

DECLARATION ON HUMAN RIGHTS DEFENDERS +25

A supplement to the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: 25 years on



2024

ANNOTATED VERSION

NOTE ON TRANSLATIONS

This document is currently available in English, Arabic, French and Spanish. We welcome translations of this document into other languages. However, in order to ensure the integrity and relevance of the information contained herein, please contact us in advance if you plan to translate this document or contribute to its translation. This version was published in June 2024. Updated in October 2024.

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ANNOTATED VERSION

This version of the Declaration+25 contains the jurisprudential annotations which provide additional information about the international instruments upon which each article in the Declaration +25 is based. Although not explicitly forming part of the text of the Declaration +25, the annotations (set out in footnotes) serve as a guide to the legal framework underpinning each article.

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INTRODUCTION

2023 marked 25 years since the United Nations General Assembly (**UNGA**) adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (The **Declaration**) in 1998.

The adoption of the Declaration was a turning point in human rights history. It recognized the importance and legitimacy of human rights activity, and the need to protect the right to defend human rights. The Declaration enshrines the fundamental right to defend human rights and articulates how existing human rights contained in major instruments – including the rights to freedom of expression, association, and assembly – apply to human rights defenders. Over the last 25 years, these fundamental rules and principles have guided national, regional, and international efforts to support and safeguard those who advocate for human rights.

Twenty years after the adoption of the Declaration, human rights defenders from across the globe met in Paris for the 2018 Human Rights Defenders World Summit. The Summit reaffirmed the Declaration and commemorated the essential role of human rights defenders. The outcome document of the Summit was a call for action, including to: “Take stock of the developments in normative frameworks related to the protection of defenders since 1998 and further develop and deepen the norms contained in the Declaration with the view to afford enhanced protection.” The development of this Declaration +25 sought to do just that while putting civil society at the centre of the conversation that could not be more fundamental to them and their work – the right to defend rights.

Notwithstanding the Declaration’s impact, its full potential remains unrealized due to insufficient implementation and enforcement by States. Given that the Declaration was negotiated by States and adopted by consensus, the Declaration was not comprehensive. Additionally, since the Declaration’s adoption, international law on the recognition and protection of the right to defend human rights has evolved. New challenges have also emerged, reshaping the threats and obstacles faced by human rights defenders. These include digital threats, stigmatization, and criminalization, as well as the unique and intersectional risks faced by defenders because of their identities and their activities.

Recognizing these challenges and developments, a group of international and regional organizations launched a consultative initiative to identify the key issues faced in the defense of human rights that are not, or are only insufficiently, addressed by the Declaration. This process involved human rights defenders, legal and human rights experts, and civil society. Over one year, more than 736 human rights defenders from various regions, working on diverse issues and with diverse identities provided inputs through in-person consultations or an online questionnaire. International law firm Freshfields Bruckhaus Deringer was engaged on a pro bono basis to develop this document, which was then finalized and adopted unanimously at a two-day meeting in Bangkok of distinguished human rights defenders and legal experts from diverse regions and backgrounds.

The result is this “Declaration +25”. This document is designed to be read in conjunction with the Declaration. Together, they form a comprehensive set of standards and principles that are grounded in regional and international law and take into account regional and international jurisprudential developments of the last 25 years. These rules and principles represent a baseline for the protection and promotion of human rights defenders while addressing their enduring and evolving needs. The Declaration +25 reinforces and articulates the rights of human rights defenders and the obligations of States under international law as they apply to human rights defenders. It also serves as a call to action: it encourages all stakeholders – governments, international and regional organizations, the private sector, and civil society – to ensure that the Declaration remains a strong, relevant, and effective tool for the protection and promotion of human rights and human rights defenders.

Members of the Secretariat

- Amnesty International
- Asia Pacific Forum on Women Law and Development (APWLD)
- Asian Forum for Human Rights and Development (FORUM-ASIA)
- CIVICUS
- DefendDefenders
- Front Line Defenders
- Gulf Centre for Human Rights
- The International Lesbian, Gay, Bisexual, Trans, and Intersex Association (ILGA World)
- The International Center for Not-for-Profit Law (ICNL)
- International Federation for Human Rights (FIDH)
- International Service for Human Rights (ISHR)
- Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras)
- Peace Brigades International
- ProtectDefenders.eu
- Protection International
- The Regional Coalition for Women Human Rights Defenders in Southwest Asia and North Africa (WHRDMENA)
- Robert F. Kennedy Human Rights
- World Organisation Against Torture (OMCT)

SIGNATORIES TO THE DECLARATION +25

The following human rights experts, jurists, and defenders endorsed this Declaration +25 in their personal capacities, including at an Expert Meeting on 11 and 12 April 2024:

- **Abdelaziz Muhamat**
Human rights defender, Martin Ennals Award laureate, advocate for the rights of refugees and migrants
- **Akarachai Chaimaneekarakate**
Advocacy Lead, Thai Lawyers for Human Rights
- **Dr Alice M. Nah**
Co-Director of the Human Rights and Public Law Centre, Associate Professor, Department of Sociology, Durham University, United Kingdom
- **Ana Barreto**
Founder, Black Women Policy Lab
- **Anna Annanon**
Youth human rights defenders advocate for child rights and civil rights
- **Anexa Alfred Cunningham**
Lawyer and human rights defender, Member of the UN Expert Mechanism on the Rights of Indigenous Peoples. Founder of the Platform of Indigenous Peoples and Afro-descendants (INANA)
- **Betty Barkha**
Research Fellow, Global Institute for Women in Leadership, Australian National University
- **Betty Yolanda**
Director of Regional Programmes, Business and Human Rights Resource Centre
- **Brett Solomon**
Executive Director, Access Now
- **Atty. Cecilia Jimenez-Damary**
Lawyer and Transitional Justice advocate
- **Clément Voule**
Former UN Special Rapporteur on the rights to freedom of assembly and association
- **Cristina Palabay**
Secretary General, Karapatan Alliance Philippines
- **Dalila Argueta**
Member of the Honduran National Network of Women Human Rights Defenders, member of the Mesoamerican Initiative
- **Ed O'Donovan**
Senior Advisor to the UN Special Rapporteur on the situation of human rights defenders
- **Erika Castellanos**
Executive Director, Global Action for Trans Equality (GATE)
- **Gama**
Independent human rights defender
- **Hassan Shire**
Executive Director of the East and Horn, Africa Human Rights Defenders Project (DefendDefenders)
- **Horia Mosadiq**
Director, Safety and Risk Mitigation Organization (SRMO)

- **José Luis Caballero Ochoa**
Special Rapporteur on Human Rights Defenders and Commissioner of the Inter-American Commission of Human Rights
- **Luis Enrique Eguren**
Independent consultant, Guest lecturer, University of Deusto, Spain
- **Mar Cervantes**
Mesoamerican Women Human Rights Defenders Initiative
- **Mary Lawlor**
UN Special Rapporteur on the situation of human rights defenders
- **Meerim Ilyas**
Feminist practitioner, Diversity, Equity & Inclusion Program Manager, Legal Services Corporation
- **Michel Forst**
UN Special Rapporteur on Environmental Defenders under the Aarhus Convention
- **Namatai Kwekweza**
Activist, Feminist, and Director of WELEAD Trust
- **Olga Abramenko**
Expert, ADC Memorial
- **Otto Saki**
Global Program Officer, Civic Engagement and Government team, Ford Foundation
- **Pepe Julian Onziema**
Director of Programs, Sexual Minorities Uganda (SMUG)
- **Philip Lynch**
Executive Director, International Service for Human Rights
- **Pranom Somwong**
Thailand Country Representative, Protection International
- **Remy Ngoy Lumbu**
Special Rapporteur on Human Rights Defenders and President of the African Commission on Human and People's Rights
- **Santiago A. Canton**
Secretary General, International Commission of Jurists
- **Sukhgerel Dugersuren**
Director, Oyu Tolgoi Watch Mongolia (OT Watch)
- **Victor Madrigal-Borloz**
Eleanor Roosevelt Senior Visiting Researcher, Harvard Law School Human Rights Program, former UN Independent Expert on Sexual Orientation and Gender Identity
- **Vrinda Grover**
Lawyer practising at the Indian Supreme Court, human rights activist and Commissioner at the UN Commission of Inquiry on Ukraine
- **Wesam Ahmed**
Director of the Applied Center for International Law, Al-Haq
- **Yosra Sultan**
Executive Director, Regional Coalition of Women Human Rights Defenders in South West Asia and North Africa (WHRDMENA)

PREAMBLE

ACKNOWLEDGING the **crucial role** of human rights defenders in the promotion, protection, and effective realization of human rights and fundamental freedoms;

REAFFIRMING the importance of fostering a **culture** and ensuring an environment that values and **supports** the work or activities of human rights defenders, and promotes awareness and appreciation for their contributions to the **advancement of justice, human dignity, democracy**, and the **rule of law**;

ACKNOWLEDGING the **contexts** in which many human rights defenders work, including racism, patriarchy, heteronormativity, capitalism, populism, neoliberalism, armed conflict, occupation, environmental crises, and legacies of colonialism;

EXPRESSING solidarity with human rights defenders striving for the realization of rights and **accountability** and those experiencing discrimination, persecution, exile, and loss of life;

STRESSING the **foundational role** of the Universal Declaration on Human Rights and the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the Declaration);

RECOGNIZING that the Declaration represents a **paradigm shift** in the global understanding of and commitment to human rights, marking not merely a call to States and human rights defenders but an **inclusive** call to action for everyone;

RECALLING the **progress** achieved in some regions and States towards the effective implementation of the principles outlined in the Declaration and **ACKNOWLEDGING** these advancements as essential steps towards the **full realization** of the Declaration's objectives, while noting that **gaps** remain in the comprehensive implementation and thorough monitoring of the Declaration, which are imperative for the effective protection and empowerment of human rights defenders;

WELCOMING some **progressive developments** in laws, standards and jurisprudence on the recognition and protection of human rights defenders at the international, regional, and national levels;

NOTING further that some human rights are not sufficiently addressed in the Declaration, and that these gaps have been **exacerbated by: new and emerging challenges** and **obstacles** faced by human rights defenders including, among others, **digital threats**, increased **stigmatization** and **criminalization**; the **unique risks** faced by defenders because of their identities or their work or activities on certain issues; the influence of non-State actors (including business enterprises); and the restriction and repression of civil society at the national, regional, and international level;

ALARMED by the **disregard** for both the essence and principles outlined in the Declaration by numerous States, **DISTURBED** by the trend of security forces engaging in **assaults** against human rights defenders and the role of judicial bodies in **judicial harassment** and **criminalization**, and **TROUBLED** by the rhetoric from public officials aimed at **undermining** the invaluable efforts of human rights defenders;

DEEPLY CONCERNED by the persistence of significant **challenges** and **threats** to human rights defenders and the persistent instances of killing, physical violence, stigmatization, criminalization, and other **online** and **offline** attacks that compromise their ability to carry out their work or activities, as well as their legitimacy, safety and freedom;

EMPHASIZING the vital importance of **investigating** all threats and attacks against human rights defenders, and ensuring **accountability** and addressing **impunity**, whether perpetrated by State or non-State actors (including business enterprises);

RECOGNIZING the **diversity** of human rights defenders and that they face **distinct** and intersectional risks, influenced by their unique identities and the nature of their work or activities, and **EMPHASIZING** the need to provide them with targeted protective **measures** and **support**;

ACKNOWLEDGING the role and contribution **of women human rights defenders**, and **DEEPLY CONCERNED** by the specific **challenges** and **risks** they face, including gender-based violence and discrimination, intensified by the intersection with other forms of discrimination, including discrimination based on race, age, religion, caste, ethnicity, migration status, political opinion, disability, sexual orientation, gender identity, expression and sex characteristics;

STRESSING the responsibility of **non-State actors** (including business enterprises) to respect and support human rights defenders and, **DEEPLY CONCERNED** by their **increasing role** in attacks against, and undermining or obstructing the vital work or activities of, human rights defenders;

ACKNOWLEDGING the **environmental** and **climate crisis** and the vital **role** of human rights defenders working on a just transition, and in ensuring a clean, healthy and sustainable environment for all;

ACKNOWLEDGING that human rights defenders' rights must be protected offline and **online**, while recognizing the expanding **threats that new and emerging technologies** pose to human rights defenders as well as opportunities for human rights enjoyment and promotion available in the digital sphere;

RECOGNISING the **importance** of collective approaches to the protection of human rights defenders including networks, coalitions, collectives, and communities;

RECALLING the **role** of international and regional human rights mechanisms and national human rights institutions in providing **support** and **solidarity** to human rights defenders, and **RECOGNIZING** the need to **strengthen** and adequately resource these mechanisms to ensure more effective protection of human rights defenders.

PART I - DEFINITION AND REAFFIRMATION OF THE RIGHT TO PROMOTE, DEFEND AND PROTECT HUMAN RIGHTS

ARTICLE 1

Definition of Human Rights Defender

Note: Article 1 of the Declaration identifies human rights defenders as individuals or groups who act to promote, protect, or strive for the protection and realization of human rights and fundamental freedoms. Other articles of the Declaration provide that the promotion and protection of human rights should be “through peaceful means” (see, eg, Articles 12(1), 12(3) and 13), meaning that human rights defenders should not engage in violence. The term “through peaceful means” is not to be equated with “through [or by] lawful means”, particularly as some national laws are oppressive and contrary to international law, meaning that conduct might be unlawful within the meaning of national law while remaining lawful under international law.

The definition in this Declaration+25 reflects that the one used by experts in human rights, including the UN Special Rapporteur¹ and the Inter-American Court of Human rights².

It is important that the status of a human rights defender does not require any form of registration.

¹ Report of the Special Rapporteur on the situation of human rights defenders, “We are not just the future”: challenges faced by child and youth human rights defenders - Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/55/50.

² I/A Court HR Case of Members of the José Alvear Restrepo Lawyers Collective v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 18, 2023. Series C No. 506. para. 473

For the purposes of the Declaration +25, “human rights defender” means any person who, individually or in association with others, or any group or organ of society that, acts or seeks to act to promote, protect or strive for the protection and realization of human rights and fundamental freedoms, at the local, national, regional, and international levels.³

³ The Declaration, Article 1: “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”;

Members of the Corporation Lawyers Collective “José Alvear Restrepo” (CAJAR) v Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-American Court of Human Rights (*Inter-Am. Ct. H.R.*) (ser. C) No 506, 18 October 2023, paras 468-469, 978 (free translation): “the quality of a defender [...] is determined by the very nature of the activities carried out, regardless of whether they are carried out occasionally or permanently, in the public field, or private, collectively or individually, at the local, national or international level, or if they are contracted to specific civil, political, economic, social, cultural or environmental rights, or are extended to all of these”;

Baraona Bray v Chile, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No 481, 24 November 2022, para 71: “The definition of the category ‘human rights defender’ is broad and flexible due to the very nature of this activity. Thus, any person who engages in efforts to promote and defend a human right, and who self-identifies or is recognized by society as a defender, should be considered as such”;

Luna Lopez v Honduras, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 169, 10 October 2013, para 122: “the definition of a human rights defender lies in the work carried out, regardless of whether the individual acts as a private individual or as a public servant”;

Acosta et al v Nicaragua, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No 334, 25 March 2017, para 139 (free translation): “In this regard, the Court reiterates that the decisive criterion for identifying that a person is engaged in human rights activities is not defined by the way in which he or she calls himself or herself as a human rights defender, but in the identification of the activity he or she carries out”;

Human Rights Defender and others v Guatemala, Preliminary Objections, Merits, Reparation and Costs, Inter-Am. Ct. H.R. (ser. C) No 283, 28 August 2014, para 129: “This Court considers that the status of human rights defender is defined by the work carried out, regardless of whether the person is a private citizen or a public servant. In this regard, the Court has referred to the monitoring, reporting and education activities carried out by human rights defenders, emphasizing that the defense of rights not only applies to civil and political rights, but also necessarily covers economic, social and cultural rights, according to the principles of universality, indivisibility and interdependence. Furthermore, this Court recognizes that international consensus exists that, among other activities, human rights defenders are involved in the promotion and protection of human rights. Similar views have been expressed by the United Nations High Commissioner for Human Rights, the Council of the European Union, the Parliamentary Assembly of the European Union and the Inter-American Commission on Human Rights. Likewise, Article 1 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, approved by the United Nations General Assembly through Resolution A/RES/53/144 of 1999, establishes that ‘everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.’ Moreover, in the opinion of this Court, such activities must be carried out peacefully, so that this concept does not include acts of violence or acts that lead to violence. In addition, these activities for the promotion and protection of human rights may be carried out intermittently or occasionally, so that the condition or status of human rights defender is not necessarily permanent”;

Parliamentary Assembly of the Council of Europe, Situation of human rights defenders in Council of Europe member states, Resolution 1660, 28 April 2009, point 2: “human rights defenders are all those persons who, individually or together with others, act to promote or protect human rights. It is their activities in this field that define them as human rights defenders”;

Inter-American Commission on Human Rights (*IACmHR*), Second Report on the Situation of Human Rights Defenders in the Americas (2011), p 4: asserting that human rights defenders include “every person who in any way promotes or seeks the realization of human rights and fundamental freedoms, nationally or internationally”;

OHCHR, Fact Sheet No 29, Human Rights Defenders: Protecting the Right to Defend Human Rights (2004), p 2: “‘Human rights defender’ is a term used to describe people who, individually or with others, act to promote or protect human rights”;

Council of the European Union, European Union Guidelines on Human Rights Defenders, 8 December 2008, para 3: defining human rights defenders as “individuals, groups and organs of society that promote and protect universally recognized human rights and fundamental freedoms”.

ARTICLE 2

Reaffirmation of the Right to Promote, Defend and Protect Human Rights

Note: This Part reaffirms many of the overarching principles contained in the Declaration.

States shall recognize, protect, respect, and fulfill the right to promote, defend, and to strive for the protection and realization of human rights and fundamental freedoms (hereinafter the “right to defend human rights”) at the national, regional, and international levels.⁴

States shall recognize, protect, respect, and fulfill all of the human rights and fundamental freedoms that enable and are conducive to the exercise of the right to defend human rights,⁵

⁴ The Declaration, Article 1: “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”;

Members of the Corporation Lawyers Collective “José Alvear Restrepo” (CAJAR) v Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 506, 18 October 2023, paras 972, 975-980 (free translation) (wherein the Court recognized an autonomous right to defend human rights): “This autonomous right can be effectively violated beyond the particular infringement of certain rights, such as those concerning life, personal integrity, freedom of expression, freedom of assembly, freedom of association, judicial guarantees and judicial protection (to which should be added the right to movement and residence), and without necessarily declaring all of these to be violated in a specific case. Thus, the content of the right incorporates the effective possibility of exercising freely, without limitations and without risks of any kind, different activities and tasks aimed at boosting, monitoring, promoting, disseminating, teaching, defending, claiming or protecting universally recognized human rights and fundamental freedoms”;

UN Economic and Social Council (**UN ECOSOC**), General Comment No 18 on the Right to Work, E/C.12/GC/18 (2006), para 51: “States parties should respect and protect the work of human rights defenders and other members of civil society”;

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 6: “Reiterates strongly the right of anyone, individually and in association with others, to defend the human rights of women in all their aspects, and stresses the important role of women human rights defenders in promoting and protecting human rights and fundamental freedoms, to which everyone is entitled without distinction of any kind, including in addressing all forms of human rights violations, combating impunity, fighting poverty and discrimination and promoting access to justice, democracy, the full participation of women in society, tolerance, human dignity and the right to development, while recalling that the exercise of these rights carries duties and responsibilities set out in the Declaration”;

UN Human Rights Council (**UNHRC**) Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 8: “Calls upon States to respect, protect and ensure the right to freedom of association of human rights defenders and, in this regard, to ensure, where procedures governing the registration of civil society organizations exist, that these are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration, in accordance with national legislation, and are in conformity with international human rights law”;

UN ECOSOC, Human Rights Defenders: Report submitted by the Special Representative of the Secretary-General on human rights defenders, UN Doc. E/CN.4/2001/94 (2001), para 13: “[t]he General Assembly [acknowledged] the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to the effective elimination of all violations of human rights and fundamental freedoms of people and individuals”, hence the Special Representative will consider her mandate to human rights defenders in the context of the Declaration and other UN international human rights instruments including the International Covenant on Civil and Political Rights (**ICCPR**), the International Covenant on Economic, Social and Cultural Rights (**ICESCR**), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**CAT**), the International Convention on the Elimination of All Forms of Racial Discrimination (**ICERD**), the Convention on the Elimination of all forms of Discrimination Against Women (**CEDAW**), the Convention on the Rights of the Child (**CRC**), and the International Labor Organization’s (**ILO**) Freedom of Association and Protection to the Right to Organize Convention (No 87);

IACmHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II/124 Doc. 5 rev. 1 (2006), para 35: “the inter-American system has established components of many rights whose guarantee makes possible the work of human rights defenders”.

⁵ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (**Escazú Agreement**), Article 9(2): “Each Party shall take adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement, as well as their ability to exercise their access rights, taking into account its international obligations in the field of human rights, its constitutional principles and the basic concepts of its legal system”;

including the rights to freedom of assembly,⁶ freedom of association,⁷ freedom of opinion and

Escaleras Mejía et al v Honduras, Judgment, Inter-Am. Ct. H.R. (ser. C) No 361, 26 September 2018, para 60 (free translation): “the right to defend human rights and the correlative duty of States to protect it are related to the enjoyment of various rights contained in the American Declaration of the Rights and Duties of Man and in the American Convention, such as life, personal integrity, freedom of expression, freedom of association, judicial guarantees and judicial protection. These guarantees, taken together, constitute the vehicle to realize the right to defend human rights”;

Members of the Corporation Lawyers Collective “José Alvear Restrepo” (CAJAR) v Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 506, 18 October 2023, paras 977-8 (free translation): “This autonomous right [to defend human rights] can be effectively violated beyond the particular infringement of certain rights, such as those concerning life, personal integrity, freedom of expression, freedom of assembly, freedom of association, judicial guarantees and judicial protection (to which should be added the right to movement and residence), and without necessarily declaring all of these to be violated in a specific case”;

The Committee on Economic, Social and Cultural Rights (**CESCR**), General Comment No 14 (2000): The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), UN Doc. E/C.12/2000/4 (2000), para 62: “States parties should respect, protect, facilitate and promote the work of human rights advocates and other members of civil society with a view to assisting vulnerable or marginalized groups in the realization of their right to health”;

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 2: “The Human Rights Council [...] [c]alls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards the realization of economic, social and cultural rights and who, in so doing, exercise other human rights, such as the rights to freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy”.

6 Universal Declaration of Human Rights (**UDHR**), Article 20: “Everyone has the right to freedom of peaceful assembly”;

ICCPR, Article 21: “The right of peaceful assembly shall be recognized”;

ICERD, Article 5(d)(ix): stating that State parties undertake to prohibit discrimination in the enjoyment of the “right to freedom of peaceful assembly”;

African Charter on Human and Peoples’ Rights (**ACHPR**), Article 11: “Every individual shall have the right to assemble freely with others”;

American Convention on Human Rights (**ACHR**), Article 15: “The right of peaceful assembly, without arms, is recognized”;

European Convention on Human Rights (**ECHR**), Article 11: “Everyone has the right to freedom of peaceful assembly”;

UNGA Resolution, Twentieth anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/72/247, para 2: “Calls upon all States to take all measures necessary to ensure the rights and safety of all persons, including human rights defenders, who exercise, inter alia, the rights to freedom of opinion, expression, peaceful assembly and association, which are essential for the promotion and protection of human rights”.

