDAN

In a report in February 2018,<sup>102</sup> the United Nations Mission in South Sudan (UNMISS) and OHCHR noted instances of restrictions imposed by national authorities, including the National Security Service and pro-government forces as well as among the personnel of Central and State administration, against individuals whose opinions were perceived as critical of the Government or the reputation of the country and who cooperated with the United Nations by attending meetings, sharing information on human rights violations, and facilitating access of UNMISS to affected populations (see S/2017/505, S/2017/784, S/2017/1011, and S/2018/133).<sup>103</sup> UNMISS received reports of at least 12 incidents which included arbitrary arrests and detentions, restrictions of movements and acts of intimidation and harassment, mostly targeting human rights defenders cooperating with the United Nations. Some individuals were ordered by security officials to cease sharing information with the United Nations. In addition, UNMISS received credible reports of intimidation against three South Sudanese human rights defenders living in neighbouring countries or travelling outside the country who were accused of collaborating with the United Nations and being critical of the human rights situation in South Sudan. Human rights defenders were also reportedly threatened by government representatives after holding meetings with United Nations personnel in Upper Nile and Equatoria regions, in September and November 2017, respectively. At least two victims have sought refuge elsewhere in the country and abroad. In follow up to his visit to South Sudan in February 2017, the Assistant Secretary-General for Human Rights sent a letter to the Government on 21 July 2017 and stressed the absolute need to avoid reprisals and threats against human rights defenders, including those who have cooperated with the United Nations.<sup>104</sup> In the letter he addressed specific cases of intimidation and threats against individuals for having cooperated with UNMISS and other United Nations entities outside South Sudan, including cases of individuals who were forced to leave the country.<sup>105</sup>

101 United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/39/41, 13 August 2018, at para 73-76, available at: <https://undocs.org/A/HRC/39/41>.

102 Report on the Right to Freedom of Opinion and Expression in South Sudan since the July 2016 Crisis, UNMISS and OHCHR, February 2018.

103 United Nations Security Council, 'Report of the Secretary-General on South Sudan', S/2018/163, February 2018.

104 South Sudan: Senior UN human rights official condemns deplorable rights situation, calls for perpetrators to be held to account, OHCHR, February 17, 2017, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21195&LangID=E>.

105 United Nations Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/39/41, 13 August 2018, at para 100-102, available at: <https://undocs.org/A/HRC/39/41>.





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