7 UDHR, Article 20: “Everyone has the right to freedom of [...] association”;

ICCPR, Article 22: “Everyone shall have the right to freedom of association with others”;

ICERD, Article 5(d)(ix):stating that State parties undertake to prohibit discrimination in the enjoyment of the “right to freedom of [...] association”;

ICESCR, Article 8(a): “The States Parties to the present Covenant undertake to ensure [...] [t]he right of everyone to form trade unions and join the trade union of his choice”;

CEDAW, Article 7(c): stating that State parties shall take all appropriate measures to eliminate discrimination against women to ensure the right “[t]o participate in non-governmental organizations and associations concerned with the public and political life of the country”;

ACHPR, Article 10: “Every individual shall have the right to free association provided that he abides by the law”;

ACHR, Article 16: “Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes”;

ECHR, Article 11: “Everyone has the right [...] to freedom of association with others”;

Cantoral-Huamani and Garcia-Santa Cruz v Peru, Preliminary Objection, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 167, 10 July 2007, para 148: considering the murder of the petitioner, a union worker, in connection with her trade union activities and holding that the State’s failure to investigate had an intimidating effect on the free exercise of union’s rights because “[i]n a context such as that of the instant case, executions like these not only restricted the freedom of association of an individual, but also the right and the freedom of a specific group to associate freely without fear”;

Kawas-Fernández v Honduras, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 196, 3 April 2009, paras 68, 143, 153: considering the murder of a human rights defender by State agents and holding that the subsequent failure to conduct a proper investigation and prosecute the perpetrators enabled an intimidating environment which affected the right to association;

UNGA Resolution, Twentieth anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/72/247 (2018), para 2: “Calls upon all States to take all measures necessary to ensure the rights and safety of all persons, including human rights defenders, who exercise, inter alia, the rights to freedom of opinion, expression, peaceful assembly and association, which are essential for the promotion and protection of human rights”.

expression,⁸ the right to participate in peaceful protest,⁹ the right to develop and discuss new human rights ideas,¹⁰ the right to self-determination,¹¹ the right to privacy,¹² the right to seek,

8 UDHR, Article 19: “Everyone has the right to freedom of opinion and expression”;

ICCPR, Article 19(1)-(2): “Everyone shall have the right to hold opinions without interference [...] Everyone shall have the right to freedom of expression”;

ICERD, Article 5(d)(viii):stating that State parties undertake to prohibit discrimination in the enjoyment of the “right to freedom of opinion and expression”;

ACHPR, Article 9(2): “Every individual shall have the right to express and disseminate his opinions within the law”;

ACHR, Article 13: “Everyone has the right to freedom of thought and expression”;

ECHR, Article 10: “Everyone has the right to freedom of expression”;

The Declaration, Article 6: stating that everyone has the right to “know, seek, obtain, receive and hold information”, to “form and hold opinions” related to human rights, and “freely to publish, impart or disseminate” those views to others;

UN Human Rights Committee, General Comment No 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), paras 2, 24: “Freedom of opinion and freedom of expression are indispensable conditions for the full development of the person. They are essential for any society. They constitute the foundation stone for every free and democratic society. The two freedoms are closely related, with freedom of expression providing the vehicle for the exchange and development of opinions – text of para 2” [...] “Restrictions must be provided by law. Law may include laws of parliamentary privilege and laws of contempt of court. Since any restriction on freedom of expression constitutes a serious curtailment of human rights, it is not compatible with the Covenant for a restriction to be enshrined in traditional, religious or other such customary law – text of para 24”;

UNGA Resolution, Twentieth anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/72/247 (2018), para 2: “Calls upon all States to take all measures necessary to ensure the rights and safety of all persons, including human rights defenders, who exercise, inter alia, the rights to freedom of opinion, expression, peaceful assembly and association, which are essential for the promotion and protection of human rights. Any restriction on freedom of expression constitutes a curtailment of human rights”.

9 See above footnote 5 on the right to freedom of assembly;

ICESCR, Article 8: “1. The States Parties to the present Covenant undertake to ensure [...] [t]he right to strike, provided that it is exercised in conformity with the laws of the particular country”;

American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (*Protocol of San Salvador*), Article 8(1)(b): “The States Parties shall ensure [...] [t]he right to strike”;

ILO, Freedom of Association and Protection of the Right to Organise Convention, No 87 (1948).

10 The Declaration, Article 7: “Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance”;

Special Rapporteur on the situation of human rights defenders, Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (2011), p 84: “the right to develop and discuss new human rights ideas is an important provision to guarantee the ongoing development of human rights and to protect those defenders that advocate new visions and ideas of human rights”.

11 UN Charter, Article 1(2): “The Purposes of the United Nations are: [...] [t]o develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace”;

ICCPR, Article 1(1), (3): “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development – text of Article 1(1)” [...] “The States Parties to the present Covenant [...] shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations – text of Article 3”;

East Timor (Portugal v Australia), Judgment, ICJ Reports (1995), para 29: “In the Court’s view, Portugal’s assertion that the right of peoples to self-determination, as it evolved from the Charter and from United Nations practice, has an erga omnes character, is irreproachable. The principle of self-determination of peoples has been recognized by the United Nations Charter and in the jurisprudence of the Court [...]; it is one of the essential principles of contemporary international law”;

UNGA Resolution 1514 (XV), Declaration on the granting of independence to colonial countries and peoples, para 2: “Declares that [...] [a]ll peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”.

12 UDHR, Article 12: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks”;

ICCPR, Article 17: “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks”;

ACHR, Article 11: “Everyone has the right to have his honor respected and his dignity recognized. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation. Everyone has the right to the protection of the law against such interference or attacks”;

ECHR, Article 8: “Everyone has the right to respect for his private and family life, his home and his correspondence”.

receive and use funding,¹³ the right to participation,¹⁴ the right of access to information,¹⁵ and

13 The Declaration, Article 13: “everyone has the right, individually and in association with others, to solicit, receive, and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means”; Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/39 (2013), paras 8, 17-18, 79, 82(b): the ability to seek, secure, receive, and use financial resources from domestic, foreign and international sources is an essential element of the right to freedom of association and States have the obligation to facilitate, not restrict, the access of associations, both registered and unregistered, to funding, including from foreign sources;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 286(15): “With this goal in mind, the American States should [...] [r]espect the rights of human rights defenders and organizations to manage their resources, including their financing, in accordance with legitimate laws and to formulate their program of activities with total independence and without undue interference from the authorities”.

14 ICCPR, Article 25: “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country”;

ACHR, Article 23: “1. Every citizen shall enjoy the following rights and opportunities: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and (c) to have access, under general conditions of equality, to the public service of his country. 2. The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings”;

UN Human Rights Committee, General Comment No 25 [57]: General Comments under Article 40, paragraph 4, of the International Covenant on Civil and Political Rights (Participation in Public Affairs and the Right to Vote), UN Doc. CCPR/C/21/Rev.1/ Add.7 (1996), para 8: “Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves”;

Parliamentary Assembly of the Council of Europe, Protecting human rights defenders in Council of Europe member States, Resolution 2225 (2018), para 5.7: “The Assembly therefore calls on member States to [...] encourage human rights defenders to participate in public life and ensure that they are consulted on draft legislation concerning human rights and fundamental freedoms, as well as that concerning the regulation of their activities”;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 285(3): “In order to recognize the work of human rights defenders, States must: Acknowledge publicly and unequivocally the fundamental role played by human rights defenders to guarantee democracy and the rule of law in society [...] This can be achieved through special programs, the granting of awards, ceremonies, press releases or other measures that make visible the work of defenders and demonstrate their value and importance to society”;

Office of the Council of Europe Commissioner for Human Rights, Joint Statement: 20 years on from the adoption of the UN Declaration on Defenders: The protection of human rights defenders is non-negotiable (2018): “This must include the safeguard of the space for human rights defenders to participate in the discussions on human rights in regional and international fora”.

15 The right to freedom of opinion and expression is protected under international law (see footnote 7 above) and encompasses the right of access to information. See, e.g.;

UDHR, Article 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”;

ICCPR, Article 19(2): “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”;

ACHPR, Article 9(1): “Every individual shall have the right to receive information”;

ACHR, Article 13(1): “Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one’s choice”;

ECHR, Article 10(1): “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises”;

The Declaration, Article 6: “Everyone has the right, individually and in association with others: (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters”;

Palomo Sánchez and Others v Spain, Applications nos. 28955/06, 28957/06, 28959/06 and 28964/06, European Court of Human Rights (*ECTHR*) Grand Chamber, 12 September 2011, para 53: “Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual’s self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no ‘democratic society’”;

the right to safe and unhindered access to and communication with international and regional human rights bodies and organizations.¹⁶

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 9(g): “Calls upon States [...] [t]o refrain from Internet shutdowns, network restrictions or any other measures aiming to disrupt or prevent human rights defenders from having access to and disseminating information and communicating safely and securely, including interference with the use of technologies, such as encryption and anonymity tools”;

UNHRC Resolution, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, UN Doc. A/HRC/RES/40/11 (2019), para 14(b): “Calls upon States [...] [t]o adopt and implement strong and effective laws or policies ensuring, among other things, the right to take part in the conduct of public affairs and in cultural life, the freedom to seek, receive and impart information and equal access to justice, including to an effective remedy, in the field of the environment”;

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 11(e): “Calls upon States to ensure [...] [i]nformation held by public authorities is proactively disclosed, including on grave violations of human rights, and that transparent and clear laws and policies provide for a general right to request and receive such information, for which public access should be granted, except for narrow and clearly defined limitations”;

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/HRC/14/23 (2010), para 24: “As provided for in article 19 of the International Covenant on Civil and Political Rights, the right to freedom of opinion and expression comprises three different elements: (a) the right to hold opinions without interference; (b) the right to seek and receive information and the right of access to information; and (c) the right to impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of one’s choice”;

IACmHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.Doc 66 (2011), para 541(C) (17): “The Inter American Commission on Human Rights recommends to the States of the Americas [...] [a]llow and enable human rights defenders and the general public to have access to public information held by the State, as well as private information about them. The State should establish an expedited independent, and effective mechanism for this purpose, which includes a review by civilian authorities of the security forces’ decisions to deny access to information”.

16 The Declaration, Articles 5(c), 9(4): “For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels [...] [t]o communicate with non-governmental or intergovernmental organizations [...] To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms”;

Optional Protocol to the ICCPR, UN Doc. A/RES/2200A(XXI) (1966), Article 2: “Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration”;

Optional Protocol to CEDAW, UN Doc. A/RES/54/4 (1999), Article 11: “A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol”;

Optional Protocol to the ICESCR, UN Doc. A/RES/63/117 (2008), Article 13: “A State Party shall take all appropriate measures to ensure that individuals under its jurisdiction are not subjected to any form of ill-treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol”;

Optional Protocol to CAT, UN Doc. A/RES/57/199 (2002), Article 15: “No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way”;

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), paras 13, 14(c): “Strongly calls upon all States [...] [t]o avoid legislation that has the effect of undermining the right [of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms]”.

PART II - RIGHTS OF AND PROTECTIONS FOR HUMAN RIGHTS DEFENDERS

ARTICLE 3

Recognition and Acknowledgement of the Right to Defend Human Rights

Note: While the preamble of the Declaration acknowledges the important role played by human rights defenders in promoting, defending, and protecting human rights and fundamental freedoms, the Declaration does not explicitly require States to recognize and acknowledge the work or activities of human rights defenders. Recognition of the value and legitimacy of the work or activities of human rights defenders is a critical factor contributing to their protection and an enabling environment. The provision below addresses this.

A violation or abuse of the right to defend human rights constitutes a violation or abuse of the human rights and fundamental freedoms being promoted, defended, or protected.¹⁷

¹⁷ IACmHR, *Germán Chirinos Gutiérrez v Honduras*, Precautionary Measures No 54-18, 8 March 2018, para 19 (free translation): “The Commission wishes to reiterate the importance of the work of human rights defenders in the region, with special emphasis on the fact that acts of violence and other attacks against human rights defenders not only affect the guarantees inherent to all human beings, but also undermine the fundamental role they play in society and leave all those for whom they work defenseless. The Commission also recalls that the work of human rights defenders is essential for the construction of a solid and lasting democratic society, and that they play a leading role in the process of fully achieving the rule of law and strengthening democracy”;

CESCR, Statement by the Committee on Economic, Social and Cultural Rights on human rights defenders and economic, social and cultural rights, UN Doc. E/C.12/2016/2 (2017), para 5: “The Committee is fully aware of the importance of enabling human rights defenders, including those working in the field of economic, social and cultural rights, to work freely without any threat or fear. It considers any threats or violence against human rights defenders to constitute violations of the obligations of States towards the realization of Covenant rights, since human rights defenders also contribute through their work to the fulfilment of those rights. For that reason, it has raised the issue regularly in the course of its dialogue with States parties and has referred to it expressly in a number of its concluding observations and general comments. In paragraph 51 of its General Comment No 18 (2005) on the right to work, the Committee affirmed that States parties should respect and protect the work of human rights defenders and other members of civil society, in particular the trade unions, who assist disadvantaged and marginalized individuals and groups in the realization of their right to work. More recently, in paragraph 49 of its general comment No 23 (2016) on the right to just and favourable conditions of work, the Committee recalled that human rights defenders should be able to contribute to the full realization of Covenant rights for all, free from any form of harassment. States parties should respect, protect and promote the work of human rights defenders and other civil society actors towards the realization of the right to just and favourable conditions of work”;

UNHRC, Report of the Working Group on Enforced or Involuntary Disappearances: Addendum study on enforced or involuntary disappearances and economic, social and cultural rights, UN Doc. A/HRC/30/38/Add.5 (2015), para 36: “When an individual becomes a victim of enforced disappearance as a result of exercising or promoting economic, social and cultural rights, the enjoyment of those rights is also violated. For instance, the disappearance of a teacher who promoted cultural rights also interferes with the right to cultural life as well as the exercise of students’ right to education (A/HRC/22/45, para. 69)”;

IACmHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II. Doc. 66 (2011), para 485: “At the same time, it has to be said that during the follow up period, many States in the region did not adopt special measures to protect human rights defenders. The acts of violence and other attacks perpetrated against human rights defenders not only affect the guarantees of every human being, but can undermine the fundamental role that human rights defenders play in society and leave all those for whom they fight defenseless. The IACHR would remind these States that under the case law of the Inter American Court, the standards that the Commission has singled out, and Article 12 of the UN Declaration on Human Rights Defenders, the States have undertaken an international obligation to protect human rights defenders”;

UNGA, Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/73/215 (2018), para 25: “As the then Secretary General Kofi Annan noted a few months before the adoption of the Declaration: ‘When the rights of human rights defenders are violated, all of our rights are put in jeopardy and all of us are made less safe’”.

States should recognize and publicly acknowledge the right to promote, defend, and protect human rights and fundamental freedoms and those who exercise this right.¹⁸

In particular, States should:

- (a) Take all necessary measures to promote public knowledge and awareness of the right to defend human rights.¹⁹ Such measures may include public statements by high level public

18 CESCR, General Comment No 26 (2022) on Land and Economic, Social and Cultural Rights, UN Doc. E/C.12/GC/26 (2023), para 55(a): "The specific measures that States should adopt to safeguard the work of human rights defenders in relation to land are dependent on national circumstances. However, the following measures are of crucial importance: [...] public recognition, by the highest level of Government, of the importance and legitimacy of the work of human rights defenders and a commitment that no violence or threats against them will be tolerated";

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 4: "Urges States to acknowledge through public statements, policies or laws the important and legitimate role of individuals, groups and organs of society, including human rights defenders, in the promotion of human rights, democracy and the rule of law";

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), paras 5, 11(i): urging States to "acknowledge publicly the important and legitimate role of human rights defenders – text of para 5" and that "[d]issenting views may be expressed peacefully – text of para 11(i)";

UNHRC Resolution, Protection of human rights defenders, UN Doc. A/HRC/RES/13/13 (2010), para 4: "Urges States to publicly acknowledge the legitimate role of human rights defenders and the importance of their work as an essential component of ensuring their protection";

UNHRC, Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), paras 41, 78: "The Special Rapporteur is convinced that effective protection of defenders ultimately starts with their identification, and self-identification, as 'human rights defenders'. Without being perceived by others or perceiving themselves as such, they may not be aware of their rights as defenders, not seek support from peer or support networks and may not receive protection from the State, civil society and the international community – text of para 41" [...] "As noted above, greater public visibility of threats to defenders can serve a protective function. Indeed, public awareness of human rights and the situation of defenders may even prevent human rights violations against defenders. This awareness and support can be fostered by providing the general public with accurate information on the activities and situation of defenders by means of traditional and social media. Members of the media themselves can be defenders, and can thus face many of the same risks as other defenders (see A/HRC/19/55, paras. 118-122) – text of para 78";

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/13/22 (2009), para 114(a): "Furthermore, the Special Rapporteur [...] [u]rges States [to refrain] from stigmatizing the work of human rights defenders. Recognition of the status and role of human rights defenders and the legitimacy of their activities in public statements is the first step to preventing or at least reducing threats and risks against them";

OHCHR, Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned: Report of the OHCHR, UN Doc. A/HRC/32/20 (2016), para 85(a): "In the context of a conducive public and political environment, Member States should: [...] [d]emonstrate high-level political support for the independence and diversity of civic activity through public statements and public information campaigns".

19 Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), para 78: "greater public visibility of threats to defenders can serve a protective function. Indeed, public awareness of human rights and the situation of defenders may even prevent human rights violations against defenders. This awareness and support can be fostered by providing the general public with accurate information on the activities and situation of defenders by means of traditional and social media. Members of the media themselves can be defenders, and can thus face many of the same risks as other defenders (see A/HRC/19/55, paras. 118-122)".

officials,²⁰ campaigns²¹ and other actions in support of human rights defenders, and ensuring that the work or activities of human rights defenders is explained and recognized in educational curricula and public discourse.²²

- (b) Support initiatives aimed at the recognition of human rights defenders, including nominations for awards, participation of human rights defenders in international fora, and advocacy for the work or activities of human rights defenders in international and regional bodies.²³

20 CESCR, General Comment No 26 (2022) on land and economic, social and cultural rights, UN Doc. E/C.12/GC/26 (2023), para 55(a): “The specific measures that States should adopt to safeguard the work of human rights defenders in relation to land are dependent on national circumstances. However, the following measures are of crucial importance: [...] public recognition, by the highest level of Government, of the importance and legitimacy of the work of human rights defenders and a commitment that no violence or threats against them will be tolerated”;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 14: “Calls upon States to promote, through public statements, policies, programmes or laws, the important and legitimate role of human rights defenders in the promotion of all human rights, democracy and the rule of law as essential components of ensuring their protection”;

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 4: “Urges States to acknowledge through public statements, policies or laws the important and legitimate role of individuals, groups and organs of society, including human rights defenders, in the promotion of human rights, democracy and the rule of law”;

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 4: “Urges all States to acknowledge in public statements at the national and local levels, and through laws, policies or programmes, the important and legitimate role of human rights defenders, including women human rights defenders, in the promotion of human rights, democracy and the rule of law in all areas of society, in urban and rural areas, as essential components of ensuring their recognition and protection, including those promoting and defending economic, social and cultural rights”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/13/22 (2009), para 114(a): “Recognition of the status and role of human rights defenders and the legitimacy of their activities in public statements is the first step to preventing or at least reducing threats and risks against them”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), paras 41, 78: “The Special Rapporteur is convinced that effective protection of defenders ultimately starts with their identification, and self-identification, as ‘human rights defenders’. Without being perceived by others or perceiving themselves as such, they may not be aware of their rights as defenders, not seek support from peer or support networks and may not receive protection from the State, civil society and the international community – text of para 41” [...] “As noted above, greater public visibility of threats to defenders can serve a protective function. Indeed, public awareness of human rights and the situation of defenders may even prevent human rights violations against defenders. This awareness and support can be fostered by providing the general public with accurate information on the activities and situation of defenders by means of traditional and social media. Members of the media themselves can be defenders, and can thus face many of the same risks as other defenders (see A/HRC/19/55, paras. 118-122) – text of para 78”;

Report of the Special Rapporteur on the situation of human rights defenders, At the heart of the struggle: human rights defenders working against corruption, UN Doc. A/HRC/49/49 (2021), para 117(c): “The Special Rapporteur recommends that States [...] [e]nsure that State officials regularly and publicly recognize the value of the work of anti-corruption human rights defenders and publicly denounce threats and attacks against them”.

21 OHCHR, Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned: Report of the OHCHR, UN Doc. A/HRC/32/20 (2016), para 85(a): “In the context of a conducive public and political environment, Member States should: [...] [d]emonstrate high-level political support for the independence and diversity of civic activity through public statements and public information campaigns”;

ACmHPR, Cotonou Declaration on strengthening and expanding the protection of all Human Rights Defenders in Africa, adopted at the 2nd International Symposium on Human Rights Defenders in Africa (Johannesburg), 27 March - 1 April 2017: “Engage in dialogue and consultation with human rights defenders and publicly recognize and support their work through communication and information campaigns”.

22 OHCHR, Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned: Report of the OHCHR, UN Doc. A/HRC/32/20 (2016), para 85(a): “In the context of a conducive public and political environment, Member States should: [...] [d]emonstrate high-level political support for the independence and diversity of civic activity through public statements and public information campaigns”.

23 IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 285(3): “In order to recognize the work of human rights defenders, States must: [...] [a]cknowledge publicly and unequivocally the fundamental role played by human rights defenders to guarantee democracy and the rule of law in society [...] This can be achieved through special programs, the granting of awards, ceremonies, press releases or other measures that make visible the work of defenders and demonstrate their value and importance to society”.

- (d) Provide clear directives to public officials regarding the importance of respecting and supporting the right to defend human rights and those who exercise this right, whether individually or collectively, and implement effective disciplinary measures against officials who fail to adhere to these directives.²⁶

that defenders are diverse; they come from different backgrounds, cultures and belief systems. From the outset, they may not self-identify or be identified by others as defenders. Principle 3: They should recognize the significance of gender in the protection of defenders and apply an intersectionality approach to the assessment of risks and to the design of protection initiatives. They should also recognize that some defenders are at greater risk than others because of who they are and what they do. Principle 4: They should focus on the 'holistic security' of defenders, in particular their physical safety, digital security and psychosocial well-being. Principle 5: They should acknowledge that defenders are interconnected. They should not focus on the rights and security of individual defenders alone, but also include the groups, organizations, communities and family members who share their risks. Principle 6: They should involve defenders in the development, choice, implementation and evaluation of strategies and tactics for their protection. The participation of defenders is a key factor in their security. Principle 7: They should be flexible, adaptable and tailored to the specific needs and circumstances of defenders – text of para 111”;

IACmHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II(c) doc. 66 rev (2011), para 286: stating that the dual discrimination suffered “by virtue of being a woman and either indigenous or Afro-descendant is compounded in the case of women who promote and defend women’s rights”;

IACmHR, Integral Protection Policies for Human Rights Defenders, OEA/Ser.L/V/II., doc. 207 rev. (2017), para 269: “The Commission specifically insists on the fact that an analysis of context must take into consideration the specific vulnerability of some groups of defenders, and apply a gender, ethno, racial and cultural perspective at this stage of the analysis. The defense of groups that have historically borne the brunt of patterns of structural discrimination may entail additional risks, requiring that the State adopt a differentiated approach in its contextual analysis. This means, for instance, taking into consideration all the forms of discrimination and stereotypes that women have faced historically, which accentuate their risks when performing human rights defense work”;

Situation of women human rights defenders: Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/40/60 (2019), paras 102, 110(d): “Support should be provided to women defenders so that they are able to acquire knowledge and develop skills and capacities to conduct risk assessment and take mitigation measures, develop individual and collective security plans and protocols, deal with stigmatization, smear campaigns and online harassment, develop creative tactics and strategies for advocacy that lower the risks of retaliation and engage in practices for self and collective care and well-being – text of para 102” [...] “ The Special Rapporteur recommends that national human rights institutions, civil society, human rights defenders of all genders, donors, and other stakeholders: [...] [d]evelop a deeper understanding of how protection practices can be gender-sensitive, by viewing them through the lens of intersectionality – text of para 110(d)”.

26 IACmHR, Report on the Merits No 35/17, Case 12.713: *Jose Rusbel Lara et al v Colombia*, OEA/Ser.L/V/II.16.1, Doc. 42 (2017), para 283(2): “The [IACmHR] recommends the Colombian State to make every effort needed to achieve full implementation of the following recommendations [...]: [i]mpose appropriate administrative, disciplinary or criminal sanctions for the acts or omissions of state officials that contributed to the denial of justice and impunity regarding the facts in the case”;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), paras 285(7), 291(42): “In order to recognize the work of human rights defenders, States must [...] [r]efrain from making statements that stigmatize human rights defenders and that suggest that defenders, as well as human rights organizations, act improperly or illegally, merely for carrying out of their work to promote and protect human rights. Likewise, give precise instructions to officials on this matter and take disciplinary action against those officials who fail to comply with such instructions – text of para 285(7)” [...] “To prevent the criminalization of human rights defenders, States must [...] [i]f appropriate, initiate disciplinary, administrative or criminal proceedings against justice operators who have broken the law by investigating, issuing interim measures, or wrongly condemning human rights defenders – text of para 291(42)”.

- (c) Foster a culture of respect for and protection of the right to defend human rights within State institutions, including through the provision of mandatory training programs for law enforcement and judicial officers, and other public officials, on the right to defend human rights and the importance of human rights defenders' work or activities,²⁴ whether carried out individually or collectively, adopting an intersectional and sensitive approach to gender and diversity issues.²⁵

24 *Human Rights Defender et al v Guatemala*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 283, 28 August 2014, para 157: "To ensure that the measures [of protection] are effective, the following elements are essential: [...] that those involved in the protection of defenders have the necessary training to perform their functions and understand the importance of their actions";

UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add. 13 (2004), para 7: stating that ICCPR, Article 2, "requires that States Parties adopt legislative, judicial, administrative, educative and other appropriate measures in order to fulfil their legal obligations";

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/66/164 (2012), para 12: "Encourages States to promote awareness and training in regard to the Declaration in order to enable officials, agencies, authorities and members of the judiciary to observe the provisions of the Declaration and thus to promote better understanding and respect for individuals, groups and organs of society engaged in promoting and defending human rights, as well as for their work";

UNHRC Resolution, The promotion and protection of human rights in the context of peaceful protests, UN Doc. A/HRC/RES/50/21 (2022), para 22: "Also calls upon States to ensure adequate training of officials exercising law enforcement duties and, where applicable, to promote adequate training for private personnel acting on behalf of the State, including in international human rights law and, where appropriate, international humanitarian law";

UNHRC Resolution, Protection of human rights defenders, UN Doc. A/HRC/RES/13/13 (2010), para 11: "Also calls upon States to allocate resources for the effective implementation of necessary protection measures, including specific training for persons involved in their implementation"; Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/25/55 (2013), paras 131 (c), 131 (g): "Member States should [...] widely disseminate the Declaration on Human Rights Defenders and make sure that human rights educational programmes, especially those addressed to law enforcement and public officials, include modules that recognize the role played by human rights defenders in society - text of para 131 (c)" [...] "[p]rovide the necessary training to public officials on the role and rights of defenders and the Declaration on Human Rights Defenders, particularly to those who are in direct contact with communities of defenders - text of para 131 (g)";

Request for an Advisory Opinion submitted by the Republic of Chile and the Republic of Colombia on 9 January 2023 regarding "Climate Emergency and Human Rights" - Joint written submission from the secretariat of the Aarhus Convention and the UN Special Rapporteur on environmental defenders under the Aarhus Convention, 9 January 2023, para 102: "States should develop guidelines and trainings for prosecutors, the judiciary and law enforcement on the protection of environmental defenders".

25 *Members of the Corporation Lawyers Collective "José Alvear Restrepo" (CAJAR) v Colombia*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 506, 18 October 2023, para 887 (free translation): "in the case of attacks directed against women defenders, all measures aimed at mitigating the risks they run must be adopted with a gender perspective and with an intersectional approach, in such a way that they can be provided with comprehensive protection by considering, understanding and giving a central place to the complexities of the differentiated forms of violence that they face due to their profession and gender, which translates into a reinforced duty of protection and prevention on the part of the State";

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 1: "Calls upon all States to promote, translate and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, including by taking appropriate, robust and practical steps to protect women human rights defenders";

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/78/216 (2023), para 26: "Strongly encourages States to develop and put in place comprehensive, sustainable and age- and gender-responsive public policies and programmes that support and protect human rights defenders at all stages of their work, online and offline, that ensure effective coordination between relevant institutional actors, including coordination within national and local levels, and address causes of attacks against defenders and barriers against the defence of rights, and that take into account, inter alia, the diversity of human rights defenders and the diverse contexts in which they operate, and the intersectional dimensions of violations and abuses against women human rights defenders, Indigenous Peoples, children, persons with disabilities, persons belonging to minorities and rural communities and human rights defenders working to address racism, racial discrimination, xenophobia and related intolerance";

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), paras 38, 111: "Gender influences the way that defenders experience risks and threats. Discrimination on the basis of gender is linked to other factors, such as ethnicity, religion, class, age, health or sexual orientation. The intersection of these factors produces different vulnerabilities for women. For this reason, it is critical for gender analysis to adopt an intersectionality lens, examining how the combination of such factors has an impact on the rights and security of women defenders - text of para 38" [...] "The Special Rapporteur proposes seven principles that, in his view, should underpin good practices by States in the protection of human rights defenders: Principle 1: They should adopt a rights-based approach to protection, empowering defenders to know and claim their rights and increasing the ability and accountability of those responsible for respecting, protecting and fulfilling rights. Principle 2: They should recognize

ARTICLE 4

Right to a Safe and Enabling Environment for the Exercise of the Right to Defend Human Rights

Note: *The main elements necessary to be able to operate in a safe and enabling environment are highlighted in the December 2013 Report of the former Special Rapporteur on the situation of human rights defenders.²⁷ The Office of the High Commissioner for Human Rights since stated ‘a safe and enabling environment must be supported by a robust national legal framework, grounded in international law. Freedoms of opinion and expression, association, peaceful assembly, and the right to participate in public affairs, are rights that enable people to mobilize for positive change. Everyone, individually or in association with others should enjoy these rights’.²⁸ The former UN Special Rapporteur on the situation of human rights defenders further highlighted the State duty to protect against human rights abuses entails ensuring that those exercising the right to defend human rights are not subject to attacks from State actors or third parties for their activities. Discharging this duty requires that States foster an environment that is supportive of the human rights that are fundamental to the exercise of the right to defend rights, including the freedom of peaceful assembly and association and freedom of opinion and expression, and their right to protest, access funding and develop and discuss new human rights ideas, as well as their right to be protected and to effective remedy.*

States shall ensure a safe and enabling environment for human rights defenders.²⁹

²⁷ A/HRC/25/55

²⁸ Civil Society Space and the United Nations Human Rights System, A Practical Guide for Civil Society: https://www.ohchr.org/sites/default/files/Documents/AboutUs/CivilSociety/CS_space_UNHRSsystem_Guide.pdf

²⁹ The Declaration, Article 3: “Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted”;

Escazú Agreement, Article 9(1): “Each Party shall guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity”;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 10: “Urges States to promote a safe and enabling environment, online and offline, including through the implementation of existing national legislation that is in compliance with international human rights law and, where necessary, through the adoption and implementation of more comprehensive legislative and administrative measures”;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/74/146 (2020), para 4: “Urges States to promote a safe and enabling environment, including through the implementation of existing national legislation that is in compliance with international human rights law and, where necessary, through the adoption and implementation of more comprehensive legislative and administrative measures, in which human rights defenders can operate free from hindrance, reprisals and insecurity, ensuring, among other things, the right to take part in the conduct of public affairs and in cultural life, the freedom to seek, receive and impart information and equal access to justice, including to an effective remedy”;

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 2: “Urges States to create a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity, in the whole country and in all sectors of society, including by extending support to local human rights defenders”;

UNHRC Resolution, Protection of human rights defenders, UN Doc. A/HRC/RES/13/13 (2010), para 2: “Urges States to promote a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity”;

In particular, States shall:

- (a) Enact specific laws and policies as may be necessary to protect the right to defend human rights, whether individually or collectively, and take all necessary measures for the effective implementation of these laws and policies.³⁰

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 2: “urges States to create and support a safe, enabling, accessible and inclusive environment online and offline for their participation in all relevant activities”;

UNHRC, Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development: Report submitted by the Special Representative of the Secretary-General on human rights defenders, UN Doc. A/HRC/7/28 (2008), para 78: identifying various indicators on human rights defenders, including those to support an “enabling environment for human rights defenders”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), para 113: “The Special Rapporteur recommends that States: (a) Enact legislative and policy frameworks with a view to establishing national protection programmes for defenders, in consultation with defenders and civil society. In States with a federal structure, federal legislation should be the basis for the programme, and federal authorities should have oversight over the programmes that are administered by local governments; (b) Dedicate sufficient funding, and refrain from interfering with externally sourced funding, for the protection of defenders; (c) Develop a mechanism to investigate complaints of threats or violations against defenders in a prompt and effective manner, and initiate appropriate disciplinary, civil and criminal proceedings against perpetrators as part of systemic measures to prevent impunity for such acts; (d) Disseminate the Declaration on Human Rights Defenders through policy measures and awareness-raising campaigns; (e) Provide training to relevant government officials, including police, military and other security officers, as well as members of the judiciary, on the legitimate role of defenders and their rights, in accordance with international human rights law”;

Joint Statement from the IACmHR and the OHCHR to Mark the International Human Rights Defenders Day 27/1/22k (2022): “States will be able to gradually eradicate the unwarranted stigmatization of defenders and to ensure a safe environment for the defense of human rights”;

African Commission on Human and Peoples’ Rights (**ACmHPR**), Resolution on the Situation of Human Rights Defenders in Africa, ACHPR/Res.376(LX) (2017), para 2: “The Commission calls upon States to ‘[t]ake the necessary measures to provide human rights defenders with a conducive environment to be able to carry out their activities without fear of acts of violence, threat, intimidation, reprisal, discrimination, oppression and harassment from State and non-State actors’”.

30 ACHR, Article 2: “Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms”;

ICCPR, Article 2(2): “Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant”;

The Declaration, Article 3: “Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted”;

Kawas-Fernández v Honduras, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 196, 3 April 2009, para 213: holding that States have “a duty to adopt legislative, administrative and judicial measures, or to fulfill those already in place, guaranteeing the free performance of environmental advocacy activities”;

UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), para 7: stating that ICCPR Article 2 requires States Parties to “adopt legislative, judicial, administrative, educative and other appropriate measures in order to fulfil their legal obligations”;

Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 10: “Urges States to promote a safe and enabling environment, online and offline, including through the implementation of existing national legislation that is in compliance with international human rights law and, where necessary, through the adoption and implementation of more comprehensive legislative and administrative measures”;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/74/146 (2020), para 4: “Urges States to promote a safe and enabling environment, including through the implementation of existing national legislation that is in compliance with international human rights law and, where necessary, through the adoption and implementation of more comprehensive legislative and administrative measures, in which human rights defenders can operate free from hindrance, reprisals and insecurity, ensuring, among other things, the right to take part in the conduct of public affairs and in cultural life, the freedom to seek, receive and impart information and equal access to justice, including to an effective remedy”;

- (b) Establish and maintain conducive legal, institutional and administrative frameworks for the recognition, protection, fulfillment and effective exercise of all human rights and fundamental freedoms.³¹
- (c) Enact and enforce comprehensive anti-discrimination laws and policies that specifically prohibit discrimination against persons on the basis of their status or activities as a human rights defender, among other prohibited grounds.³²

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 8: “Emphasizes the importance of national protection programmes for human rights defenders, and encourages States to consider, as a matter of priority, enacting relevant legislative and policy frameworks to this end”;

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 3: “legislation affecting the activities of human rights defenders and its application must be consistent with international human rights law, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and guided by the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and, in this regard, condemns the imposition of any limitations on the work or activities of human rights defenders enforced in contravention of international human rights law”.

31 ICCPR, Article 2(2): “Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/25/55 (2013), paras 61-62: “The Special Rapporteur has repeatedly underlined the need to create and consolidate a safe and enabling environment for defenders and has elaborated on some of the basic elements that she believes are necessary in this regard. These elements include a conducive legal, institutional and administrative framework [...] One of the key elements of a safe and enabling environment for defenders is the existence of laws and provisions at all levels, including administrative provisions, that protect, support and empower defenders, and are in compliance with international human rights law and standards”.

32 ICCPR, Articles 2(2): States undertake to “take the necessary steps [...] to adopt such laws or other measures as may be necessary to give effect” to recognized Covenant rights, including the right to non-discrimination; Article 26: “the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination”;

ICESCR, Articles 2(1)-2(2): creates a parallel obligation “to take steps, individually and through international associate and co-operation [...] with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures - text of Article 2(1)” [...] “the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status - text of Article 2(2)”;

ICERD, Article 2(1): “States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation [...] (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization”;

CEDAW, Article 2(a): “States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake [...] [t]o embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle”;

Convention on the Rights of Persons with Disabilities, Articles 4(1)(a)- 4(1)(b): “States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake [...] [t]o adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention - text of Article 4(1)(a)” [...] “[t]o take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities - text of Article 4(1)(b)”;

CESCR, General Comment No 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/GC/20 (2009), para 37: “Adoption of legislation to address discrimination is indispensable in complying with article 2, paragraph 2. States parties are therefore encouraged to adopt specific legislation that prohibits discrimination in the field of economic, social and cultural rights. Such laws should aim at eliminating formal and substantive discrimination, attribute obligations to public and private actors and cover the prohibited grounds discussed above. Other laws should be regularly reviewed and, where necessary, amended in order to ensure that they do not discriminate or lead to discrimination, whether formally or substantively, in relation to the exercise and enjoyment of Covenant rights”;

Committee on the Rights of Persons with Disabilities, General Comment No 6 on equality and non-discrimination, UN Doc. CRPD/C/GC/6 (2018), para 22: “‘Equal and effective legal protection against discrimination’ means that States parties have positive obligations to protect persons with disabilities from discrimination, with an obligation to enact specific and comprehensive anti-discrimination legislation. The explicit legal prohibition of disability-based and other discrimination against persons with disabilities in legislation should be accompanied by the provision of appropriate and effective legal remedies and sanctions in relation to

(d) Enact laws and policies to ensure that non-State actors (including business enterprises) respect the right to defend human rights and are held accountable for

intersectional discrimination in civil, administrative and criminal proceedings. Where the discrimination is of a systemic nature, the mere granting of compensation to an individual may not have any real effect in terms of changing the approach. In those cases, States parties should also implement 'forward-looking, non-pecuniary remedies' in their legislation, meaning that further effective protection against discrimination carried out by private parties and organizations is provided by the State party";

UN Human Rights Committee, General Comment No 18: Non-discrimination, UN Doc. CCPR/C/21/Rev.1/Add.1 (1989), para 1: "Non-discrimination, together with equality before the law and equal protection of the law without discrimination, constitutes a basic and general principle relating to the protection of human rights";

IACmHR, *Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas*, OEA/Ser.L/V/II.170, Doc. 184 (2018), para 94: "Therefore, with respect to the obligation of States to adopt legislative or other measures against discrimination on the basis of sexual, gender, and body diversity, the IACHR emphasizes that such measures must be comprehensive, formal and substantive, de jure and de facto, in order to guarantee their efficacy and effective practice";

ACmHPR, *Concluding observations and recommendations on the 8th to 11th periodic report of the Republic of Kenya (2016)*, para 55: "Kenya should [...] enact a comprehensive equality and non-discrimination law";

UNHRC, *Opinion of the Working Group on Arbitrary Detention No 45/2016 (Cambodia)*, UN Doc. A/HRC/WGAD/2016/45 (2017), para 44: "In paragraph 7 of its general comment No 18 (1989) on non-discrimination, the Human Rights Committee stated that 'discrimination' as used in the [ICCPR] should be understood to imply any distinction, exclusion, restriction or preference that is based on any grounds, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms. The Working Group considers that the references to 'political or other opinion' and 'other status' in article 26 of the Covenant include a person's status as a human rights defender";

UNHRC, *Opinion of the Working Group on Arbitrary Detention No 16/2017 (Kazakhstan)*, UN Doc. A/HRC/WGAD/2017/16 (2017), para 56: "The Working Group notes that the status of human rights defender is increasingly becoming a basis for the detention of human rights activists around the world. That runs contrary to the Declaration Human Rights Defenders and the Working Group has in the past recognized the arbitrariness of such detention. The Working Group notes that the submissions made by the source reveal a pattern of persecution by the authorities of Mr Bokayev and Mr Ayanov on the basis of their political opinions and activities as human rights defenders. That is further substantiated by the fact that in the present case they were sentenced as repeat offenders. The Working Group thus concludes that their detention is arbitrary and falls within category V of the arbitrary detention categories referred to by the Working Group when considering cases submitted to it. The Working Group refers the present case to the Special Rapporteur on the situation of human rights defenders";

UNHRC, *Opinion of the Working Group on Arbitrary Detention No 23/2017 (Mexico)*, UN Doc. A/HRC/WGAD/2017/23 (2017), para 24: "Taking into account the previous cases involving Oaxaca State and the authorities' harassment of Mr López Alavéz since the year 2000, the Working Group asserts that there is a policy to discriminate against him as a social leader in Oaxaca, in violation of international norms on the right to equality before the law enshrined in article 7 of the Universal Declaration of Human Rights, articles 2 and 26 of the [ICCPR] and article 24 of the American Convention on Human Rights. This discrimination makes the detention arbitrary under category V";

UNHRC, *Opinion of the Working Group on Arbitrary Detention No 26/2017 (Viet Nam)*, UN Doc. A/HRC/WGAD/2017/26 (2017), para 57: "The Working Group considers that Mr Dai is being detained for the legitimate exercise of his rights under articles 19 and 20 of the Universal Declaration of Human Rights and articles 19, 21 and 22 of the [ICCPR]. Therefore, in its view, his deprivation of liberty falls within category II. Moreover, the repetitive and systematic harassment, assault and detention of Mr Dai by the Vietnamese authorities for more than 10 years, which was alleged by the source and not contested by the Government, indicate that Mr Dai's present detention is part of a pattern of persecution for his activities as a human rights defender. Accordingly, his case falls within category V";

UNHRC, *Opinion of the Working Group on Arbitrary Detention No 48/2017 (Islamic Republic of Iran)*, UN Doc. A/HRC/WGAD/2017/48 (2017), para 50: "The Working Group is convinced that the present arrest was also directed against Ms Mohammadi as a human rights defender and as the leader of a human rights organization in the Islamic Republic of Iran. The Working Group has in the past concluded that being a human rights defender is a status protected by article 26 of the [ICCPR]. The Working Group therefore concludes that the arrest and detention of Ms Mohammadi also falls under category V, as it constitutes a violation of international law on the grounds of discrimination on the basis of her status as a human rights defender, contrary to article 26 of the [ICCPR] and article 7 of the Universal Declaration of Human Rights";

UNHRC, *Opinion of the Working Group on Arbitrary Detention No 50/2017 (Malaysia)*, UN Doc. A/HRC/WGAD/2017/50 (2017), para 74: "Furthermore, the Working Group has determined that discrimination on the grounds of 'political or other opinion' and 'other status' in article 26 of the Covenant includes discrimination against a person because of their status as a human rights defender. The reasoning is equally applicable to this case, even though Malaysia is not party to the Covenant. Ms Abdullah was detained as a direct result of her human rights work in calling for greater accountability and democracy, and would not likely have been detained had she not been a human rights defender. The Working Group finds that Ms Abdullah was deprived of her liberty on discriminatory grounds in violation of articles 2 and 7 of the Universal Declaration of Human Rights, and that her case falls within category V of the categories applied by the Working Group";

UNHRC, *Opinion of the Working Group on Arbitrary Detention No 75/2017 (Viet Nam)*, UN Doc. A/HRC/WGAD/2017/75 (2017), para 56: "The Working Group therefore finds that Ms Nga was deprived of her liberty on discriminatory grounds — that is, because of her status as a human rights defender. Her deprivation of liberty was arbitrary according to category V of the categories applied by the Working Group. The Working Group refers the case to the Special Rapporteur on the situation of human rights defenders for further investigation";

violations of that right.³³

- (e) Refrain from enacting, maintaining, or enforcing any laws and policies that criminalize, obstruct, or in any manner impede, the right to defend human rights, including by restricting freedom of expression, assembly, and association, restricting the establishment of civil society organizations, or otherwise contravening the spirit and objectives of the Declaration and the Declaration +25.³⁴

UNHRC, Opinion of the Working Group on Arbitrary Detention No 79/2017 (Viet Nam), UN Doc. A/HRC/WGAD/2017/79 (2017), para 69: "For these reasons, the Working Group finds that Ms Theu was deprived of her liberty on discriminatory grounds, that is, due to her status as a human rights defender. Her deprivation of liberty was arbitrary according to category V of the categories applied by the Working Group. The Working Group refers this case to the Special Rapporteur on the situation of human rights defenders for further investigation";

UNHRC, Opinion of the Working Group on Arbitrary Detention No 88/2017 (India), UN Doc. A/HRC/WGAD/2017/88 (2017), paras 45, 46: "The Working Group cannot help but notice that Mr Gandhi's political views are clearly at the centre of the present case and that the authorities have displayed an attitude towards Mr Gandhi that can only be characterized as discriminatory. The police denied bail and continued to place him under prolonged preventive detention. The Working Group also considers that Mr Gandhi's detention constitutes a violation of his right to equality before the law as he has been discriminated against on the basis of his status as a human rights defender. All this does not point to the equal protection of the law. For these reasons, the Working Group considers that Mr Gandhi's deprivation of liberty constitutes a violation of articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the [ICCPR] on the grounds of discrimination based on political or other opinion, as well as on his status as a human rights defender, aimed at and resulting in ignoring the equality of human beings. His deprivation of liberty therefore falls under category V".

33 *Mapiripán Massacre v Colombia*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 134, 15 September 2005, para 111: "Said international responsibility may also be generated by acts of private individuals not attributable in principle to the State. The States Party to the [ACHR] have erga omnes obligations to respect protective provisions and to ensure the effectiveness of the rights set forth therein under any circumstances and regarding all persons. The effect of these obligations of the State goes beyond the relationship between its agents and the persons under its jurisdiction, as it is also reflected in the positive obligation of the State to take such steps as may be necessary to ensure effective protection of human rights in relations amongst individuals. The State may be found responsible for acts by private individuals in cases in which, through actions or omissions by its agents when they are in the position of guarantors, the State does not fulfill these erga omnes obligations embodied in Articles 1 (1) and 2 of the Convention";

Social and Economic Rights Action Center and Center for Economic and Social Rights v Nigeria (Ogoniland Case), Comm. No 155/96, ACmHPR, 27 May 2002, para 46: "Secondly, the State is obliged to protect right-holders against other subjects by legislation and provision of effective remedies";

Luna Lopez v Honduras, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 169, 10 October 2013, para 120: "The State's obligation to guarantee rights goes beyond the relationship between its agents and the persons under its jurisdiction; it also encompasses the obligation to prevent, within the private sphere, third parties from violating protected juridical rights";

UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add. 13 (2004), para 8: "The Covenant cannot be viewed as a substitute for domestic criminal or civil law. However the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of covenant rights in so far as they are amenable to application between private persons or entities";

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), para 10, Principle 1, para 42, Principle 2: In the commentary to principle 26 about State-based judicial mechanisms when addressing business-related human rights abuses, the Guiding Principles recommend States specifically to ensure "that the legitimate and peaceful activities of human rights defenders should not be obstructed - text of para 10" [...] "States should enact policies, legislation, regulations and enable effective adjudication to prevent, investigate, punish and redress all forms of threats and attacks against human rights defenders in a business context [...] Illustrative actions that States should take: Enact national and regional level policies, legislation and regulations to protect human rights defenders in their interaction with business, recognise the value of the work done by them, set out the responsibility of business enterprises in relation to respecting human rights defenders and their rights, and create robust mechanisms for the protection of human rights defenders and for redress where necessary - text of Principle 1, para 42" [...] "States should set forth clear expectations for business enterprises regarding the importance of respecting the rights of human rights defenders - text of Principle 2";

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), para 115(c): "Take all measures necessary to ensure that human rights defenders are protected from violence, retaliation, threats, discrimination and other kinds of pressure or arbitrary action by State and non-State actors as a consequence of their work. Condemn publicly all instances of violence, discrimination, intimidation or reprisals against them and emphasize that such practices can never be justified".

34 *Ghazi Suleiman v Sudan*, Comm. No 228/99, ACmHPR, 29 May 2003, para 53: holding a violation of ACHPR, Article 9 on freedom of opinion and expression when State authorities threatened to arrest and detain a human rights lawyer in relation to his speech regarding the promotion and protection of human rights by preventing him from traveling and speaking to a group of human rights defenders in a different part of the country;

- (f) Ensure the investigation and effective implementation of clearly defined criminal and administrative sanctions for any public official who, through action or omission, undermines the right to defend human rights.³⁵

Huri-Laws v Nigeria, Comm. No 225/98, ACmHPR, 6 November 2000, paras 47-48: finding a violation of ACHPR, Article 9 on freedom of expression when State authorities persecuted employees, detained co-workers, and conducted raids of the offices of the petitioner, a human rights organization working to promote human rights by organizing programs aimed at enlightening the people of their rights;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/64/226 (2009), paras 53-54: observing that laws that impose “far-reaching restrictions on the ability of organizations to carry out their activities without interference” or undermine “the independent functioning of a healthy civil society” restrict the right to freedom of association;

OHCHR, Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned: Report of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/32/20 (2016), para 84(b): “In the context of a supportive legal framework and access to justice, Member States should [...] [r]eview and repeal or amend all legal provisions that impede the free and independent work of civil society actors; ensure that all legislation affecting their ability to work complies with relevant international human rights laws and standards and with the Declaration; and use, among other tools, indicators on the exercise of public freedoms developed by OHCHR.”

35 The Declaration, Article 9(5): States “shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction”;

González et al v Mexico, Preliminary Objection, Merits, Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No 205, 16 November 2009, paras 388-389: finding that failure to investigate or address impunity amounts to a violation of Articles 1(1) (obligation to respect rights), 8 (right to a fair trial), and 25 (judicial protection) of the ACHR);

Gómez Paquiyauri Brothers v Peru, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 110, 8 July 2004, para 148: “The above has led to a situation of grave impunity. In this regard, the Court deems that impunity is ‘the total lack of investigation, prosecution, capture, trial and conviction of those responsible for violations of the rights protected by the American Convention, in view of the fact that the State has the obligation to use all the legal means at its disposal to combat that situation, since impunity fosters chronic recidivism of human rights violations, and total defenselessness of victims and their relatives’”;

Maritza Urrutia v Guatemala, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 103, 27 November 2003, para 126: “Therefore, the Court considers that the State has not investigated effectively the facts that affected Maritza Urrutia and, consequently, has not identified the person or persons criminally responsible for the unlawful facts, so that they remain unpunished. In this respect, the Court has understood that impunity is the overall lack of investigation, tracing, capture, prosecution and conviction of those responsible for violations of the rights protected by the American Convention, and that the State is obliged to combat this situation by all available legal means. Impunity promotes the chronic repetition of the human rights violations and the total defenselessness of the victims and their next of kin”;

Myrna Mack Chang v Guatemala, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 101, 25 November 2003, paras 156, 210: “In cases of extra-legal executions, it is essential for the States to effectively investigate deprivation of the right to life and to punish all those responsible, especially when State agents are involved, as not doing so would create, within the environment of impunity, conditions for this type of facts to occur again, which is contrary to the duty to respect and ensure the right to life [...] The right to effective judicial protection therefore requires that the judges direct the proceeding in such a way as to avoid undue delays and obstructions that lead to impunity, thus frustrating due judicial protection of human rights”;

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/66/164 (2012), para 8: “urges States to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation committed by State and non-State actors, including cases of gender-based violence, against human rights defenders and their relatives, including by ensuring that complaints from human rights defenders are promptly investigated and addressed in a transparent, independent and accountable manner”;

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 6: “Calls upon all States to combat impunity by investigating and pursuing accountability for all attacks and threats by State and non-State actors against any individual, group or organ of society that is defending human rights, including against family members, associates and legal representatives, and by condemning publically [sic] all cases of violence, discrimination, intimidation and reprisals against them”;

UN Committee against Torture, Concluding Observations on the second periodic report of Kyrgyzstan, UN Doc. CAT/C/KGZ/CO/2 (2013), para 6: “The Committee is gravely concerned at the State party’s persistent pattern of failure to conduct prompt, impartial and full investigations into the many allegations of torture and ill-treatment and to prosecute alleged perpetrators, which has led to serious underreporting by victims of torture and ill-treatment, and impunity for State officials allegedly responsible (arts. 2, 11, 12, 13 and 16). In particular, the Committee is concerned about: (a) The lack of an independent and effective mechanism for receiving complaints and conducting impartial and full investigations into allegations of torture. Serious conflicts of interest appear to prevent existing mechanisms from undertaking effective, impartial investigations into complaints received; (b) Barriers at the pre-investigation stage, particularly with regard to forensic medical examinations, which in many cases are not carried out promptly following allegations of abuse, are performed by medical professionals who lack independence, and/or are conducted in the presence of other public officials, leading to the failure of the medical personnel to adequately record detainees’ injuries, and consequently to investigators’ failure to open formal investigations into allegations of torture, for lack of evidence; (c) The apparent practice by investigators of valuing the testimonies of individuals implicated in torture over those of complainants, and of dismissing complaints summarily; and (d) The failure of the judiciary to effectively investigate torture allegations raised by criminal defendants and their lawyers in court. Various sources report that judges commonly ignore information alleging the use of

- (g) Ensure prompt, thorough, independent, and impartial investigation of any threats or attacks against human rights defenders, and ensure access to justice, an effective remedy and

torture, including reports from independent medical examinations. As a matter of urgency, the State party should take immediate and effective measures to prevent acts of torture and ill-treatment throughout the country, including by implementing policies that would eliminate impunity for perpetrators of torture and ill-treatment and ensure prompt, impartial, effective investigations into all allegations of torture and ill-treatment, prosecution of those responsible, and the imposition of appropriate sentences on those convicted. The State party should: (a) Publicly and unambiguously condemn the use of all forms of torture, warning that any person ordering, committing, instigating, acquiescing to or acting as an accomplice to such acts shall be criminally prosecuted and punished; (b) Establish an independent and effective mechanism to facilitate the submission of complaints by victims of torture and ill-treatment to public authorities; and ensure that complaint mechanisms are available and that complainants are protected in practice against abuse or intimidation as a consequence of their complaint or any evidence given; (c) Ensure that all health professionals who encounter signs of torture and ill-treatment are under a legal obligation to document such abuses, in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), that all persons deprived of their liberty are guaranteed timely access to a qualified and independent medical investigator upon their request, and that all medical examinations are carried out in private; and consider transferring responsibility for oversight of medical staff of detention facilities to the Ministry of Health; and (d) Ensure that investigations into allegations of torture are not undertaken by or under the authority of the police, but by an independent body, that preliminary enquiries into complaints of torture are undertaken and concluded promptly upon receipt of the complaint, and that official investigations are opened in all cases where there are reasonable grounds to believe that torture was committed; and ensure that officials alleged to be responsible for violations of the Convention are suspended from their duties during such investigations”;

UN Committee against Torture, Concluding observations on the second periodic report of Tajikistan, UN Doc. CAT/C/TJK/CO/2 (2013), para 15: “The Committee is concerned about reports that victims of, and witnesses to torture and ill-treatment do not file complaints with the authorities for fear of reprisals and lack of adequate follow-up. Additionally, while noting the removal of libel and insult from the Criminal Code in July 2012, the Committee remains concerned about reports of harassment and intimidation of journalists and human rights defenders who report on torture and ill-treatment. In particular, the Committee is concerned about the information received that victims of alleged torture and their families, journalists, lawyers, medical experts and human rights defenders who raised concerns with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment during his visit to Tajikistan in May 2012 have subsequently faced harassment and intimidation from authorities. Furthermore, while the Committee takes note of the information provided by the delegation, it is nevertheless concerned about the recent closure of the Association of Young Lawyers of Tajikistan (Amparo), a member of the Coalition Against Torture that engaged with the Special Rapporteur during his visit, pursuant to a motion filed by the Ministry of Justice to dissolve the organization on administrative grounds and a decision taken by the Khujand City Court on 24 October 2012 to this effect (arts. 12 and 13). The Committee urges the State party to establish a fully resourced, effective, independent and accessible mechanism to investigate and facilitate the submission of complaints by victims and witnesses of torture and ill-treatment to public authorities, as pledged by the State party following the universal periodic review in March 2012. It should also ensure in practice that complainants and civil society organizations are protected against any ill-treatment, intimidation or reprisals as a consequence of their complaint, and that appropriate disciplinary, or where relevant, criminal measures, are taken against law enforcement officials for such actions”;

UN Committee against Torture, Consideration of reports submitted by States parties under article 19 of the Convention, Concluding observations of the Committee against Torture: Armenia, UN Doc. CAT/C/ARM/CO/3 (2012), para 12: “The Committee is deeply concerned that allegations of torture and/or ill-treatment committed by law enforcement officials and military personnel are not promptly, impartially or effectively investigated and prosecuted. The Committee is particularly concerned by reports that the Office of the Prosecutor directs the police to investigate some claims of torture and ill-treatment allegedly perpetrated by police officers, rather than assign these complaints to an independent investigation service. In this regard, it is concerned that the Office of the Prosecutor does not regularly ensure that different prosecutors supervise the investigation of a crime and allegations of torture made against police officials by the suspected perpetrator of that crime. The Committee is also concerned that the Special Investigation Service has been unable to gather sufficient evidence to identify the perpetrators in a number of cases in which torture or ill-treatment by officials was alleged, leading to concerns regarding its effectiveness. The Committee is further concerned by reports that officials alleged to have committed torture or ill-treatment are not immediately suspended from their duties or transferred as appropriate for the duration of the investigation, particularly if there is a risk that they may otherwise be in a position to repeat the alleged act or to obstruct the investigation (arts. 2, 11, 12, 13 and 16). The State party should: (a) Take concrete steps to ensure prompt, thorough and impartial investigations into allegations of torture and ill-treatment by law enforcement officials and military personnel leading to the prosecution and punishment of those responsible with penalties that are consistent with the gravity of the act committed; (b) Ensure that all investigations into crimes involving public officials are undertaken by an independent and effective body; c) Ensure that all officials alleged to be responsible for violations of the Convention are suspended from their duties while any investigation into the allegations is in progress. The Committee urges the State party to provide information on the number of complaints filed against public officials alleging acts that constitute torture or ill-treatment under the Convention, as well as information on the results of investigations into those complaints and any proceedings undertaken, at both the penal and disciplinary levels. This information should describe each relevant allegation and indicate the authority that undertook the investigation”;

UN Committee against Torture, Consideration of reports submitted by States Parties under Article 19 of the Convention, Concluding observations of the Committee against Torture: Lithuania, UN Doc. CAT/C/LTU/CO/2 (2009), para 14: “The Committee regrets the lack of information on the system in place to review individual complaints about police misconduct and it is concerned at the number of complaints of use of force and ill-treatment by law enforcement officials, the limited number of investigations carried out by the State party in such cases, and the very limited number of convictions in those cases which are investigated (arts. 12 and 16). The Committee recommends that the State party should: (a) Strengthen its measures to ensure prompt, thorough, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials. In particular, such investigations should not be undertaken by or under the authority of the police, but by an independent body. In connection with

accountability for violations and abuses against defenders.³⁶

- (h) Ensure that human rights defenders are actively and meaningfully involved in the creation, implementation, and monitoring of laws and policies related to human rights and fundamental freedoms.³⁷

prima facie cases of torture and ill-treatment, the alleged suspect should as a rule be subject to suspension or reassignment during the process of investigation, especially if there is a risk that he or she might impede the investigation; and (b) Try the perpetrators and impose appropriate sentences on those convicted in order to eliminate impunity for law enforcement personnel who are responsible for violations prohibited by the Convention”;

Council of Europe, Round-table on the situation of human rights defenders in the Member States of the Council of Europe, organized by the Office of the Council of Europe Commissioner for Human Rights, Report (2009), para 43: “The Commissioner also addressed the importance of tackling impunity at the national level. National authorities should ensure that threats and attacks to individuals and organisations active in defending human rights are condemned and the perpetrators are held accountable, regardless of whether they are state or non-state agents”;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 285(7): “In order to recognize the work of human rights defenders, States must [...] give precise instructions to officials on this matter and take disciplinary action against those officials who fail to comply with such instructions”.

36 See footnote 32 above;

The Declaration, Article 6: “The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction”;

Nogueira de Carvalho et al v Brazil, Preliminary Objection and Merits, Inter-Am. Ct. H.R. (ser. C) No 161, 28 November 2006, para 77: “The States have the duty to provide the resources necessary for human rights defenders to conduct their activities freely; to protect them when they are subject to threats and thus ward off any attempt against their life and safety; to refrain from setting up hindrances that might make their work more difficult, and to conduct conscientious, effective investigations of violations against them, thus preventing impunity”;

UNGA Resolution on Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 9: “States to exercise due diligence in preventing violations and abuses against human rights defenders, including through practical steps to prevent threats, harassment and violence against women human rights defenders, who face particular risks, and in combating impunity by ensuring that those responsible for violations and abuses, including gender-based violence and threats against women human rights defenders, committed by State and non-State actors, including online, are promptly brought to justice through impartial investigations”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), para 113: “The Special Rapporteur recommends that States [...] [d]evelop a mechanism to investigate complaints of threats or violations against defenders in a prompt and effective manner, and initiate appropriate disciplinary, civil and criminal proceedings against perpetrators as part of systemic measures to prevent impunity for such acts”.

37 ACHR, Article 23(1): “Every citizen shall enjoy the following rights and opportunities: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and (c) to have access, under general conditions of equality, to the public service of his country”;

UN Human Rights Committee, General Comment No 25 [57]: General Comments under Article 40, paragraph 4, of the International Covenant on Civil and Political Rights (Participation in Public Affairs and the Right to Vote), UN Doc. CCPR/C/21/Rev.1/ Add.7, 27 August 1996, para 8: “Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association”;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/74/146 (2020), para 9: “Reaffirms the utility and benefit of consultations and dialogue with human rights defenders related to public policies and programmes, including for protection purposes, valuing the meaningful participation of human rights defenders in the development of programming, policies and practice relevant to their work, encourages States to hold meaningful consultations with human rights defenders on a regular basis, and further encourages States to appoint focal points or to employ other relevant mechanisms for human rights defenders within the public administration”;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 3: “reaffirms the utility and benefit of regular consultations and dialogue with civil society, including human rights defenders, on the development and implementation of public policies, programmes and emergency measures related to the COVID-19 response and recovery”;

Parliamentary Assembly of the Council of Europe, Protecting human rights defenders in Council of Europe Member States, Resolution 2225 (2018), para 5.7: “Encourage human rights defenders to participate in public life and ensure that they are consulted on draft legislation concerning human rights and fundamental freedoms, as well as that concerning the regulation of their activities”;

- (i) Ensure that the actions taken for the protection of human rights defenders are adapted to the needs of collectives of human rights defenders to ensure an enabling environment for the right to defend human rights,³⁸ including through the enactment of legislation and public policies that include both individual and collective approaches to the right to defend human rights.³⁹
- (j) Establish, maintain and adequately resource effective protection policies and mechanisms for human rights defenders at risk, in consultation with human rights defenders.⁴⁰

IACmHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.Doc 66 (2011), para 523: "As to the process of negotiating the measures to be provided, the State must ensure that the beneficiary human rights defender plays an active role in selecting the appropriate protection measures. The Court has written that when protection measures are to be ordered, the beneficiaries of these measures are to be given an active role in their planning and implementation; in general, they are to be kept informed on the progress made in the execution of these measures".

38 See footnote 6 above on the right to freedom of association;

The Declaration, Article 3: "Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted"; Articles 5-9, 11-13 and 17: providing for the right of human rights defenders to engage in activities individually or in association with others;

UNHRC Resolution, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, UN Doc. A/HRC/RES/40/11 (2019), para 9: "Also urges States to develop and appropriately resource protection initiatives for human rights defenders [...] and also to ensure that the measures are holistic, including both individual and collective protection aspects". As part of States' obligations to protect human rights, States have a duty to ensure a safe and enabling environment that allows human rights defenders to perform their work:

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 2: "Urges States to create a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity, in the whole country and in all sectors of society, including by extending support to local human rights defenders";

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 2: "urges States to create and support a safe, enabling, accessible and inclusive environment online and offline for [human rights defenders, including women human rights defenders] participation in all relevant activities";

Special Rapporteur on the situation of human rights defenders, Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (2011), p 35: defining the right to freedom of association as the right of individuals to "interact and organize among themselves to collectively express, promote, pursue and defend common interests";

Joint Statement from IACmHR and the OHCHR to mark the International Human Rights Defenders Day 271/22k (2022): "States will be able to gradually eradicate the unwarranted stigmatization of defenders and to ensure a safe environment for the defense of human rights".

39 IACmHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.Doc 66 (2011), para 497: "Furthermore, the State's obligation of protection is in relation to persons either 'individually' or 'in association with others.' Thus, the State must protect both the members of civil society organizations and those who work on their causes as individuals. One need not prove membership in any human rights organization";

Report of the Special Rapporteur on the situation of human rights defender, Visit to Colombia, UN Doc. A/HRC/43/51/Add.1, para 74(g): "The Special Rapporteur recommends that the Government of Colombia [...] [p]rovide the National Protection Unit with the necessary budget to carry out the reform process already under way, with the participation of civil society, which should prioritize the reduction of response times, the inclusion of a preventive approach, coordination with judicial investigations and the participation of human rights defenders and their families (including minors) in the design of individual and collective protection responses with an ethnic, gender and territorial focus, as demanded by civil society, and the recognition of indigenous, Maroon and campesino guards as a self-protection measure within the framework of the Unit's response".

40 *Nogueira de Carvalho et al v Brazil*, Preliminary Objection and Merits, Inter-Am. Ct. H.R. (ser. C) No 161, 28 November 2006, para 77: "The States have the duty to provide the resources necessary for human rights defenders to conduct their activities freely; to protect them when they are subject to threats and thus ward off any attempt against their life and safety; to refrain from setting up hindrances that might make their work more difficult, and to conduct conscientious, effective investigations of violations against them, thus preventing impunity";

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), para 113: "The Special Rapporteur recommends that States: (a) Enact legislative and policy frameworks with a view to establishing national protection programmes for defenders, in consultation with defenders and civil society. In States with a federal structure, federal legislation should be the basis for the programme, and federal authorities should have oversight over the programmes that are administered by local governments; (b) Dedicate sufficient funding, and refrain from interfering with externally sourced funding, for the protection of defenders";

- (k) Give special attention to the risks and challenges faced by women defenders and those working on women's rights and gender issues.⁴¹
- (l) Ensure that all persons have free, safe and unhindered access to international human rights bodies, mechanisms and processes.⁴²

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/25/55 (2013), para 61: "The Special Rapporteur has repeatedly underlined the need to create and consolidate a safe and enabling environment for defenders and has elaborated on some of the basic elements that she believes are necessary in this regard. These elements include [...] effective protection policies and mechanisms paying attention to groups at risk".

41 CEDAW, Article 3: "States Parties shall take [...] all appropriate measures [...] to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men";

Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, Article 7(d): "The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to [...] adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property";

Egyptian Initiative for Personal Rights & INTERIGHTS v Egypt, Comm. 323/06, ACmHPR, 16 December 2011, paras 152, 154: finding gender discrimination for petitioners, four journalist women human rights defenders who were threatened, harassed, sexually assaulted, and beaten at a political protest in Egypt;

Committee on the Elimination of Discrimination against Women, General Recommendation No 19: Violence against women (1992), para 6: "The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence";

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), paras 6, 9: "Reiterates strongly the right of anyone, individually and in association with others, to defend the human rights of women in all their aspects, and stresses the important role of women human rights defenders in promoting and protecting human rights and fundamental freedoms, to which everyone is entitled without distinction of any kind - text of para 6" [...] "Also calls upon States to exercise due diligence in preventing violations and abuses against human rights defenders, including through practical steps to prevent threats, harassment and violence against women human rights defenders, who face particular risks, and in combating impunity by ensuring that those responsible for violations and abuses [...] are promptly brought to justice through impartial investigations - text of para 9";

UNGA Resolution, Situation of human rights defenders, UN Doc. A/70/217 (2015), paras 61-62: "At each of the consultations, women defenders reminded participants that being a woman human rights defender meant being exposed to threats both because of their status as women and because they strove to defend and promote human rights. While they are attacked just like other defenders, those acts of violence are often gender-based. The threat or use of sexual violence is commonplace in numerous countries. Women defenders very often work in countries in which the dominant discourse still confines women to the private sphere and it is often in that regard that they come under attack. They are the object of particularly virulent harassment, defamation and stigmatization campaigns on the Internet, in which their respectability and credibility as a woman defender, woman, mother, or citizen are derided. Women defenders explained that those violations could not be understood without an in-depth analysis of the social, cultural, economic or political context, in which a patriarchal culture persists along with deeply-rooted stereotypes. They said they were the victims of attacks because they questioned that culture and challenged traditionally assigned roles. During the consultations numerous defenders described the insults hurled at women defenders, who are often depicted as prostitutes, or as immoral, sinful individuals undermining respect for traditional values. According to the women defenders, that makes them the preferred targets of religious groups, especially when they strive for the observance and promotion of sexual and reproductive rights";

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 9: "Continues to express particular concern about systemic and structural discrimination and violence faced by women human rights defenders of all ages, and calls upon all States to give effect to the principles and objectives established by the General Assembly in its resolution 68/181 by protecting the rights of women human rights defenders and by integrating a gender perspective into the efforts to create a safe and enabling environment for the defence of human rights, including economic, social and cultural rights".

42 The Declaration, Article 9(4): "[E]veryone has the right, individually and in association with others, to unhindered access and communication with international bodies with general or specialized competence to receive and consider communications on matters of human rights and fundamental freedoms";

Optional Protocol to ICCPR, UN Doc. A/RES/2200A(XXI) (1966), Article 2: "Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration";

Optional Protocol to CEDAW, UN Doc. A/RES/54/4 (1999), Article 11: "A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol";

In addition, States should:

- (m) Establish, maintain, and adequately resource strong, independent, and effective national human rights institutions in conformity with the Paris Principles of National Human Rights Institutions.⁴³
- (n) Demonstrate political support and take all necessary measures to build public awareness, understanding, and support for the right to defend human rights.⁴⁴

Optional Protocol to the ICESCR, UN Doc. A/RES/63/117 (2008), Article 13 Protection measures: "A State Party shall take all appropriate measures to ensure that individuals under its jurisdiction are not subjected to any form of ill-treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol";

Optional Protocol to CAT, UN Doc. A/RES/57/199 (2002), Article 15: "No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way";

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 18: "Reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms";

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), paras 13, 14(c): "Strongly calls upon all States [...] [t]o avoid legislation that has the effect of undermining the right [of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms]".

43 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 21: "Underlines the value of national human rights institutions, established and operating in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles)";

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 23: "Underlines the value of national human rights institutions, established and operating in accordance with the Paris Principles, in the continued monitoring of existing legislation and consistently informing the State about its impact on the activities of human rights defenders, including by making relevant and concrete recommendations";

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 20: "Underlines the importance of national human rights institutions, established and operating in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in the continued engagement with human rights defenders";

UNHRC Resolution, The role of prevention in the promotion and protection of human rights, UN Doc. A/HRC/RES/42/6 (2019), para 4: "Welcomes the role of national human rights institutions in contributing to the prevention of human rights violations, and encourages States to strengthen the mandate and capacity of such institutions, where they exist, to enable them to fulfil this role effectively in accordance with the Paris Principles";

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 16: "Underlines the value of national human rights institutions, established and operating in accordance with the Paris Principles, in the continued monitoring of existing legislation and consistently informing the State about its impact on the activities of human rights defenders, including by making relevant and concrete recommendations".

44 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/78/216 (2023), p 6: "Calls upon States to promote, through public statements, policies, programmes or laws, the important and legitimate role of human rights defenders, including women human rights defenders, in the promotion of all human rights, democracy and the rule of law as essential components of ensuring their protection, including by respecting the independence of their organizations";

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/25/55 (2013), paras 87, 131(c): "States are also urged therein to publicly acknowledge the legitimate role of human rights defenders and the importance of their work [...] Member States should [...] [r]aise awareness about the legitimate and vital work of human rights defenders and publicly support their work";

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), para 113(d): "The Special Rapporteur recommends that States [...] [d]isseminate the Declaration on Human Rights Defenders through policy measures and awareness-raising campaigns".

- (o) Enact laws and policies to establish and maintain a digital environment that is open, free, and accessible in which all human rights can be enjoyed, promoted, and protected safely and without fear of retribution.⁴⁵

⁴⁵ UNHRC Resolution, The promotion, protection and enjoyment of human rights on the Internet, UN Doc. A/HRC/RES/47/16 (2021), para 8(a): “Calls upon all States to accelerate efforts to bridge digital divides, including the gender digital divide, and to enhance the use of information and communications technology, in order to promote the full enjoyment of human rights for all, including by: [...] [f]ostering an enabling online environment that is safe and conducive to engagement by all, without discrimination and with consideration for individuals facing systemic inequalities”;

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 9(g): “To refrain from Internet shutdowns, network restrictions or any other measures aiming to disrupt or prevent human rights defenders from having access to and disseminating information and communicating safely and securely, including interference with the use of technologies, such as encryption and anonymity tools”;

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/66/290 (2011), para 80: “The Special Rapporteur also remains concerned that the majority of the world’s population remain without access to Internet connection. Although access to the Internet is not yet recognized as a right in international human rights law, States have a positive obligation to create an enabling environment for all individuals to exercise their right to freedom of opinion and expression”.

ARTICLE 5

Protection Against Stigmatization and Criminalization

Note: *The consultation reports unanimously point to an alarming increase in the stigmatization and criminalization of human rights defenders. Stigmatization usually manifests itself through defamation, smear campaigns, and the labeling of defenders as public enemies, terrorists or foreign agents, isolating them from society and legitimizing further violations against them. Criminalization, on the other hand, takes the form of a misuse of legal systems to prosecute and detain human rights defenders for work or activities that is protected under international law or otherwise on unfounded grounds. Criminalization can also include the imposition of unjustified administrative requirements, inspections, and sanctions. Stigmatization and criminalization often form a cycle, with each feeding into and exacerbating the other. Typically, when society stigmatizes human rights defenders, it can prompt legal systems to criminalize their activity. Similarly, once the activities of human rights defenders are criminalized, society may begin to view them with negativity, leading to stigmatization and other verbal and physical attacks. Overall, both stigmatization and criminalization increasingly serve as tactics to intimidate and silence human rights defenders. The provision below builds upon the Declaration to suggest a framework aimed at addressing the issues of stigmatization and criminalization. It is important to note that this provision does not extend to issues of discrimination, as these are already covered under Article 12.2 of the Declaration.*

States shall take all necessary measures to enable human rights defenders to conduct their work or activities free from stigmatization⁴⁶

⁴⁶ ICCPR, Article 17(1): “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation”;

ACmHPR, Cotonou Declaration on strengthening and expanding the protection of all Human Rights Defenders in Africa, adopted at the 2nd International Symposium on Human Rights Defenders in Africa (Johannesburg), 27 March - 1 April 2017: calling on States to “[r]epeal punitive and restrictive laws, policies and practices that infringe upon the rights to freedom of association and of assembly that stigmatise and discriminate against specific categories of human rights defenders on the basis of sex, health status, sexual orientation and gender identity and expression or any other statuses”;

Khadija Ismayilova v Azerbaijan, Application No 65286/13, ECtHR, Judgment, 10 January 2019: holding that there had been violations of Article 8 (right to respect for private and family life, home and correspondence) and Article 10 (freedom of expression) of the ECHR, as a result of a smear campaign against a journalist because of her reporting;

Members of the Corporation Lawyers Collective “José Alvear Restrepo” (CAJAR) v Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 506, 18 October 2023: in which the Court found Colombia liable for systematically persecuting, harassing, stigmatizing, and surveilling members of the Colectivo de Abogados y Abogadas;

UN Human Rights Committee, General Comment No 16, Article 17, The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation (1988), paras 1, 11: “Article 17 provides for the right of every person to be protected against arbitrary or unlawful interference with his privacy, family, home or correspondence as well as against unlawful attacks on his honour and reputation. In the view of the Committee this right is required to be guaranteed against all such interferences and attacks whether they emanate from State authorities or from natural or legal persons. The obligations imposed by this article require the State to adopt legislative and other measures to give effect to the prohibition against such interferences and attacks as well as to the protection of this right [...] Article 17 affords protection to personal honour and reputation and States are under an obligation to provide adequate legislation to that end. Provision must also be made for everyone effectively to be able to protect himself against any unlawful attacks that do occur and to have an effective remedy against those responsible. States parties should indicate in their reports to what extent the honour or reputation of individuals is protected by law and how this protection is achieved according to their legal system”;

Parliamentary Assembly of the Council of Europe, Protecting human rights defenders in Council of Europe Member States, Resolution 2225 (2018), para 5.6: “The Assembly therefore calls on member States to ensure an enabling environment for the work of human rights defenders, in particular by [...] refraining from organising smear campaigns against defenders and other civil society activists and firmly condemning such campaigns where organised by non-State actors”;

and criminalization.⁴⁷

ACmHR, Resolution on the Situation of Human Rights Defenders in Africa, ACHPR/Res.104(XXXXI)07 (2007): “Urges States Parties to take all the necessary measures to ensure the protection of all human rights defenders and ensure that they have an environment which allows them to carry out their activities safely, without suffering any acts of violence, threats, reprisals, discrimination, pressure and any arbitrary acts by State or non-State actors as a result of their human rights activities”;

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), paras 114, 115(c): “States can and should protect defenders [who are defending the rights of migrants, refugees, and asylum-seekers] and not force them to protect the rights of others in secret. States should publicly promote the lifesaving work of defenders working on these issues and intervene to stop them from being attacked – text of para 114” [...] “The Special Rapporteur recommends that States [...] [t]ake all measures necessary to ensure that human rights defenders are protected from violence, retaliation, threats, discrimination and other kinds of pressure or arbitrary action by State and non-State actors as a consequence of their work. Condemn publicly all instances of violence, discrimination, intimidation or reprisals against them and emphasize that such practices can never be justified – text of para 115(c)”;

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), paras 103, 112(e): “Many Governments are failing in their moral and legal obligations to prevent the killings of human rights defenders. This is primarily because of a lack of political will. States can and should intervene to prevent killings by responding more effectively to threats against human rights defenders. Such interventions include taking action to stop vilification and threats aimed at defenders, which make them more vulnerable to attacks. Businesses should also intervene when threats are made against defenders, in order to prevent them from escalating into attacks – text of para 103” [...] “States should [...] [e]stablish mechanisms to deal with smear campaigns in the media, both offline and online – text of para 112(e)”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/25/55 (2013), para 86: “In an attempt to delegitimize their work or activities, defenders are often branded enemies of the State or terrorists. This stigmatization makes defenders even more vulnerable to attacks, especially by non-State actors. Therefore, as part of protection policy, it is of crucial importance that the work and role of defenders be publicly acknowledged by State officials at the highest level. The Special Rapporteur believes that a public acknowledgment of defenders’ work could contribute to providing their work with due recognition and legitimacy”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/13/22 (2009), para 114(a): “Furthermore, the Special Rapporteur [...] [u]rges States [to refrain] from stigmatizing the work of human rights defenders. Recognition of the status and role of human rights defenders and the legitimacy of their activities in public statements is the first step to preventing or at least reducing threats and risks against them”;

Joint Statement from the IACmHR and the OHCHR to Mark the International Human Rights Defenders Day, 27/1/22 (2022): “States will be able to gradually eradicate the unwarranted stigmatization of defenders and to ensure a safe environment for the defense of human rights”;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 291(39): “To prevent the criminalization of human rights defenders, States must [...] [a]rchive legal proceedings against human rights defenders that have been initiated to repress, sanction, and punish the right to defend human rights, and are groundless. In turn, lift any precautionary measure ordered against human rights defenders that has no real legal basis”.

⁴⁷ *Aliyev v Azerbaijan*, Application Nos. 68762/14 and 71200/14, ECtHR, Judgment, 20 September 2018, paras 197-216: outlining the Court’s assessment that there was a “violation of Article 18 of the Convention taken in conjunction with Articles 5 and 8” in a case involving the arrest and pre-trial detention of a human rights defender, noting that “the Court cannot lose sight of the chilling effect of those measures on the civil society at large, whose members often act collectively within NGOs and who, for fear of prosecution, may be discouraged from continuing their work of promoting and defending human rights”;

Vyrentsov v Ukraine, Application No 20372/110, ECtHR, Judgement, 11 April 2013 : considering the case of a human rights defender who had been sentenced for administrative detention for holding an unauthorized assembly, although no such authorization was required under domestic law and holding that there had been a violation of freedom of assembly;

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), paras 6, 11(a): “Calls upon States to ensure that human rights defenders can perform their important role in the context of peaceful protests, in accordance with national legislation consistent with the Charter of the United Nations and international human rights law and, in this regard, to ensure that no one is subject to excessive or indiscriminate use of force, arbitrary arrest or detention, torture or other cruel, inhuman or degrading treatment or punishment, enforced disappearance, abuse of criminal and civil proceedings or threats of such acts [...] Calls upon States to ensure that all legal provisions and their application affecting human rights defenders are clearly defined, determinable and non-retroactive in order to avoid potential abuse to the detriment of fundamental freedoms and human rights, and specifically to ensure that: The promotion and the protection of human rights are not criminalized, and that human rights defenders are not prevented from enjoying universal human rights owing to their work, whether they operate individually or in association with others, while emphasizing that everyone shall respect the human rights of others”;

UN Human Rights Committee, Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session, UN Doc. CCPR/C/TUR/CO/1 (2012), para 24: “The Committee is concerned that human rights defenders and media professionals continue to be subjected to convictions for the exercise of their profession, in particular through the criminalization of defamation in article 125, and through the excessive application of articles 214, 215, 216 and 220 (protection of public order), or articles 226 (publication or broadcasting of obscene materials), 285 (confidentiality of investigations), 228 (judiciary), 314 (membership of an armed organization), 318 (prohibiting criticism of the military) of the Criminal Code, thereby discouraging the expression of critical positions or critical media reporting on matters of valid public interest, adversely affecting freedom of expression in the State party. In addition, while welcoming the information provided by the State party on the partial amnesty concerning some offences allegedly committed by journalists before November 2011, the Committee is concerned about the inconsistent application of the transitional legal provisions and by the continued prosecution of other journalists not covered by the political amnesty (arts. 9, 14 and 19)”;

In particular, States shall:

- (a) Refrain from, prohibit and sanction any practices, whether carried out by State or non-State actors (including business enterprises), that stigmatize human rights defenders⁴⁸

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), paras 247, 286(8): “The IACHR considers it essential that States adopt measures of an administrative, legislative, and judicial nature to verify that the criminal offenses contained in the legislation satisfy the principle of legality both in their content and in application. This implies that lawmakers observe the strict requirements which characterize the codification of criminal offenses to satisfy the principle of legality, and thus ensure that they are formulated explicitly, precisely, and previously, thereby providing legal certainty to the citizen – text of para 247” [...] “With this goal in mind, the American States should: [e]nsure that criminal offenses included in their legislation are formulated in a manner consistent with the principle of legality. That is, expressly, precisely, comprehensively, and previously, with a clear definition of the criminalized conduct, establishing its elements and allowing it to be differentiated from behaviors that are not punishable or punishable with non-penal measures. States must also refrain from promoting and enacting laws and policies that use vague, imprecise, and broad definitions – text of para 286(8)”.

48 ICCPR, Article 17(1): “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation”;

ICCPR, Article 20(2): “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”;

UN Human Rights Committee, General Comment No 16, Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation (1988), paras 1, 11: “Article 17 provides for the right of every person to be protected against arbitrary or unlawful interference with his privacy, family, home or correspondence as well as against unlawful attacks on his honour and reputation. In the view of the Committee this right is required to be guaranteed against all such interferences and attacks whether they emanate from State authorities or from natural or legal persons. The obligations imposed by this article require the State to adopt legislative and other measures to give effect to the prohibition against such interferences and attacks as well as to the protection of this right – text of para 1” [...] “Article 17 affords protection to personal honour and reputation and States are under an obligation to provide adequate legislation to that end. Provision must also be made for everyone effectively to be able to protect himself against any unlawful attacks that do occur and to have an effective remedy against those responsible. States parties should indicate in their reports to what extent the honour or reputation of individuals is protected by law and how this protection is achieved according to their legal system – text of para 11”;

ACmHPR, Resolution on the Situation of Human Rights Defenders in Africa, ACHPR/Res.104(XXXXI)07 (2007): “Urges States Parties to take all the necessary measures to ensure the protection of all human rights defenders and ensure that they have an environment which allows them to carry out their activities safely, without suffering any acts of violence, threats, reprisals, discrimination, pressure and any arbitrary acts by State or non-State actors as a result of their human rights activities”;

Parliamentary Assembly of the Council of Europe, Protecting human rights defenders in Council of Europe Member States, Resolution 2225 (2018), para 5.6: “The Assembly therefore calls on member States to ensure an enabling environment for the work of human rights defenders, in particular by [...] refraining from organising smear campaigns against defenders and other civil society activists and firmly condemning such campaigns where [organized] by non-State actors”;

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), paras 114, 115(c): “Many Governments are failing in their moral and legal obligations to protect those who are refusing to turn away from defending the rights of migrants, refugees and asylum-seekers. This is primarily because of a lack of political will. States can and should protect defenders doing this work and not force them to protect the rights of others in secret. States should publicly promote the lifesaving work of defenders working on these issues and intervene to stop them from being attacked – text of para 114” [...] “The Special Rapporteur recommends that States: [...] [t]ake all measures necessary to ensure that human rights defenders are protected from violence, retaliation, threats, discrimination and other kinds of pressure or arbitrary action by State and non-State actors as a consequence of their work. Condemn publicly all instances of violence, discrimination, intimidation or reprisals against them and emphasize that such practices can never be justified – text of para 115(c)”;

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), paras 103, 112(e): “Many Governments are failing in their moral and legal obligations to prevent the killings of human rights defenders. This is primarily because of a lack of political will. States can and should intervene to prevent killings by responding more effectively to threats against human rights defenders. Such interventions include taking action to stop vilification and threats aimed at defenders, which make them more vulnerable to attacks. Businesses should also intervene when threats are made against defenders, in order to prevent them from escalating into attacks – text of para 103” [...] “States should: [...] [e]stablish mechanisms to deal with smear campaigns in the media, both offline and online – text of para 112(e)”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/25/55 (2013), para 86: “In an attempt to delegitimize their work or activities, defenders are often branded enemies of the State or terrorists. This stigmatization makes defenders even more vulnerable to attacks, especially by non-State actors. Therefore, as part of protection policy, it is of crucial importance that the work and role of defenders be publicly acknowledged by State officials at the highest level. The Special Rapporteur believes that a public acknowledgment of defenders’ work could contribute to providing their work with due recognition and legitimacy”.

or in any way limit their work or activities in a manner contrary to international law.⁴⁹

(b) This includes threats and harassment,⁵⁰

⁴⁹ See footnote 52 below;

ICCPR, Articles 19(3) and 20: requiring that any limitations on the freedom of expression be in accordance with the rule of law and meet the strict requirements of necessity and proportionality;

UN Human Rights Committee, General comment No 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para 23: stating that ICCPR Article 19(3) “may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights.”

⁵⁰ Escazú Agreement, Article 9(3): “Each Party shall also take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that human rights defenders in environmental matters may suffer while exercising the rights set out in the present Agreement”;

Njuru v Cameroon, Comm. No 1353/2005, UN Human Rights Committee, UN Doc. CCPR/C/89/D/1353/2005, 14 May 2007, para 6.4: finding a violation of the right of the Mr Njuru (who is a well-known human rights advocate) under the Covenant to freedom of expression because he was subjected to arrest, torture, and death threats by State authorities due to his investigations related to police corruption, thereby determining that “there can be no legitimate restriction under [ICCPR, Article 19(3)] which would justify the arbitrary arrest, torture, and threats to life of the author”;

Ghazi Suleiman v Sudan, Comm. No 228/99, ACmHPR, 29 May 2003, para 56: finding a violation of the right to freedom of association and assembly, protected by ACPHR Articles 10 and 11, when State authorities threatened to arrest a human rights lawyer to prevent him “from gathering with others to discuss human rights and by punishing him for doing so” when he attempted to travel and speak to a group of human rights defenders in a different part of the country;

Escher et al v Brazil, Preliminary Objections, Merits, Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No 200, 6 July 2009, para 180: finding that illegal monitoring of telecommunications by the State and leaking them to newspapers was threatening behavior that violated the right to association under the ACHR;

Lysias Fleury et al v Haiti, Merits, Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No 236, 23 November 2011, para 81: “this Court recalls that the defense of human rights can be exercised freely only when those engaged in it are not victims of threats or any kind of physical, mental or moral violence, or other acts of harassment. To this end, the States have the obligation to take special measures to protect human rights defenders in keeping with their functions against the acts of violence that are regularly committed against them and, among other measures, must protect them when they are threatened in order to avoid attempts on their life and integrity and generate conditions for the eradication of violations by State agents or private individuals, and investigate seriously and effectively the violations committed against them, in order to combat impunity”;

Human Rights Defender et al v Guatemala, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 283, 28 August 2014, paras 141–42, 157, 263: finding that the State had a heightened obligation under article 1 of the ACHR towards human rights defenders and setting out measures that States had to implement for human rights defenders in consultation with the human rights defenders, in a case where the State had failed to adequately and punctually investigate threats;

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 9: “calls upon States to exercise due diligence in preventing violations and abuses against human rights defenders, including through practical steps to prevent threats, harassment and violence against women human rights defenders, who face particular risks, and in combating impunity by ensuring that those responsible for violations and abuses [...] are promptly brought to justice through impartial investigations”;

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/66/164 (2012), para 8: “Also urges States to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation committed by State and non-State actors, including cases of gender-based violence, against human rights defenders and their relatives, including by ensuring that complaints from human rights defenders are promptly investigated and addressed in a transparent, independent and accountable manner”;

UNGA Resolution, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/64/163 (2010), para 7: “Also urges States to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation, including cases of gender-based violence, against human rights defenders and their relatives, including by ensuring that complaints from human rights defenders are promptly investigated and addressed in a transparent, independent and accountable manner”;

UNGA Resolution, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/62/152 (2008), para 7: “Also urges States to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation, including cases of gender-based violence, against human rights defenders and their relatives, including by ensuring that complaints from human rights defenders are promptly investigated and addressed in a transparent, independent and accountable manner”;

UNGA Resolution, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/60/161 (2006), para 7: “Also urges States to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation against human rights defenders and their relatives, including by ensuring that complaints from human rights defenders are promptly investigated and addressed in a transparent, independent and accountable manner”;

intimidation,⁵¹ violence, vilification and smear campaigns, red-tagging, the propagation of narratives aimed at discrediting the work or activities of human rights defenders, surveillance, or any form of adverse action as a result of work or activities to defend human rights.⁵²

- (c) Repeal or cease applying any laws, policies or practices that criminalize, restrict or in any way limit the right to defend human rights, such as those that limit freedoms of expression,

UNGA Resolution, Twentieth anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/72/247 (2018), para 7: “stresses the need to combat impunity by ensuring that those responsible for violations and abuses against human rights defenders, including against their legal representatives, associates and family members, are promptly brought to justice through impartial investigation”;

UNGA Resolution, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/59/192 (2005), para 8: “Emphasizes the importance of combating impunity, and in this regard urges States to take appropriate measures to address the question of impunity for threats, attacks and acts of intimidation against human rights defenders”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/25/55 (2013), para 59: “During her tenure, the Special Rapporteur has seen the space for civil society and defenders visibly shrink in certain regions of the world. She has also observed the consolidation of more sophisticated forms of silencing their voices and impeding their work, including the application of legal and administrative provisions or the misuse of the judicial system to criminalize and stigmatise their activities. These patterns not only endanger the physical integrity and undermine the work of human rights defenders, but also impose a climate of fear and send an intimidating message to society at large”.

51 Escazú Agreement, Article 9(3): “Each Party shall also take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that human rights defenders in environmental matters may suffer while exercising the rights set out in the present Agreement”;

Huilca Tecse v Peru, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 121, 3 March 2005, paras 69-72: finding that the extrajudicial execution of a union leader in retaliation for his human rights activities had an intimidating effect on the workers of the Peruvian trade union movement and thereby reduced the freedom of a specific group to exercise the right to association;

Cantoral-Huamani and Garcia-Santa Cruz v Peru, Preliminary Objection, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 167, 10 July 2007, para 148: considering the murder of the petitioner, a union worker, in connection with her trade union activities and holding that the State’s failure to investigate had an intimidating effect on the free exercise of union’s rights;

Kawas-Fernández v Honduras, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 196, 3 April 2009, paras 143, 153, 156: determining that the murder of a human rights defender by State agents and the subsequent failure to conduct a proper investigation enabled an intimidating environment which affected the right to association;

UN ECOSOC, Revised set of basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law, UN Doc. E/CN.4/Sub.2/1996/17 (1996), para 5: “The legal system of every State shall provide for prompt and effective disciplinary, administrative, civil and criminal procedures so as to ensure readily accessible and adequate redress, and protection from intimidation and retaliation”.

52 *Tulzhenkova v Belarus*, Comm. No 1838/2008, UN Human Rights Committee, UN Doc. CCPR/C/103/D/1838/2008, 17 January 2012, para 9.2: finding a violation of Ms Tulzhenkova’s right to freedom of expression because the State was unable to justify its limitation of her right under the strict necessity and proportionality test when it arrested and fined her for distributing leaflets containing information on an upcoming peaceful gathering for which she did not yet have a permit;

Sudalenko v Belarus, Comm. No 1750/2008, UN Human Rights Committee, UN Doc. CCPR/C/104/D/1750/2008, 3 May 2012, paras 9.3-9.5, 10: finding a violation of Mr Sudalenko’s right to freedom of expression because the State was unable to justify its limitation of his right for the protection of national security or public order when it seized and destroyed leaflets of Mr Sudalenko, a journalist who disseminated information relating to the State’s refusal to register him as a candidate for the National Assembly election;

ACmHPR, Resolution on the Situation of Human Rights Defenders in Africa, ACHPR/Res.104(XXXI)07 (2007): “Urges States Parties to take all the necessary measures to ensure the protection of all human rights defenders and ensure that they have an environment which allows them to carry out their activities safely, without suffering any acts of violence, threats, reprisals, discrimination, pressure and any arbitrary acts by State or non-State actors as a result of their human rights activities”;

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), paras 114, 115(c): “Many Governments are failing in their moral and legal obligations to protect those who are refusing to turn away from defending the rights of migrants, refugees and asylum-seekers. This is primarily because of a lack of political will. States can and should protect defenders doing this work and not force them to protect the rights of others in secret. States should publicly promote the lifesaving work of defenders working on these issues and intervene to stop them from being attacked. The Special Rapporteur recommends that States [...] [t]ake all measures necessary to ensure that human rights defenders are protected from violence, retaliation, threats, discrimination and other kinds of pressure or arbitrary action by State and non-State actors as a consequence of their work. Condemn publicly all instances of violence, discrimination, intimidation or reprisals against them and emphasize that such practices can never be justified”.

peaceful protests, assembly, association, public participation, or privacy, contrary to international law.⁵³

- (d) Ensure that laws, policies, and practices aimed at safeguarding national security and countering terrorism are not vague, arbitrary or overbroad, and are not applied to criminalize or otherwise limit the right to defend human rights in a manner contrary to international law.⁵⁴

53 ACmHPR, Cotonou Declaration on strengthening and expanding the protection of all Human Rights Defenders in Africa, adopted at the 2nd International Symposium on Human Rights Defenders in Africa (Johannesburg), 27 March - 1 April 2017: calling on States to “[r]epeal punitive and restrictive laws, policies and practices that infringe upon the rights to freedom of association and of assembly that stigmatise and discriminate against specific categories of human rights defenders on the basis of sex, health status, sexual orientation and gender identity and expression or any other statuses”;

UN Human Rights Committee, Concluding observations on the fourth periodic report of Rwanda, UN Doc. CCPR/C/RWA/CO/4 (2016), para 40: “The State party should undertake the legislative measures necessary to ensure that any restrictions on the exercise of freedom of expression comply with the strict requirements set out in the Covenant”;

UN Human Rights Committee, Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session, UN Doc. CCPR/C/TUR/CO/1 (2012), para 24: “The Committee is concerned that human rights defenders and media professionals continue to be subjected to convictions for the exercise of their profession, in particular through the criminalization of defamation in article 125, and through the excessive application of articles 214, 215, 216 and 220 (protection of public order), or articles 226 (publication or broadcasting of obscene materials), 285 (confidentiality of investigations), 228 (judiciary), 314 (membership of an armed organization), 318 (prohibiting criticism of the military) of the Criminal Code, thereby discouraging the expression of critical positions or critical media reporting on matters of valid public interest, adversely affecting freedom of expression in the State party. In addition, while welcoming the information provided by the State party on the partial amnesty concerning some offences allegedly committed by journalists before November 2011, the Committee is concerned about the inconsistent application of the transitional legal provisions and by the continued prosecution of other journalists not covered by the political amnesty (arts. 9, 14 and 19)”;

UNHRC, Opinion of the Working Group on Arbitration Detention No 62/2018 (China), UN Doc. A/HRC/WGAD/2018/62 (2018), paras 58: “The Working Group has emphasized in its reports that vague and imprecisely worded laws jeopardize the fundamental rights of those who wish to exercise their right to hold an opinion or exercise their freedoms of expression, of the press, of assembly and of religion, as well as to defend human rights, and that such laws are likely to result in arbitrary deprivation of liberty. The Working Group has recommended in the past that crimes be defined in precise terms, and that legislative measures be taken to introduce an exemption from criminal responsibility for those who peacefully exercise their rights guaranteed in the Universal Declaration of Human Rights. The Working Group considers that, in the circumstances of the present case, the laws used to charge the detainees were so vague and overly broad that it was impossible to invoke a legal basis justifying the deprivation of liberty”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/64/226 (2009), paras 53-54: “Some NGO framework laws adopted during the past five years introduced far-reaching restrictions on the ability of organizations to carry out their activities without interference. Registration authorities increasingly operate under significant government influence or control. NGO framework laws leave a broad margin of discretion for the decisions of registration authorities often without providing adequate means to contest such decisions, and in many cases allowing for a complete lack of independent judicial oversight. Instead of outright prohibiting NGO or human rights activity, Governments increasingly turn to more subtle means by trying to restrict civil society activities through the judiciary or public administration. Existing laws and regulations are often applied in a way by Governments and registration authorities that are highly detrimental to the independent functioning of a healthy civil society. Ambiguity of requirements, lack of transparency, burdensome and lengthy procedures all have the potential of restricting the right to freedom of association”;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 286(11): “the American States should [...] [d]ecriminalize defamation and promote the modification of ambiguous or vague criminal laws disproportionately limiting freedom of expression, such as those designed to protect the honor of ideas or institutions, in order to eliminate the use of criminal proceedings to inhibit the free democratic debate on all matters of public interest”;

OHCHR, Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned: Report of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/32/20 (2016), paras 82-83, 84(b): “The exercise of public freedoms, which is quintessential for civic activity, is among the most important investment policies for prosperity, stability and peace – text of para 82” [...] The five key elements to create and maintain a safe and enabling environment for civil society [include] a robust legal framework that is compliant with international standards as well as a strong national human rights protection system that safeguards public freedoms and ensures effective access to justice – text of para 83” [...] “In the context of a supportive legal framework and access to justice, Member States should [...] [r]eview and repeal or amend all legal provisions that impede the free and independent work of civil society actors; ensure that all legislation affecting their ability to work complies with relevant international human rights laws and standards and with the Declaration on Human Rights Defenders; and use, among other tools, indicators on the exercise of public freedoms developed by OHCHR – text of para 84(b)”.

54 See footnote 112 below;

ECHR, Article 18: “[R]estrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed”;

ACHR, Article 30: “The restrictions that, pursuant to this Convention, may be placed on the enjoyment or exercise of the rights or freedoms recognized herein may not be applied except in accordance with laws enacted for reasons of general interest and in accordance with the purpose for which such restrictions have been established”;

- (e) Ensure that State institutions and public officials, at all levels and in all branches of government do not, by their acts or omissions, stigmatize or undermine the legitimacy of efforts to promote, defend, and protect human rights and fundamental freedoms.⁵⁵

ACmHPR, Cotonou Declaration on strengthening and expanding the protection of all Human Rights Defenders in Africa, adopted at the 2nd International Symposium on Human Rights Defenders in Africa (Johannesburg), 27 March - 1 April 2017: calling on States to “[e]nsure that responses to terrorism do not lead to undue restrictions of civil society space and are conducted in compliance with the Principles and Guidelines on Human Rights and on Terrorism in Africa”;

UN Human Rights Committee, General Comment No 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para 22: “Paragraph 3 [of ICCPR Article 19] lays down specific conditions and it is only subject to these conditions that restrictions may be imposed: the restrictions must be ‘provided by law’; they may only be imposed for one of the grounds set out in subparagraphs (a) and (b) of paragraph 3; and they must conform to the strict tests of necessity and proportionality. Restrictions are not allowed on grounds not specified in paragraph 3, even if such grounds would justify restrictions to other rights protected in the Covenant. Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated”;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 8: “Calls upon States to ensure that the criminalization and prosecution of terrorism or national security offences, and the measures used to address threats in this regard, are in accordance with their obligations under international human rights law, to avoid endangering the safety of human rights defenders or unduly hindering their work”;

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 10: “Further calls upon States to ensure that measures to combat terrorism and preserve national security: (a) Are in compliance with their obligations under international law, in particular under international human rights law, and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights; (b) Clearly identify which offences qualify as terrorist acts by defining transparent and foreseeable criteria, including, inter alia, considering without prejudice those formulated by the Special Rapporteur on the promotion and protection of human rights while countering terrorism; (c) Prohibit and do not provide for, or have the effect of, subjecting persons to arbitrary detention, such as detention without due process guarantees, the deprivation of liberty that amounts to placing a detained person outside the protection of the law, or the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, nor the unlawful deprivation of the right to life or the trial of suspects without fundamental judicial guarantees; (d) Allow appropriate access for relevant international bodies, non-governmental organizations and national human rights institutions, where such exist, to persons detained under anti-terrorism and other legislation relating to national security, and to ensure that human rights defenders are not harassed or prosecuted for providing legal assistance to persons detained and charged under legislation relating to national security”;

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), para 115(b): “The Special Rapporteur recommends that States [...] [d]esist from targeting human rights defenders working on issues related to migration, refugees and asylum-seekers and stop treating them as national security threats”;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 286(8): “With this goal in mind, the American States should [...] [e]nsure that criminal offenses included in their legislation are formulated in a manner consistent with the principle of legality. That is, expressly, precisely, comprehensively, and previously, with a clear definition of the criminalized conduct, establishing its elements and allowing it to be differentiated from behaviors that are not punishable or punishable with non-penal measures. States must also refrain from promoting and enacting laws and policies that use vague, imprecise, and broad definitions”.

55 UN Human Rights Committee, General Comment No 31 [80]: UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), para 18: “Accordingly, where public officials or State agents have committed violations of the Covenant rights referred to in this paragraph, the States Parties concerned may not relieve perpetrators from personal responsibility, as has occurred with certain amnesties (see General Comment 20 (44)) and prior legal immunities and indemnities. Furthermore, no official status justifies persons who may be accused of responsibility for such violations being held immune from legal responsibility. Other impediments to the establishment of legal responsibility should also be removed, such as the defence of obedience to superior orders or unreasonably short periods of statutory limitation in cases where such limitations are applicable. States parties should also assist each other to bring to justice persons suspected of having committed acts in violation of the Covenant that are punishable under domestic or international law.”;

Report of the Special Rapporteur on the situation of human rights defenders, At the heart of the struggle: human rights defenders working against corruption, UN Doc. A/HRC/49/49 (2021), para 117(c): “The Special Rapporteur recommends that States [...] [e]nsure that State officials regularly and publicly recognize the value of the work of anti-corruption human rights defenders and publicly denounce threats and attacks against them”;

IACmHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124.Doc. 5 rev.1 (2006), para 342(10): “The governments should not tolerate any effort on the part of state authorities to cast in doubt the legitimacy of the work of human rights defenders and their organizations. Public officials must refrain from making statements that stigmatize human rights defenders or that suggest that human rights organizations act improperly or illegally, merely because of engaging in their work to promote and protect human rights. Governments should [give] precise instructions to their officials in this respect and should impose disciplinary sanctions on those who do not comply with such instructions”.

- (f) Ensure those exercising the right to defend human rights have prompt and unimpeded access to justice, including through specialized legal support services, to seek protection from, and redress against, any acts of stigmatization against them.⁵⁶

56 The Declaration, Article 9: "1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights. 2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay. 3. To the same end, everyone has the right, individually and in association with others, inter alia: (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay; (b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments; (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms. 4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms. 5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction";

UDHR, Article 8: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law";

ICCPR, Article 2(3): "Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted";

CAT, Articles 13-14: "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given – text of Article 13" [...] "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation – text of Article 14";

ICERD, Article 6: "States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination";

ACHPR, Article 7: "1. Every individual shall have the right to have his cause heard. This comprises: a. the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized by conventions, laws, regulations and customs in force; b. the right to be presumed innocent until proved guilty by a competent court or tribunal; c. the right to defence, including the right to be defended by counsel of his choice; d. the right to be tried within a reasonable time by an impartial court or tribunal. 2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender";

ACHR, Article 25: "1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties. 2. The States Parties undertake: (a) to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state; (b) to develop the possibilities of judicial remedy; and (c) to ensure that the competent authorities shall enforce such remedies when granted";

ECHR, Article 13: "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity";

UN Human Rights Committee, General Comment No 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para 23: stating that victims of threats and intimidation should "be in receipt of appropriate forms of redress";

UNGA Resolution, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN Doc. A/RES/60/147 (2006), Annex, paras 12(c), 13: "A victim of a gross violation of international human rights law or of a serious violation of international humanitarian law shall have equal access to an effective judicial remedy as provided for under international law [...] Obligations arising under international law to secure the right to access justice and fair and impartial proceedings shall be reflected in domestic laws. To that end, States should [...] [p]rovide proper assistance to victims seeking access to justice [...] In addition to individual access to justice, States should endeavour to develop procedures to allow groups of victims to present claims for reparation and to receive reparation, as appropriate";

In addition, States should:

- (g) Explicitly condemn all forms of stigmatization and attacks against human rights defenders, including attacks against their families and communities.⁵⁷
- (h) Prohibit the use by State and non-State actors (including business enterprises) of Strategic Lawsuits Against Public Participation (**SLAPPs**) and related activities to restrict or otherwise

UNGA Resolution, The rule of law at the national and international levels, UN Doc. A/RES/67/1 (2012), para 14: "We emphasize the right of equal access to justice for all, including members of vulnerable groups, and the importance of awareness-raising concerning legal rights, and in this regard we commit to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid";

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 10: "The General Assembly [...] [u]rges States to promote a safe and enabling environment, online and offline, including through the implementation of existing national legislation that is in compliance with international human rights law and, where necessary, through the adoption and implementation of more comprehensive legislative and administrative measures, in which human rights defenders can operate free from hindrance, arbitrary or unlawful surveillance, reprisals and insecurity, ensuring, among other things, the right to take part in the conduct of public affairs and in cultural life, the freedom to seek, receive and impart information and equal access to justice, including to an effective remedy";

UNHRC Resolution, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, UN Doc. A/HRC/RES/40/11 (2019), para 14(b): "To adopt and implement strong and effective laws or policies ensuring, among other things [...] the freedom to seek, receive and impart information and equal access to justice, including to an effective remedy";

UN ECOSOC, Revised set of basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law, UN Doc. E/CN.4/Sub.2/1996/17 (1996), Annex, para 5: "The legal system of every State shall provide for prompt and effective disciplinary, administrative, civil and criminal procedures so as to ensure readily accessible and adequate redress, and protection from intimidation and retaliation";

Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development: Report submitted by the Special Representative of the Secretary-General on human rights defenders, UN Doc. A/HRC/7/28 (2008), paras 77-78: "While the identification of indicators on human rights defenders deserves a thorough analysis and a larger discussion that go well beyond these few paragraphs, the Special Representative wishes to outline schematically a set of indicators that can be used to assess the situation of human rights defenders – text of para 77" [...] "The Special Representative identifies the following indicators [...] To assess levels of security of defenders [consider] [n]umber and type of attacks and threats against defenders; [a]vailability and effectiveness of protection programmes and measures. To assess levels of impunity of human rights violations against defenders [consider] [...] [a]ccessibility of remedies available to defenders; Number, quality (prompt and impartial) and outcome of investigations and prosecutions sanctioning violations against human rights defenders and providing compensation to victims – text of para 78";

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), para 115(i): "Ensure that human rights defenders have access to justice and to effective remedies through national courts and other mechanisms, regardless of their immigration status";

Organization for Security and Co-operation in Europe (**OSCE**) and the Office for Democratic Institutions and Human Rights (**ODIHR**), "The Responsibility of States": Protection of Human Rights Defenders in the OSCE Region (2014-2016), (2017), para 2: "Targeted abuses and violations against human rights defenders strike at the heart of accountability and the right to effective remedies for victims of human rights violations, who are often from vulnerable groups. For this reason, OSCE participating States in 1994 emphasized 'the need for the protection of human rights defenders', in line with the UN Declaration on Human Rights Defenders".

57 See footnote 43 above on stigmatization;

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 6: "Calls upon all States to combat impunity by investigating and pursuing accountability for all attacks and threats by State and non-State actors against any individual, group or organ of society that is defending human rights, including against family members, associates and legal representatives, and by condemning publically all cases of violence, discrimination, intimidation and reprisals against them";

Organization of American States (**OAS**) General Assembly Resolution, Human rights defenders in the Americas: support for the individuals, groups, and organizations of civil society working to promote and protect human rights in the Americas, AG/RES. 1711 (XXX-O/00) (2000), para 2: deploring "acts that directly or indirectly prevent or hamper the work of human rights defenders" and urging "member states to intensify their efforts to adopt the necessary measures, in keeping with their national laws, to guarantee the life, personal well-being, and freedom of expression of human rights defenders, in keeping with internationally accepted principles and standards";

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), para 115(c): "The Special Rapporteur recommends that States [...] [c]ondemn publicly all instances of violence, discrimination, intimidation or reprisals against them and emphasize that such practices can never be justified".

impair activities for the promotion, protection, and effective realization of human rights and fundamental freedoms, including by passing anti-SLAPP legislation.⁵⁸

58 Request for an Advisory Opinion submitted by the Republic of Chile and the Republic of Colombia on 9 January 2023 regarding “Climate Emergency and Human Rights” - Joint written submission from the secretariat of the Aarhus Convention and the UN Special Rapporteur on environmental defenders under the Aarhus Convention, 9 January 2023, para 102: “States should develop guidelines and trainings for prosecutors, the judiciary and law enforcement on the protection of environmental defenders. This could, for example, include guidelines on appropriate responses to acts of civil disobedience or on the identification and prevention of SLAPPs”;

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), para 120: “[States should] [t]ake steps such that [SLAPPs] are not used to silence the voices of human rights defenders, and develop methods or protocols so that courts can address situations where civil lawsuits and claims are not made in good faith”;

Council of Europe, Round-table on Human rights of LGBTI people in Europe: current threats to equal rights, challenges faced by defenders and the way forward, organized by the Office of the Council of Europe Commissioner for Human Rights, Report (2021), para 85: “Member states should also consider adopting laws that protect all human rights defenders from the effects of SLAPPs, as discussed in the Commissioner’s human rights comment on the subject”.

ARTICLE 6

Safety and Protection of Human Rights Defenders at Risk

Note: *The report from consultations with human rights defenders in the process to develop this Declaration +25 highlighted the increased exposure and vulnerability of human rights defenders because of their identities, (including women, children, Indigenous persons, or persons of African descent), and/or because of their work or activities on certain issues (including climate, racial and social justice, gender equality, Indigenous Peoples' rights, and the rights of minorities). Human rights defenders also reported that structural frameworks - including racism, patriarchy, heteronormativity, capitalism, occupation, and other layers of oppression - also put them at particular risk. In addition, human rights defenders face significant barriers to exercising their fundamental rights and freedoms, such as freedom of assembly, expression, and association, originating from both State and non-State actors. State actors are often responsible for legal and physical barriers to the work or activities of human rights defenders through repressive laws, arbitrary detention, and policies aimed at limiting the freedoms of assembly, expression, and association. Non-State actors, including business enterprises, may harass, intimidate, initiate SLAPPs, and perpetrate other forms of violence against human rights defenders.*

The provision below aims at ensuring that human rights defenders who are at risk enjoy protection that is tailored to their increased exposure, and adopts a preventive approach, as the goal of protection must not only be to provide security to human rights defenders at risk, but also to achieve sustainable and structural changes to guarantee the right of everyone to defend rights.

- (1) States shall recognize, prioritize, and guarantee the safety and protection of all human rights defenders, particularly those at risk or who are detained, victims of violence, threats, retaliation, prohibited discrimination, pressure, intentional or systematic exclusion, marginalization, oppression, or any other form of adverse action by State or non-State actors⁵⁹ (including business enterprises), including due to:

⁵⁹ ICCPR, Article 9(1): "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law";

UN Human Rights Committee, *Eden Marcellana and Eddie Gumanoy v Philippines*, Communication No 1560/2007, UN Doc. CCPR/C/94/D/1560/2007, 30 October 2008, paras 7(6)-7(7): "The Committee recalls its jurisprudence on article 9, paragraph 1, and reiterates that the Covenant protects the right to security of person also outside the context of formal deprivation of liberty [...] the Committee observes that, given that the victims were human rights workers and that at least one of them had been threatened in the past, there appeared to have been an objective need for them to be afforded protective measures to guarantee their security by the State";

Members of the Corporation Lawyers Collective "José Alvear Restrepo" (CAJAR) v Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 506, 18 October 2023, para 477 (free translation): "States have the duty to provide the necessary means for defenders to exercise their function, which includes protecting them when they are the object of threats to avoid attacks on their life and integrity, refraining from imposing obstacles that make it difficult to carry out their work, and seriously and effectively investigate the violations committed against them, combating impunity";

Luna Lopez v Honduras, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 169, 10 October 2013, paras 123, 127: "Regarding the measures adopted by the State, the Court believes it necessary to recall that state authorities have a responsibility to be aware of a situation of special risk, to identify or determine whether the person being threatened or harassed requires protection measures or to refer the matter to the competent authority for that purpose and to offer the person at risk pertinent information on the measures available";

- (a) their identity, including their age, sex, sexual orientation, gender identity, expression and sex characteristics, race, caste, color, disability, language, religion, political or other opinion, national or social origin, geographical location, belonging to a minority or Indigenous Peoples, property, birth, migration status or other status, including their status as human rights defenders;⁶⁰

Human Rights Defender et al v Guatemala, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 283, 28 August 2014, para 155: “On this point, and with regard to the complaints reported to the Office of the Human Rights Ombudsman and the municipal Mayor, the Court recalls that State authorities who are aware of a situation of special risk have a responsibility to decide or determine whether the person being threatened or harassed requires protection measures, or to refer the matter to the competent authority for that purpose and to offer the person at risk timely information on the measures available. The assessment of whether or not a person requires protection measures and what those measures should be, is the State’s obligation, and should not be limited to requiring the victim to apply to ‘the competent authorities’, without knowing exactly which authority is best able to address his situation, since it is the State’s responsibility to establish measures of coordination between its institutions and officials for that purpose”.

60 ACmHPR, Cotonou Declaration on strengthening and expanding the protection of all Human Rights Defenders in Africa, adopted at the 2nd International Symposium on Human Rights Defenders in Africa (Johannesburg), 27 March - 1 April 2017: calling on states to “[r]epeal punitive and restrictive laws, policies and practices that infringe upon the rights to freedom of association and of assembly that stigmatise and discriminate against specific categories of human rights defenders on the basis of sex, health status, sexual orientation and gender identity and expression or any other statuses”;

Human Rights Defender et al v Guatemala, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 283, 28 August 2014, para 157: holding that States must establish special measures of adequate and effective protection, including through a gender-based approach within the risk-assessment procedure;

Vélez Restrepo and Family v Colombia, Preliminary Objection, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 248, 3 September 2012, para 201: “Regarding Colombia’s position, the Court considers it necessary to establish that it corresponds to the State authorities to get to know the situation of special risk in order to determine or assess whether the person who is the target of threats and harassment requires measures of protection or to refer the case to the competent authority to do this, and also to offer the person at risk timely information on the measures available. The assessment of whether a person requires measures of protection and which measures are appropriate is an obligation of the State and cannot be restricted to the victim himself requesting this from ‘the competent authorities’, or knowing exactly which authority is best suited to deal with his situation, because it corresponds to the State to establish the corresponding measures of coordination between its agencies and officials. The Court underscores that, at the time of the events of this case, the Protection Program for Journalists and Social Communicators created in 2000 did not exist, and that the threats and harassment were reported to the Special Investigations Unit of the Attorney General’s Office that was conducting an inquiry into the attack against Mr Vélez Restrepo on 29 August 1996, and to a prosecutor in charge of the criminal investigation into the threats”;

ACmHPR, *Egyptian Initiative for Personal Rights & INTERIGHTS v Egypt*, Comm. 323/06, 16 December 2011, paras 152, 154: finding gender discrimination for four journalist women human rights defender petitioners who were subject to gender-based violence and threatened, harassed, sexually assaulted, and beaten at a political protest in Egypt;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para: “Recognizes young people’s essential contributions to defending human rights, democracy and the rule of law and expresses deep concern about the threats, human rights violation and abuses and discrimination young people may face because of their age and the nature of their civic engagement and as a result of their activities in promoting human rights, and in this regard calls upon States to provide a safe, enabling and empowering environment for young people to promote human rights”;

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2013): first UN resolution on women human rights defenders, calling States to take “appropriate, robust and practical steps to protect women human rights defenders”;

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 13: “Also calls upon States to adopt a survivor-centered approach to address, prevent and respond to sexual and gender-based violence, including conflict-related sexual violence, and threats thereof, including against women human rights defenders, women journalists and women peacebuilders”;

Committee on the Elimination of Discrimination against Women, General Recommendation No 19: Violence against women (1992), para 6: “The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence”;

IACmHR, Report on Situation of Human Rights Defenders in Americas, OEA/Ser.L/V/II.124, doc. 5 rev. 1 (2006), para 220: “Indigenous and Afro-descendant leaders play a crucial role in their communities, religious as well as cultural and political. The IACHR has found that the patterns of violations of their human rights generally have a direct correlation with their activities laying claim to, defending, and protecting their territories and natural resources, defending their rights to autonomy and to cultural

- (b) their work or activities in the promotion, defense, and protection of human rights, including on- or offline communications, journalism, media work, and legal work;⁶¹
- (c) the issues on and contexts in which they work, including women's and gender rights; LGBTQIA+ rights; climate justice, land and environmental rights; digital rights; the rights of Indigenous Peoples; freedom of religion or belief; anti-occupation, anti-colonialism and neo-colonialism; anti-racism; business and human rights; impunity, accountability and remedies; corruption; elections; armed conflicts; migration and forced displacement or relocation.⁶²

identity. The IACHR has noted with concern the frequency of assassinations of and threats against indigenous leaders engaged in the defense of their peoples' rights, and impunity, in the vast majority of cases, for the perpetrators of these serious violations. Similarly, the Commission has received and processed complaints of violations of leaders of Afro-descendant communities in several countries of the region, and has requested the Inter-American Court to protect threatened Afro-descendant leaders";

ACmHPR, Resolution on the Situation of Human Rights Defenders in Africa ACHPR/Res.376(LX) (2017), para 3: "Adopt specific legislative measures to recognise the status of human rights defenders, and protect their rights and the rights of their colleagues and family members, including women human rights defenders and those working on issues such as extractive industries, health and HIV/AIDS, reproductive health, sexual orientation and gender identity, promotion of peace and democracy, fight against terrorism, and respect for human rights";

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), para 115(d): "States, businesses, NGOs and donors should support [...] [m]ainstreaming support for defenders from vulnerable groups, including lesbian, gay, bisexual, transgender and intersex defenders".

61 UN Human Rights Committee, *Eden Marcellana and Eddie Gumanoy v Philippines*, Communication No 1560/2007, UN Doc. CCPR/C/94/D/1560/2007, 30 October 2008, paras 7(6)-(7): "The Committee recalls its jurisprudence on article 9, paragraph 1, and reiterates that the Covenant protects the right to security of person also outside the context of formal deprivation of liberty [...] the Committee observes that, given that the victims were human rights workers and that at least one of them had been threatened in the past, there appeared to have been an objective need for them to be afforded protective measures to guarantee their security by the State";

UN Human Rights Committee, Concluding observations on the third periodic report of the Central African Republic, UN Doc. CCPR/C/CAF/CO/3 (2020), para 36(b): "the State party should [...] Ensure the protection of human rights defenders who cooperate and provide information to the Special Criminal Court, the Truth, Justice, Reparation and Reconciliation Commission or any other body with a mandate to inquire into human rights violations in the country";

OHCHR, Fact Sheet No 29: Human Rights Defenders: Protecting the Right to Defend Human Rights (2004), p 18: "Recognition of the vital role of human rights defenders and the violations that many of them face convinced the United Nations that special efforts were needed to protect both defenders and their activities";

OSCE, Guidelines on the Protection of Human Rights Defenders, OSCE/ODIHR (2014), Section A, para 4: "Need for protection of human rights defenders: Human rights defenders face specific risks and are often targets of serious abuses as a result of their human rights work. Therefore, they need specific and enhanced protection at local, national and international levels. Certain groups of human rights defenders are exposed to heightened risks due to the specific nature of their work, the issues they are working on, the context in which they operate, their geographical location or because they belong to or are associated with a particular group".

62 *Kawas-Fernández v Honduras*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 196, 3 April 2009, para 149: "[t]he recognition of the work in defense of the environment and its link to human rights is becoming more prominent across the countries of the region, in which an increasing number of incidents have been reported involving threats and acts of violence against and murders of environmentalists owing to their work";

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2013), para 9: "calls upon States to exercise due diligence in preventing violations and abuses against human rights defenders, including through practical steps to prevent threats, harassment and violence against women human rights defenders, who face particular risks, and in combating impunity by ensuring that those responsible for violations and abuses, including gender-based violence and threats against women human rights defenders, committed by State and non-State actors, including online, are promptly brought to justice through impartial investigations";

ACHPR, Resolution on the Need to Adopt Legal Measures for the Protection of Women Human Rights Defenders in Africa, ACHPR/Res. 409 (LXIII) (2018), paras 3, 5: calling upon States to "[a]dopt specific legislative measures for [women human rights defenders'] protection and to [p]rotect individuals engaged in combatting violence against women human rights defenders";

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/13/22 (2009), para 49: "The Special Rapporteur is deeply concerned about the continuing denigration campaigns and the violent threats against defenders of lesbian, gay, bisexual and transgender rights";

IACmHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II., doc. 66 rev (2011), para 328: "In its 2006 report, the IACHR underscored the fact that many beneficiaries of precautionary measures were persons dedicated to protecting 'the rights of homosexuals, lesbians, and transgenders' and that they, too, were victims of threats and occasional aggression, precisely because of their work. During the follow up period, the IACHR has observed with concern an increase in the number of acts of aggression, harassment, threats and smear campaigns waged by State and non State actors alike against persons who defend the rights of LGBTI persons. Other systems for the protection of human rights share the same concern";

- (2) States shall adopt a collective and intersectional approach in guaranteeing the safety and protection of human rights defenders at risk. This approach should recognize how the intersection of a human rights defender's identity, work or activities, and the issues on and contexts in which they work, can create increased discrimination and risks and necessitate targeted protection strategies. This approach should be included in any prevention and protection measures.⁶³

European Parliament, Resolution on Equal Rights for Gays and Lesbians in the European Community, Resolution A3-0028/94, 26 January 1994, general considerations 9-11: "Calls on the Member States to ban discrimination on the basis of sexual orientation in all spheres and to make available to homosexual couples all the legal arrangements which exist for heterosexual couples or to establish other institutions with equal status for their benefit [...] Calls on the Member States, together with the national lesbian and homosexual organizations, to take measures and initiate campaigns against the increasing number of acts of violence perpetrated against homosexuals and to ensure prosecution of the perpetrators of these acts of violence [...] Calls upon the Member States, together with the national lesbian and homosexual organizations, to take measures and initiate campaigns to combat all forms of social discrimination against homosexuals";

OSCE, Guidelines on the Protection of Human Rights Defenders, OSCE/ODIHR (2014), Section A, para 4: "Need for protection of human rights defenders: Human rights defenders face specific risks and are often targets of serious abuses as a result of their human rights work. Therefore, they need specific and enhanced protection at local, national and international levels. Certain groups of human rights defenders are exposed to heightened risks due to the specific nature of their work, the issues they are working on, the context in which they operate, their geographical location or because they belong to or are associated with a particular group";

Council of Europe, Round-table on Human rights of LGBTI people in Europe: current threats to equal rights, challenges faced by defenders and the way forward, organized by the Office of the Council of Europe Commissioner for Human Rights, Report (2021), para 79: "Council of Europe member states must meet their obligations to protect human rights defenders, including LGBTI activists, and ensure an enabling environment for their work, free from intimidation and pressure".

63 *Members of the Corporation Lawyers Collective "José Alvear Restrepo" (CAJAR) v Colombia*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 506, 18 October 2023, para 887 (free translation): "In the case of attacks directed against women defenders, all measures aimed at mitigating the risks they run must be adopted with a gender perspective and with an intersectional approach, in such a way that they can be provided with comprehensive protection by considering, understanding and giving a central place to the complexities of the differentiated forms of violence that they face due to their profession and gender, which translates into a reinforced duty of protection and prevention on the part of the State";

Digna Ochoa and family members v Mexico, Preliminary objections, merits, reparations and costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 447, 25 November 2021, para 101: "In the case of attacks against women human rights defenders, the Court considers that all the measures designed to mitigate the risks they run should be adopted with a gender perspective and with an intersectional approach, so that these women can be provided with comprehensive protection based on considering, understanding and highlighting the complexities of the different forms of violence that women defenders face due to their profession and their gender";

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 22: "Strongly encourages States to develop and put in place comprehensive, sustainable and age- and gender-responsive public policies and programmes that support and protect human rights defenders at all stages of their work, online and offline, that ensure effective coordination between relevant institutional actors, including coordination within national and local levels, and address causes of attacks against defenders and barriers against the defence of rights, and that take into account, inter alia, the diversity of human rights defenders and the diverse contexts in which they operate, and the intersectional dimensions of violations and abuses against women human rights defenders, indigenous peoples, children, persons with disabilities, persons belonging to minorities and rural communities";

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/74/146 (2020), para 18: "Strongly encourages States to develop and put in place comprehensive, sustainable and gender-responsive public policies and programmes that support and protect human rights defenders at all stages of their work, that ensure effective coordination between relevant institutional actors, including coordination within national and local levels, and address causes of attacks against defenders and barriers against the defence of rights, and that take into account, inter alia, the diverse situations of human rights defenders and the contexts in which they operate, and the intersectional dimensions of violations and abuses against women human rights defenders, indigenous peoples, children, persons belonging to minorities and rural communities";

UNHRC Resolution, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, UN Doc. A/HRC/RES/40/11 (2019), para 9: "[...] urges States to develop and appropriately resource protection initiatives for human rights defenders, to ensure that human rights defenders are meaningfully consulted in the provision and implementation of protection measures, and also to ensure that the measures are holistic, including both individual and collective protection aspects [...]";

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), para 111: "The Special Rapporteur proposes seven principles that, in his view, should underpin good practices by States in the protection of human rights defenders [...] Principle 3: They should recognize the significance of gender in the protection of defenders and apply an intersectionality approach to the assessment of risks and to the design of protection initiatives. They should also recognize that some defenders are at greater risk than others because of who they are and what they do";

- (3) States shall ensure that both preventive and reactive measures are taken and implemented to ensure the security and protection of human rights defenders at risk, including by:
 - (a) Expediting the trials and release of persons detained on account of their exercise of the right to defend human rights, and ending all forms of harassment and other adverse actions against human rights defenders as a result of their work or activities;⁶⁴ and
 - (b) Ensuring that the protections available for human rights defenders are implemented and enforced, with clear procedures for redress and remedy in the event of the violation of the human rights and fundamental freedoms referred to in the Declaration and this Declaration +25, including those caused by non-State actors (including business enterprises).⁶⁵

IACmHR, Basic Guidelines for Investigating Crimes against Human Rights Defenders in the Northern Triangle, OEA/Ser.L/V/II. Doc. 110 (2021), para 61: "The Commission has also issued recommendations for defenders of specific rights. In that regard, judicial authorities must seek to adopt cross-cutting and differentiated ethnic-racial and gender approaches when investigating, trying, and punishing crimes against these defenders and when providing reparations for them".

64 ICCPR, Article 9: "1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement. 4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. 5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation";

ECHR, Article 5 and ACHR, Article 7: providing for the right to liberty and security of persons and basic safeguards against arbitrary detention;

Valle Jaramillo et al v Colombia, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 192, 27 November 2008, para 69: "[T]he Commission and the representatives indicated that the illegal and arbitrary detention of Jesús María Valle Jaramillo, Nelly Valle Jaramillo, and Carlos Jaramillo Correa placed them in a situation of vulnerability resulting in the real and imminent danger that their other rights would be violated. According to the representatives, the situation of 'absolute defenselessness [...]' must have caused them immense anguish, since the outcome was predictable; acts that corresponded to cruel, inhuman, and degrading treatment.' In addition, the Commission and the representatives alleged that 'the execution of [Jesús María] Valle Jaramillo had a specific and grave impact on the stability of the family, which was deprived of the person who guided and supported it,' 'because the pain and suffering caused by both his death and the circumstances surrounding the case constitute a violation of the physical and moral integrity of all [his] family'";

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 8: The General Assembly [...] calls upon States to take concrete steps to prevent and put an end to the arbitrary arrest and detention of human rights defenders, and in this regard strongly urges the release of persons detained or imprisoned, in violation of the obligations and commitments of States under international human rights law, for exercising their human rights and fundamental freedoms, such as the rights to freedom of expression, peaceful assembly and association, including in relation to cooperation with the United Nations or other international mechanisms in the area of human rights";

UNHRC Resolution, Arbitrary detention, UN Doc. A/HRC/RES/51/8 (2022), para 8(l): "The Human Rights Council [...] [e]ncourages all States [...] to release all persons detained or imprisoned in violation of the obligations of States under international human rights law for exercising their human rights and fundamental freedoms, such as the rights to freedom of expression, peaceful assembly and association, including in relation to cooperation with the United Nations or other international mechanisms in the area of human rights";

UNHRC, Opinion of the Working Group on Arbitrary Detention No 62/2018 (China), UN Doc. A/HRC/WGAD/2018/62 (2018), para , 58: "The Working Group has emphasized in its reports that vague and imprecisely worded laws jeopardize the fundamental rights of those who wish to exercise their right to hold an opinion or exercise their freedoms of expression, of the press, of assembly and of religion, as well as to defend human rights, and that such laws are likely to result in arbitrary deprivation of liberty. The Working Group has recommended in the past that crimes be defined in precise terms, and that legislative measures be taken to introduce an exemption from criminal responsibility for those who peacefully exercise their rights guaranteed in the Universal Declaration of Human Rights. The Working Group considers that, in the circumstances of the present case, the laws used to charge the detainees were so vague and overly broad that it was impossible to invoke a legal basis justifying the deprivation of liberty".

65 *González et al ("Cotton Field") v Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 205, 16 November 2009, para 497: "The Commission asked the Tribunal to order the State to improve the overall institutional capacity to combat the pattern of impunity in the cases of violence against women in Ciudad Juárez by conducting effective criminal investigations, followed by constant judicial control, in order to ensure adequate punishment and redress";

ARTICLE 7

Comprehensive Protection of Human Rights Defenders at Risk

Note: *Human rights advocacy is often conducted in contexts of high stress, risk, and exposure. The Declaration, however, lacks specific provisions addressing this. The consolidated report from consultations undertaken with human rights defenders in developing this Declaration +25 documents that mental health and psychosocial impacts are among the most common challenges faced by human rights defenders.*

States must recognize the significant risks faced by human rights defenders, including threats, violence, stigmatization, and other challenges to their work and operational environments. In light of these realities, this provision emphasizes the need for States to provide comprehensive protection that includes physical, psychosocial, and digital safety and security for human rights defenders. This entails safeguarding not only their physical safety but also attending to their overall well-being, encompassing their health, legal rights, and socio-economic well-being.

States shall take all necessary measures to ensure the comprehensive protection of human rights defenders and their communities and enable them to continue their work or activities, whether individually or collectively. States shall implement public policies and measures designed to respect the rights of human rights defenders; prevent violations of their rights; diligently investigate violations and abuses against them; and ensure accountability for the perpetrators and masterminds of any attack on human rights defenders.⁶⁶

UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add. 13 (2004), para 15: "Article 2, paragraph 3 [of the ICCPR], requires that in addition to effective protection of Covenant rights States Parties must ensure that individuals also have accessible and effective remedies to vindicate those rights. Such remedies should be appropriately adapted so as to take account of the special vulnerability of certain categories of person, including in particular children";

UNHRC Resolution, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, UN Doc. A/HRC/RES/40/11 (2019), para 14(g): "To provide for effective remedies for human rights violations and abuses, including those relating to the enjoyment of a safe, clean, healthy and sustainable environment, in accordance with their international obligations and commitments";

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 13: "The Human Rights Council [...] [a]lso calls upon States [...] to take the steps necessary to provide effective and accessible remedies for survivors, including access to reparations and psychosocial support, access to justice and accountability for perpetrators";

Parliamentary Assembly of the Council of Europe, Protecting human rights defenders in Council of Europe Member States, Resolution 2225 (2018), para 5.3: "The Assembly therefore calls on member States to [...] ensure that human rights defenders have access to effective domestic remedies with respect to violations of their rights, especially those related to their work".

66 The Declaration, Article 12(2): "The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration";

ICCPR, Articles 6(1), 7: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life - text to Article 6(1)" [...] "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation - text to Article 7";

ECHR, Articles 2(1), 3: "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law - text to Article 2(1)" [...] "No one shall be subjected to torture or to inhuman or degrading treatment or punishment - text to Article 3";

ACHR, Articles 4(1), 5(1)-5(3): "Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life - text to Article 4(1)" [...] "1. Every person has the right to have his physical, mental, and moral integrity respected. 2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person. 3. Punishment shall not be extended to any person other than the criminal - text to Articles 5(1)-5(3)";

In the implementation of such measures, States should, in consultation and agreement with affected human rights defenders and communities:

- (a) Take effective measures for the physical protection and digital security of human rights defenders, as part of promoting dignity and respecting the human rights, fundamental freedoms and autonomy of individuals and organizations.⁶⁷

González et al ("Cotton Field") v Mexico, Preliminary Objection, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 205, 16 November 2009, para 258: "The foregoing reveals that States should adopt comprehensive measures to comply with due diligence in cases of violence against women. In particular, they should have an appropriate legal framework for protection that is enforced effectively, and prevention policies and practices that allow effective measures to be taken in response to the respective complaints";

Council of Europe, Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities, 6 February 2008, para 2(iv): urging Member States to "take effective measures to prevent attacks on or harassment of human rights defenders, ensure independent and effective investigation of such acts and to hold those responsible accountable through administrative measures and/or criminal proceedings";

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 12: "The General Assembly [...] [e]ncourages States to develop and put in place sustainable public policies or programmes that support and protect human rights defenders at all stages of their work in a comprehensive manner";

UNHRC Resolution, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, UN Doc. A/HRC/RES/40/11 (2019), preamble: [...] "Recognizing that the protection of environmental human rights defenders is inherently linked to the protection of their communities and can only be fully achieved in the context of a holistic approach that includes the strengthening of democratic institutions, the fight against impunity, a reduction in economic inequality and equal access to justice";

UNHRC Resolution, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, UN Doc. A/HRC/RES/40/11 (2019), para 9: "The Human Rights Council [...] [a]lso urges States to develop and appropriately resource protection initiatives for human rights defenders, to ensure that human rights defenders are meaningfully consulted in the provision and implementation of protection measures, and also to ensure that the measures are holistic, including both individual and collective protection aspects, and that these measures also function as early warning and rapid response mechanisms that enable human rights defenders, when threatened, to have immediate access to authorities that are competent and adequately resourced to provide effective protective measures, taking into account the intersectional dimensions of violations and abuses against women human rights defenders, indigenous peoples, children, persons belonging to minorities, an rural and marginalized communities";

UN Human Rights Committee, Views of the UN Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political rights, *Evangeline Hernández v Philippines*, UN Doc. CCPR/C/99/D/1559/2007, para 4.6: "if a State fails to investigate, prosecute or redress, private non-State acts in violation of fundamental rights, it is in effect aiding the perpetrators of such violations for which it could be held responsible under international law";

Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, UN Doc. A/HRC/23/49 (2013), paras 70-71: "There is a need to create a framework for discussing the responsibility of States to act with due diligence, by separating the due diligence standard into two categories: individual due diligence and systemic due diligence [...] Systemic due diligence refers to the obligations States must take to ensure a holistic and sustained model of prevention, protection, punishment and reparations for acts of violence against women. At a systemic level, States can meet their responsibility to protect, prevent and punish by, among other things, adopting or modifying legislation; developing strategies, action plans";

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), para 115(e): "States, businesses, NGOs and donors should support [...] [t]he development of holistic protection projects, including psychosocial support for human rights defenders";

Report of Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), para 111: Principle 7: "The Special Rapporteur proposes seven principles that, in his view, should underpin good practices by States in the protection of human rights defenders [...] [States] "should be flexible, adaptable and tailored to the specific needs and circumstances of defenders";

IACmHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.Doc 66 (2011), para 523: "[...] the State must ensure that the beneficiary human rights defender plays an active role in selecting the appropriate protection measures";

IACmHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.Doc 66 (2011), para 237: "The obligation to investigate and punish every act that entails a violation of the rights protected by the Convention requires that not only the direct perpetrators of human rights violations be punished, but also the masterminds".

⁶⁷ See footnote 24 above;

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 2: "The General Assembly [...] [c]alls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders";

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 2: "The Human Rights Council [...] Urges States to create a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity, in the whole country and in all sectors of society";

- (b) Promote the health and well-being of human rights defenders who are survivors of traumatic events or are exposed to prolonged traumatic stress due to their work by providing access to safe physical and psychological health assistance and social support. This support should be accessible, confidential, culturally appropriate, and non-discriminatory, taking into account the specific needs of human rights defenders.⁶⁸
- (c) Take effective measures to address the structural conditions that create or accentuate the risks faced by human rights defenders, including impunity and lack of accountability,⁶⁹ political instability such as militarization, states of emergency and extremism, any form of systemic discrimination, and transnational repression.

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 2: “urges States to create and support a safe, enabling, accessible and inclusive environment online and offline for [the human rights defenders’] participation in all relevant activities”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/25/55 (2013), para 131 (a), (e) and (f): “Member States should [...] (a) [e]nsure that defenders can conduct their work in a conducive legal, institutional and administrative framework [...] (e) [e]nsure that violations by State and non-State actors against defenders, particularly women defenders, are promptly and impartially investigated and ensure that perpetrators are brought to justice. Furthermore, provide material resources to ensure the physical and psychological protection of defenders, including through gender-sensitive policies and mechanisms; (f) [p]ublicly acknowledge the particular and significant role played by women human rights defenders, and those working on women’s rights or gender issues, and make sure that they are able to work in an environment free from violence and discrimination of any sort”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), para 111, Principle 4: “The Special Rapporteur proposes seven principles that, in his view, should underpin good practices by States in the protection of human rights defenders [...] [States] should focus on the “holistic security” of defenders, in particular their physical safety, digital security and psychosocial well-being”.

68 ICESCR, Article 12(1): “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”;

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 21: “The General Assembly [...] [u]rges States to adopt and implement policies and programmes that provide women human rights defenders with access to effective remedies, including by ensuring [...] (b) adequate access to comprehensive support services for those women human rights defenders who experience violence, including shelters, psychological services, counselling, medical care and legal and social service”;

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 14: “The Human Rights Council [...] [s]tresses the importance of access to psychosocial support and rehabilitation programmes, including for human rights defenders, inter alia women human rights defenders, affected by conflict-induced and work-related trauma, and urges States to develop, where necessary, and to support such programmes”;

CESCR, Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights, General Comment No 14 UN Doc. E/C.12/2000/4 (2000), paras 23, 36: “States parties should provide a safe and supportive environment for adolescents, that ensures the opportunity to participate in decisions affecting their health, to build life-skills, to acquire appropriate information, to receive counselling and to negotiate the health-behaviour choices they make. The realization of the right to health of adolescents is dependent on the development of youth-friendly health care, which respects confidentiality and privacy and includes appropriate sexual and reproductive health services [...] The obligation to fulfil requires States parties, inter alia, to give sufficient recognition to the right to health in the national political and legal systems, preferably by way of legislative implementation, and to adopt a national health policy with a detailed plan for realizing the right to health”;

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights Defenders, UN Doc. A/HRC/46/35 (2020), para 115(b): “States, businesses, NGOs and donors should support [...] [p]rogrammes for self-protection and psychosocial support”;

Council of Europe, Round-table on Combating racism and racial discrimination against people of African descent in Europe, organized by the Office of the Council of Europe Commissioner for Human Rights, Report (2021), para 43: “Regarding human rights defenders working on combating Afrophobia, the Commissioner considers that member states should [...] (e)nsure the non-discriminatory and transparent allocation of funds, covering also the resources needed to safeguard the well-being of human rights defenders, including their mental health care”.

69 *González et al (“Cotton Field”) v Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 205, 16 November 2009, para 497: “The Commission asked the Tribunal to order the State to improve the overall institutional capacity to combat the pattern of impunity in the cases of violence against women in Ciudad Juárez by conducting effective criminal investigations, followed by constant judicial control, in order to ensure adequate punishment and redress”;

Nogueira de Carvalho et al v Brazil, Preliminary Objection and Merits, Inter-Am. Ct. H.R. (ser. C) No 161, 28 November 2006, para 77: “The States have the duty to provide the resources necessary for human rights defenders to conduct their activities freely; to protect them when they are subject to threats and thus ward off any attempt against their life and safety; to refrain from setting up hindrances that might make their work more difficult, and to conduct conscientious, effective investigations of violations against them, thus preventing impunity”.

- (d) Support the creation, maintenance and adequate resourcing of emergency and rapid response mechanisms for human rights defenders.⁷⁰
- (e) Ensure access to an independent and impartial judiciary and provide legal aid in criminal proceedings arising as a result of their work or activities defending human rights.⁷¹ States should also provide legal aid in other cases where individuals do not have sufficient means to pay, particularly cases related to the exercise of the right to defend human rights.⁷²
- (f) Ensure that truth, reparations, and measures for the non-recurrence of human rights violations are implemented with regard to violations and abuses against human rights defenders and communities, and take appropriate action to investigate, prosecute and

70 UNHRC Resolution, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, UN Doc. A/HRC/RES/40/11 (2019), para 9: "The Human Rights Council [...] [a]lso urges States to develop and appropriately resource protection initiatives for human rights defenders, to ensure that human rights defenders are meaningfully consulted in the provision and implementation of protection measures, and also to ensure that the measures are holistic, including both individual and collective protection aspects, and that these measures also function as early warning and rapid response mechanisms that enable human rights defenders, when threatened, to have immediate access to authorities that are competent and adequately resourced to provide effective protective measures, taking into account the intersectional dimensions of violations and abuses against women human rights defenders, indigenous peoples, children, persons belonging to minorities, an rural and marginalized communities";

OAS General Assembly Resolution, Human Rights Defenders: Support for the individuals, groups, and organizations of civil society working to promote and protect human rights in the Americas, AG/RES. 2280 (XXXVII-O/07) (2007), para 6: "To urge member states to continue stepping up their efforts to adopt necessary measures to safeguard the lives, freedom, and personal safety of human rights defenders and their relatives, including effective emergency protection measures in the case of imminent threat or danger";

Council of Europe, Round-table on Human rights of LGBTI people in Europe: current threats to equal rights, challenges faced by defenders and the way forward, organized by the Office of the Council of Europe Commissioner for Human Rights, Report (2021), para 80: "Member states should fulfil the obligation to protect LGBTI human rights defenders who are in danger, including by ensuring that they have access to emergency protection mechanisms. Such emergency assistance programmes provide financial support to address urgent needs, including medical expenses, legal representation, temporary relocation, dependant support etc.".

71 ICCPR, Article 2(3): "Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted";

ICCPR, Article 14: protecting the right of everyone to equality before the courts and tribunals and to a fair trial, especially in criminal proceedings;

ACHR, Article 8: providing for the right to a fair trial;

ECHR, Articles 6(1), 7, 13: "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law – text to Article 6" [...] "1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed. 2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations – text to Article 7" [...] "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity – text to Article 13";

ACHR, Article 25: providing for the right to judicial protection;

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), para 115(i): "The Special Rapporteur recommends that States [...] [e]nsure that human rights defenders have access to justice and to effective remedies through national courts".

72 UNGA Resolution, The rule of law at the national and international levels, UN Doc. A/RES/66/102 (2012), para 14: "We emphasize the right of equal access to justice for all, including members of vulnerable groups, and the importance of awareness-raising concerning legal rights, and in this regard we commit to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid";

Committee on the Elimination of Racial Discrimination, Concluding observations on the combined nineteenth to twenty-first periodic reports of Sweden, adopted by the Committee at its eighty-third session (12–30 August 2013), UN Doc. CERD/C/SWE/CO/19-21 (2013), para 21: recommended that Sweden "implement the measures proposed by the Ombudsman in order to provide financial assistance to individuals and associations to facilitate litigation in discrimination cases [...] and strengthen the legal aid system".

sanction any State or non-State actor responsible for any attacks against human rights defenders or their communities.⁷³

- (g) Ensure coordination and collaboration between national and local authorities so that effective and safe protection measures can be adapted to safeguard human rights defenders in hostile environments and in remote and rural areas.⁷⁴

⁷³ See footnote 32 above;

UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), para 19: "The Committee further takes the view that the right to an effective remedy may in certain circumstances require States Parties to provide for and implement provisional or interim measures to avoid continuing violations and to endeavour to repair at the earliest possible opportunity any harm that may have been caused by such violations";

UNGA Resolution, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN Doc. A/RES/60/147 (2006), paras 20-24: "Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as: (a) Physical or mental harm; (b) Lost opportunities, including employment, education and social benefits; (c) Material damages and loss of earnings, including loss of earning potential; (d) Moral damage; (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services – text of para 20" [...] "Rehabilitation should include medical and psychological care as well as legal and social services – text of para 21" [...] "Satisfaction should include, where applicable, any or all of the following: (a) Effective measures aimed at the cessation of continuing violations; (b) Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations; (c) The search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities; (d) An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim; (e) Public apology, including acknowledgement of the facts and acceptance of responsibility; (f) Judicial and administrative sanctions against persons liable for the violations; (g) Commemorations and tributes to the victims; (h) Inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels – text of para 22" [...] "Guarantees of non-repetition should include, where applicable, any or all of the following measures, which will also contribute to prevention: (a) Ensuring effective civilian control of military and security forces; (b) Ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality; (c) Strengthening the independence of the judiciary; (d) Protecting persons in the legal, medical and health-care professions, the media and other related professions, and human rights defenders; (e) Providing, on a priority and continued basis, human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces; (f) Promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises; (g) Promoting mechanisms for preventing and monitoring social conflicts and their resolution; (h) Reviewing and reforming laws contributing to or allowing gross violations of international human rights law and serious violations of international humanitarian law – text of para 23" [...] "States should develop means of informing the general public and, in particular, victims of gross violations of international human rights law and serious violations of international humanitarian law of the rights and remedies addressed by these Basic Principles and Guidelines and of all available legal, medical, psychological, social, administrative and all other services to which victims may have a right of access. Moreover, victims and their representatives should be entitled to seek and obtain information on the causes leading to their victimization and on the causes and conditions pertaining to the gross violations of international human rights law and serious violations of international humanitarian law and to learn the truth in regard to these violations – text of para 24";

UNHRC, Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, The Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, UN Doc. A/HRC/17/31 (2011), Principles 15, 25, 26, 27: "In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including: (a) A policy commitment to meet their responsibility to respect human rights; (b) A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights; (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute – text of Principle 15" [...] "As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy – text of Principle 25" [...] "States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy – text of Principle 26" [...] "States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse – text of Principle 27".

⁷⁴ IACmHR, Report on the Situation of Human Rights Defenders and Social Leaders in Colombia, OEA/Ser.L/V/II. Doc. 262 (2019), para 314(8): "The Commission recommends that the State [...] [i]mprove coordination between national and local authorities so that protection measures can be adapted to safeguard the rights of human rights defenders and social leaders and ensure that the measures are effective in remote rural areas";

ARTICLE 8

Protection of Human Rights Defenders' Families, Relatives, Associates, Representatives, and Communities

Note: This provision aims to extend the protections recognized for human rights defenders to their families, relatives, associates, representatives, and communities, specifically because these individuals can face a range of adverse actions as a result of their links with human rights defenders. The Declaration +25 does not seek to define the terms "families", "relatives", "associates", "representatives", or "communities". These terms are to be interpreted in the broadest sense so as to encompass a wide range of familial and social structures. In particular, a broad interpretation of "families" is preferred including to acknowledge non-traditional family units, unmarried partners, and chosen families.

States should ensure that the protection of, and support for, human rights defenders as set out in the Declaration and in this Declaration +25 extends to:

(a) relatives and members of their families;⁷⁵

Combined report of seven thematic special procedures on technical assistance to the government of the Democratic Republic of Congo and urgent examination of the situation in the east of the country, UN Doc. A/HRC/10/59 (2009), para 113: "Donors should consider assisting the Ministry with funding to re-establish small offices in the provinces and enable them to deal with complaints of the population against government officials regarding human rights issues".

⁷⁵ *Luna Lopez v Honduras*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 169, 10 October 2013, para 201: "The Court has stated, on many occasions that the families of victims of human rights violations may, in turn, be victims";

Members of the Corporation Lawyers Collective "José Alvear Restrepo" (CAJAR) v Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 506, 18 October 2023, paras 885, 907 (free translation): "The above paragraphs indicate the existence of a different type of risk faced by women defenders, compared to their male colleagues, for specific gender reasons, which also involves the role that some of them play as mothers, extending that risk to their sons, daughters and other members of their families [...] The Court has considered, on repeated occasions, that the family members of victims of human rights violations can be, in turn, victims. This Court has considered that the right to psychological and moral integrity of the 'direct family members' of victims and of other persons with close ties to victims may be declared violated, due to the additional suffering that they have endured as a result of the particular circumstances of the violations perpetrated against their relatives, and due to the subsequent actions or omissions of the State authorities in the face of these acts, taking into account, among others, the steps taken to obtain justice and the existence of a close family relationship";

Human Rights Defender et al v Guatemala, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 283, 28 August 2014, para 242: holding that the State's failure to investigate threats to a murdered human rights defender's family members involved in judicial proceedings amounted to a violation of the right to fair trial and guarantees of judicial protection;

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 10(b): "The General Assembly [...] [c]alls upon States [...] to ensure that [...] [h]uman rights defenders, their family members, associates and legal representatives are not prevented from enjoying universal human rights owing to their work, including by ensuring that all legal provisions, administrative measures and policies affecting them, including those aimed at preserving public safety, public order and public morals, are minimally restrictive, clearly defined, determinable, non-retroactive and compatible with the obligations and commitments of States under international human rights law";

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 17: "The General Assembly [...] [s]trongly calls upon States to refrain from, and ensure adequate protection from, any act of intimidation or reprisal against women human rights defenders who cooperate, have cooperated or seek to cooperate with international institutions, including their family members and associates;

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 14: "The Human Rights Council [...] [s]trongly calls upon all States [...] (a) [t]o refrain from, and ensure adequate protection from, any act of intimidation or reprisals against those who cooperate, have cooperated or seek to cooperate with international institutions, including their family members and associates; (b) [t]o fulfil the duty to end impunity for any such acts of intimidation or reprisals by bringing the perpetrators to justice and by providing an effective remedy for their victims; (c) [t]o avoid legislation that has the effect of undermining the right [of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms]";

- (b) associates, whether professional or otherwise, and representatives, including legal representatives;⁷⁶ and
- (c) communities⁷⁷

who may be subjected to violations, abuses or other adverse actions as a result of their links, association with, or support to human rights defenders.

Report of the Special Rapporteur on the situation of Human Rights Defenders, "We are not just the future": challenges faced by child and youth human rights defenders, UN Doc. A/HRC/55/50 (2024), para 117 (b): "On national and international protection mechanisms and standards, the Special Rapporteur recommends that States and, as appropriate, other relevant stakeholders [...] [a]dvocate laws that recognize and protect child and youth human rights defenders and their families";

OAS General Assembly Resolution, Human Rights Defenders: Support for the individuals, groups, and organizations of civil society working to promote and protect human rights in the Americas, AG/RES. 2280 (XXXVII-O/07) (2007), para 6: "To urge member states to continue stepping up their efforts to adopt necessary measures to safeguard the lives, freedom, and personal safety of human rights defenders and their relatives, including effective emergency protection measures in the case of imminent threat or danger";

ACmHPR, Resolution on the Situation of Human Rights Defenders in Africa, ACHPR/Res.376(LX)2017, para 3: "The Commission calls upon States Parties to [...] [a]dopt specific legislative measures to recognise the status of human rights defenders, and protect their rights and the rights of their colleagues and family members";

Request for an Advisory Opinion submitted by the Republic of Chile and the Republic of Colombia on 9 January 2023 regarding "Climate Emergency and Human Rights" - Joint written submission from the secretariat of the Aarhus Convention and the UN Special Rapporteur on environmental defenders under the Aarhus Convention, 9 January 2023, para 79(e) Principle 5: State measures "should acknowledge that defenders are interconnected. They should not focus on the rights and security of individual defenders alone, but also include the groups, organizations, communities and family members who share their risks".

76 See footnote 54 above;

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 10: "The General Assembly [...] [c]alls upon States [...] to ensure that [...] (b) [h]uman rights defenders, their family members, associates and legal representatives are not prevented from enjoying universal human rights owing to their work, including by ensuring that all legal provisions, administrative measures and policies affecting them, including those aimed at preserving public safety, public order and public morals, are minimally restrictive, clearly defined, determinable, non-retroactive and compatible with the obligations and commitments of States under international human rights law";

ACmHPR, Resolution on the Situation of Human Rights Defenders in Africa, ACHPR/Res.376(LX) (2017), para 3: "Adopt specific legislative measures to recognise the status of human rights defenders, and protect their rights and the rights of their colleagues and family members [...]".

77 UNHRC Resolution, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, UN Doc. A/HRC/RES/40/11 (2019), preamble: "[...]Recognizing that the protection of environmental human rights defenders is inherently linked to the protection of their communities and can only be fully achieved in the context of a holistic approach that includes the strengthening of democratic institutions, the fight against impunity, a reduction in economic inequality and equal access to justice";

Report of the Special Rapporteur on the situation of human rights defenders, "We are not just the future": challenges faced by child and youth human rights defenders, UN Doc. A/HRC/55/50 (2024), para 51: "Families and immediate communities are the most important reference frameworks, especially for child human rights defenders. They need to rely on their families as support systems to be able to carry out human rights activism, both in terms of financial capital and resources, and in terms of immaterial support and often agreement, to fully realize their ability to defend human rights";

Request for an Advisory Opinion submitted by the Republic of Chile and the Republic of Colombia on 9 January 2023 regarding "Climate Emergency and Human Rights" - Joint written submission from the secretariat of the Aarhus Convention and the UN Special Rapporteur on environmental defenders under the Aarhus Convention, 9 January 2023, para 79(e) Principle 5: State measures "should acknowledge that defenders are interconnected. They should not focus on the rights and security of individual defenders alone, but also include the groups, organizations, communities and family members who share their risks".

ARTICLE 9

Access to Information and Communication Technologies (ICTs) and Protection Against New and Emerging Forms of Technology-Facilitated Rights Violations

Note: ICTs are essential to the promotion, protection and effective realization of human rights and fundamental freedoms.

Human rights defenders are increasingly subject to (i) so called cyber-crimes when accessing the internet and mobile networks, (ii) targeted violence, harassment, disinformation, misinformation and malinformation on social media, (iii) cybersecurity vulnerabilities in the form of malware, spyware, and other technical attacks, and (iv) threats to their communications and identities, including via targeted and mass surveillance, and deceptive and maliciously-generated synthetic media. Their fundamental rights to privacy and data protection are often infringed due to methods of tracking, weakening encryption standards, forced identification and outlawing of anonymity, and controls on communications and information.

The Declaration does not consider these challenges, which have arisen with the rapid evolution of technology and widespread adoption of smartphones and social media since the adoption of the Declaration in 1998. While technology has helped empower defenders in promoting and protecting human rights, it has also given rise to new vulnerabilities. States and their law enforcement agencies (often through the help of other non-State actors, including business enterprises) often take down or censor the information shared by defenders on social media and other platforms. Digital technologies may also expose defenders' identities, whereabouts, activities and networks, and make them vulnerable to data leakages, digital traces, direct surveillance and interception. Human rights defenders are frequently intimidated, harassed, defamed, and publicly smeared online.

These platforms are also being used to spread hate speech and expose human rights defenders to new forms of abuse and threats, including specific forms against women human rights defenders. For example, social media platforms are sometimes misused for propaganda against – and the persecution of – human rights defenders. Defenders are targeted on social media platforms through doxxing, red-tagging, stigmatization, deep fakes, and defamation campaigns. Courts allow strategic lawsuits against public participation, imposing harsh civil and criminal penalties for legitimate online activities like newsgathering, tweeting, and the sharing of information in the public interest.

The provision below is aimed at ensuring that human rights defenders can use the power of information and communication technologies, including technical solutions such as encryption, in the context of their activities without facing risks. It also re-emphasizes defenders' right of access to information and to open, secure, and affordable ICTs such as the internet and mobile networks.

States should strengthen the right to defend human rights by developing, enacting and enforcing laws and policies aimed at protecting human rights defenders' access to universal, affordable, open, safe, interoperable, secure, and full and equal access to information and communication technologies.⁷⁸ This includes technical solutions to secure and protect the confidentiality of digital communications, including measures for encryption, pseudonymization, and anonymity.⁷⁹ States shall adopt legislative,

78 See footnote 14 on the right to information;

Yildirim v Turkey, Application No 3111/10, EctHR, Judgment, 18 December 2012, para 31: "The right to Internet access is considered to be inherent in the right to access information and communication protected by national Constitutions, and encompasses the right for each individual to participate in the information society and the obligation for States to guarantee access to the Internet for their citizens. It can therefore be inferred from all the general guarantees protecting freedom of expression that a right to unhindered Internet access should also be recognized";

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 9(g): "The Human Rights Council [...] [c]alls upon States [...] [t]o refrain from Internet shutdowns, network restrictions or any other measures aiming to disrupt or prevent human rights defenders from having access to and disseminating information and communicating safely and securely, including interference with the use of technologies, such as encryption and anonymity tools";

UNHRC Resolution, The promotion, protection and enjoyment of human rights on the Internet, UN Doc. A/HRC/RES/47/16 (2021), para 10: "The Human Rights Council [...] [a]lso encourages all States to take the necessary and appropriate measures to promote free, open interoperable, reliable and secure access to the Internet and, in a manner that complies with their international human rights obligations, address disinformation and advocacy of hatred constituting incitement to discrimination, hostility or violence, in order to ensure the full enjoyment of human right";

UNHRC Resolution, The promotion, protection and enjoyment of human rights on the Internet, UN Doc. A/HRC/RES/20/8 (2012), para 1: "The Human Rights Council [...] [a]ffirms that the same rights that people have offline must also be protected online";

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/66/290 (2011), para 12: "Despite the potential for the Internet to be misused in illegal activities, the Special Rapporteur believes that the Internet can primarily be used as a positive tool to increase transparency over the conduct of those in power, access diverse sources of information, facilitate active citizen participation in building democratic societies and counter authoritarian regimes, as demonstrated by the 'Arab spring'. Hence, the Special Rapporteur would like to reiterate that, as a general rule, there should be as little restriction as possible to the flow of information on the Internet, except under a few, very exceptional and limited circumstances prescribed by international law for the protection of other human rights";

Declaration signed by the UN Special Rapporteur on Freedom of Opinion and Expression, OSCE Representative on Freedom of the Media, OAS Special Rapporteur on Freedom of Expression and ACmHPR Special Rapporteur on Freedom of Expression and Access to Information, 1 June 2011, para 1(a): "Freedom of expression applies to the Internet, as it does to all means of communication"; para 6(a): "Giving effect to the right to freedom of expression imposes an obligation on States to promote universal access to the Internet. Access to the Internet is also necessary to promote respect for other rights, such as the rights to education, health care and work, the right to assembly and association, and the right to free elections"; para 6(e): "States are under a positive obligation to facilitate universal access to the Internet".

79 UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 9(g): "The Human Rights Council [...] [c]alls upon States [...] [t]o refrain from Internet shutdowns, network restrictions or any other measures aiming to disrupt or prevent human rights defenders from having access to and disseminating information and communicating safely and securely, including interference with the use of technologies, such as encryption and anonymity tools";

Council of Europe, Resolution No 1, Internet Freedom (2013), para 13(v): calling upon "the Council of Europe to examine closely the deliberate building of flaws and 'backdoors' in the security system of the Internet or otherwise deliberately weakening encryption system";

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/HRC/23/40 (2013), paras 88-90: "States should refrain from compelling the identification of users as a precondition for access to communications, including online services, cybercafés or mobile telephony – text of para 88" [...] Individuals should be free to use whatever technology they choose to secure their communications. States should not interfere with the use of encryption technologies, nor compel the provision of encryption keys – text of para 89" [...] States should not retain or require the retention of particular information purely for surveillance purposes – text of para 90";

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/HRC/17/27 (2011) para 84: "The Special Rapporteur [...] calls upon States to ensure that individuals can express themselves anonymously online and to refrain from adopting real-name registration systems";

Political Declaration adopted at the Council of Europe Conference of Ministers (2013), Political Declaration, para 7 emphasizing that "given the growing technological capabilities for electronic mass surveillance and the resulting concerns [...] there must be adequate and effective guarantees against abuse which may undermine or even destroy democracy".

policy, and other measures to protect rights to freedom of expression⁸⁰ and privacy⁸¹ and ensure protection from all forms of digital harassment, including technology-facilitated gender-based violence.⁸² Noting that States themselves, or their proxies, are often the perpetrators of such violations or abuses, they must ensure the protection and enabling of human rights in the digital realm.⁸³

80 See footnote 7 above on the right to freedom of expression;

Declaration signed by the UN Special Rapporteur on Freedom of Opinion and Expression, OSCE Representative on Freedom of the Media, OAS Special Rapporteur on Freedom of Expression and ACmHPR Special Rapporteur on Freedom of Expression and Access to Information, 1 June 2011, para 1 (a), 6: “Freedom of expression applies to the Internet, as it does to all means of communication – text of para 1 (a)” [...] “(a) Giving effect to the right to freedom of expression imposes an obligation on States to promote universal access to the Internet. Access to the Internet is also necessary to promote respect for other rights, such as the rights to education, health care and work, the right to assembly and association, and the right to free elections. (b) Cutting off access to the Internet, or parts of the Internet, for whole populations or segments of the public (shutting down the Internet) can never be justified, including on public order or national security grounds. The same applies to slow-downs imposed on the Internet or parts of the Internet. (c) Denying individuals the right to access the Internet as a punishment is an extreme measure, which could be justified only where less restrictive measures are not available and where ordered by a court, taking into account the impact of this measure on the enjoyment of human rights. (d) Other measures which limit access to the Internet, such as imposing registration or other requirements on service providers, are not legitimate unless they conform to the test for restrictions on freedom of expression under international law. (e) States are under a positive obligation to facilitate universal access to the Internet. At a minimum, States should: i. Put in place regulatory mechanisms – which could include pricing regimes, universal service requirements and licensing agreements – that foster greater access to the Internet, including for the poor and in ‘last mile’ rural areas. ii. Provide direct support to facilitate access, including by establishing community-based ICT centres and other public access points. iii. Promote adequate awareness about both how to use the Internet and the benefits it can bring, especially among the poor, children and the elderly, and isolated rural populations. iv. Put in place special measures to ensure equitable access to the Internet for the disabled and for disadvantaged persons. (f) To implement the above, States should adopt detailed multi-year action plans for increasing access to the Internet which include clear and specific targets, as well as standards of transparency, public reporting and monitoring systems – text of para 6”.

81 See footnote 11 above on the right to privacy;

Charter of Fundamental Rights of the European Union, Article 8 (Protection of Personal Data): “1. Everyone has the right to the protection of personal data concerning him or her. 2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. 3. Compliance with these rules shall be subject to control by an independent authority”;

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 10(h): “The General Assembly [...] [c]alls upon States [...] to ensure that [...] [i]nformation and communications technologies are not used in a manner that amounts to arbitrary or unlawful interference with the privacy of individuals or the intimidation of human rights defenders”;

UNGA Resolution, The right to privacy in the digital age, UN Doc. A/RES/68/167 (2014), para 4(a): “The General Assembly [...] [c]alls upon all States [...] [t]o respect and protect the right to privacy, including in the context of digital communication.

82 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/74/146 (2020), para 13: “Also calls upon States to take appropriate measures for the prevention of all forms of violence, intimidation, threats and attacks against human rights defenders on the Internet and through digital technologies, and to protect human rights defenders, including women human rights defenders, in online spaces and to consider adopting laws, policies and practices that protect them from defamation and hate speech [...]”;

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 10(h): “The General Assembly [...] [c]alls upon States [...] to ensure that [...] [i]nformation and communications technologies are not used in a manner that amounts to arbitrary or unlawful interference with the privacy of individuals or the intimidation of human rights defenders”.

83 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 10: “Urges States to promote a safe and enabling environment, online and offline, including through the implementation of existing national legislation that is in compliance with international human rights law and, where necessary, through the adoption and implementation of more comprehensive legislative and administrative measures [...]”;

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 2: “The Human Rights Council [...] urges States to create and support a safe, enabling, accessible and inclusive environment online and offline for [the human rights defenders’] participation in all relevant activities”;

States should recognize the power that the online space and digital tools offer for the promotion, protection, and enjoyment of human rights, and the potential of the digital environment for the implementation of the rights contained in the Declaration and Declaration + 25.⁸⁴

In particular, States shall:

- (a) Ensure that human rights defenders enjoy, on a non-discriminatory basis and in all circumstances, including during emergencies, universal, affordable, open, safe, interoperable, secure, and full and equal access to ICTs.⁸⁵

UNHRC Resolution, The promotion, protection and enjoyment of human rights on the Internet, UN Doc. A/HRC/RES/20/8 (2012), para 1: "The Human Rights Council [...] [a]ffirms that the same rights that people have offline must also be protected online".

84 *Yildirim v Turkey*, Application No 3111/10, EctHR, Judgment, 18 December 2012, para 31: "The right to Internet access is considered to be inherent in the right to access information and communication protected by national Constitutions, and encompasses the right for each individual to participate in the information society and the obligation for States to guarantee access to the Internet for their citizens. It can therefore be inferred from all the general guarantees protecting freedom of expression that a right to unhindered Internet access should also be recognized";

UNHRC Resolution, The promotion, protection and enjoyment of human rights on the Internet, UN Doc. A/HRC/RES/47/16 (2021), para 10: "The Human Rights Council [...] [a]lso encourages all States to take the necessary and appropriate measures to promote free, open interoperable, reliable and secure access to the Internet and, in a manner that complies with their international human rights obligations, address disinformation and advocacy of hatred constituting incitement to discrimination, hostility or violence, in order to ensure the full enjoyment of human right";

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/66/290 (2011), para 12: "Despite the potential for the Internet to be misused in illegal activities, the Special Rapporteur believes that the Internet can primarily be used as a positive tool to increase transparency over the conduct of those in power, access diverse sources of information, facilitate active citizen participation in building democratic societies and counter authoritarian regimes, as demonstrated by the 'Arab spring'. Hence, the Special Rapporteur would like to reiterate that, as a general rule, there should be as little restriction as possible to the flow of information on the Internet, except under a few, very exceptional and limited circumstances prescribed by international law for the protection of other human rights";

UNHRC Resolution, Role of States in countering the negative impact of disinformation on the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/21 (2022), preamble para 7: "Emphasizing that disinformation can be designed and spread so as to mislead, and to violate and abuse human rights, including privacy and the freedom of individuals to seek, receive and impart information, including in times of emergency, crisis and armed conflict, when such information is vital";

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Disinformation and freedom of opinion and expression during armed conflicts, UN Doc. A/77/288 (2022), para 3: "Social media platforms play a dual role in modern conflicts. On the one hand, they enable people to remain connected to family, friends and the outside world and to access a wide range of critical life-saving information. On the other hand, they serve as vectors of disinformation, propaganda and hate speech".

85 The right to freedom of expression and access to information must be accorded to everyone without discrimination:

UDHR, Articles 1-2: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood – text of Article 1" [...] "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty – text of Article 2";

ICCPR, Articles 4(1), 26: "In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin – text of Article 4(1)" [...] "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status - text of Article 26";

ECHR, Article 14: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status";

Yildirim v Turkey, Application No 3111/10, EctHR, Judgment, 18 December 2012, para 31: "The right to Internet access is considered to be inherent in the right to access information and communication protected by national Constitutions, and encompasses the right for each individual to participate in the information society and the obligation for States to guarantee access to the Internet for their citizens. It can therefore be inferred from all the general guarantees protecting freedom of expression that a right to unhindered Internet access should also be recognized";

- (b) Not shut down the internet, limit bandwidth, or intentionally make electronic communications unavailable or inaccessible at any time, including during elections, protests, war, or humanitarian crises.⁸⁶
- (c) Enact laws and policies to recognize and protect the privacy of individuals' data and digital communications.⁸⁷ States shall not interfere with human rights defenders' use of technical

UNHRC Resolution, The promotion, protection and enjoyment of human rights on the Internet, UN Doc. A/HRC/RES/47/16 (2021), para 10: "The Human Rights Council [...] [a]lso encourages all States to take the necessary and appropriate measures to promote free, open interoperable, reliable and secure access to the Internet and, in a manner that complies with their international human rights obligations, address disinformation and advocacy of hatred constituting incitement to discrimination, hostility or violence, in order to ensure the full enjoyment of human right";

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/66/290 (2011), para 12: "Despite the potential for the Internet to be misused in illegal activities, the Special Rapporteur believes that the Internet can primarily be used as a positive tool to increase transparency over the conduct of those in power, access diverse sources of information, facilitate active citizen participation in building democratic societies and counter authoritarian regimes, as demonstrated by the 'Arab spring'. Hence, the Special Rapporteur would like to reiterate that, as a general rule, there should be as little restriction as possible to the flow of information on the Internet, except under a few, very exceptional and limited circumstances prescribed by international law for the protection of other human rights".

86 On the permissible restrictions on the right to freedom of expression, ICCPR, Article 19(3): "The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals";

Yildirim v Turkey, Application No 3111/10, EctHR, Judgment, 18 December 2012, paras 68-69: "The Court further observes that the measure in question produced arbitrary effects and could not be said to have been aimed solely at blocking access to the offending website, since it consisted in the wholesale blocking of all the sites hosted by Google Sites. Furthermore, the judicial review procedures concerning the blocking of Internet sites are insufficient to meet the criteria for avoiding abuse, as domestic law does not provide for any safeguards to ensure that a blocking order in respect of a specific site is not used as a means of blocking access in general. Accordingly, there has been a violation of Article 10 of the Convention";

UNHRC Resolution, Freedom of opinion and expression, UN Doc. A/HRC/RES/44/12 (2020), para 8(g): "The Human Rights Council [...] [a]ffirms that [c]alls upon all States [...] [t]o refrain from imposing restrictions that are inconsistent with article 19 of the International Covenant on Civil and Political Rights, including on the free flow of information and ideas, including through practices such as the use of Internet shutdowns to intentionally and arbitrarily prevent or disrupt access to or the dissemination of information online, the banning or closing of publications or other media and the abuse of administrative measures and censorship, and on access to or use of information and communications technology, inter alia radio, television and the Internet";

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 9(g): "The Human Rights Council [...] [c]alls upon States [...] [t]o refrain from Internet shutdowns, network restrictions or any other measures aiming to disrupt or prevent human rights defenders from having access to and disseminating information and communicating safely and securely, including interference with the use of technologies, such as encryption and anonymity tools";

UNHRC, Internet shutdowns: trends, causes, legal implications and impacts on a range of human rights, Report of the Office of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/50/55 (2022), paras 8-9: "Given the positive obligation of States to promote and facilitate the enjoyment of human rights, States should take all steps necessary to ensure that all individuals have meaningful access to the Internet. On the same grounds, States should refrain from interfering with access to the Internet and digital communications platforms unless such interference is in full compliance with the requirements of the applicable human rights instruments - text of para 8" [...] "While Internet shutdowns deeply affect many human rights, they most immediately affect freedom of expression and access to information - one of the foundations of free and democratic societies and an indispensable condition for the full development of the person. It is a touchstone for all other rights guaranteed in the International Covenant on Civil and Political Rights 8 and other human rights instruments. Any restriction on freedom of expression constitutes a serious curtailment of human rights - text of para 9";

UN Human Rights Committee, Consideration of Reports submitted by states parties under Article 40 of the Covenant, Concluding observations of the Human Rights Committee: Syrian Arab Republic, UN Doc. CCPR/CO/84/SYR (2005), para 14: "The State party should ensure that all legislation governing audio-visual and print media and the licensing regime are in full compliance with the requirements of article 19, and that any limitations on the content of publications and media broadcasts fall within the strict limits permissible under article 19 (3)".

87 See footnote 11 above on the right to privacy;

Charter of Fundamental Rights of the European Union, Article 8 (Protection of Personal Data): "1. Everyone has the right to the protection of personal data concerning him or her. 2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. 3. Compliance with these rules shall be subject to control by an independent authority";

UNGA Resolution, The right to privacy in the digital age, UN Doc. A/RES/68/167 (2014), para 4(a): "The General Assembly [...] [c]alls upon all States [...] [t]o respect and protect the right to privacy, including in the context of digital communication";

solutions, including measures for encryption, pseudonymization, and anonymity, with any restrictions thereon complying with international human rights law.⁸⁸

- (d) Take all necessary legislative, administrative, technical, and other measures, including ensuring private sector accountability,⁸⁹ to prevent, remedy, and eliminate cyber harassment, including technology-facilitated gender-based violence, smear campaigns, doxxing, the spread of malicious or deceptive generated media, and other threats against human rights defenders.⁹⁰ This includes when the State or its proxies are themselves the perpetrators of such harassment.
- (e) Refrain from or cease the use of artificial intelligence systems and other emerging technologies which cannot operate in compliance with international human rights law or that pose undue risks to the enjoyment of human rights, especially of those who are at risk, including human rights defenders.

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 10(h): “The General Assembly [...] [c]alls upon States [...] to ensure that [...] [i]nformation and communications technologies are not used in a manner that amounts to arbitrary or unlawful interference with the privacy of individuals or the intimidation of human rights defenders”.

88 UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 10(h): “Information and communications technologies are not used in a manner that amounts to arbitrary or unlawful interference with the privacy of individuals or the intimidation of human rights defenders”;

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 9(g): “The Human Rights Council [...] [c]alls upon States [...] [t]o refrain from Internet shutdowns, network restrictions or any other measures aiming to disrupt or prevent human rights defenders from having access to and disseminating information and communicating safely and securely, including interference with the use of technologies, such as encryption and anonymity tools”.

89 UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), para 8: “[...] the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities”;

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, UN Doc. A/HRC/47/39/Add.2 (2021), Pillar 1 (2): “States should set forth clear expectations for business enterprises regarding the importance of respecting the rights of human rights defenders”.

90 UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), preamble, para 12: “Aware that information-technology-related violations, abuses, discrimination and violence against women, including women human rights defenders, such as online harassment, cyberstalking, violation of privacy, censorship and the hacking of e-mail accounts, mobile phones and other electronic devices, with a view to discrediting them and/or inciting other violations and abuses against them, are a growing concern and can be a manifestation of systemic gender-based discrimination, requiring effective responses compliant with human rights”;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 18: calling upon States to “[...] protect human rights defenders, including women human rights defenders, in online spaces and to consider adopting laws, policies and practices that protect them against online threats of violence and intimidation while also affirming the rights to freedom of expression and privacy, and further encourages social media companies to condemn attacks against human rights defenders when they occur on their platforms”;

UNHRC, Report of the UN Working Group on the issue of discrimination against women in law and in practice, UN Doc. A/HRC/23/50, 19 April 2013, para 66: “The Internet has become a site of diverse forms of violence against women, in the form of pornography, sexist games and breaches of privacy. For women who engage in public debate through the Internet, the risk of harassment is experienced online, for example, an anonymous negative campaign calling for the gang rape of a woman human rights defender, with racist abuse posted in her Wikipedia profile. Female ICT users have publicly protested about sexist attacks”;

Report of the Special Rapporteur on the situation of Human Rights, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), para 112: “States should [...] [e]stablish mechanisms to deal with smear campaigns in the media, both offline and online”.

- (f) Implement a ban on the sale, export, transfer, and use of surveillance technology until human rights safeguards are in place.⁹¹ This should include a ban on uses of facial recognition and remote biometric recognition technologies that enable mass surveillance,

⁹¹ ICCPR, Article 17(2): “Everyone has the right to the protection of the law against such interference or attacks”;

ECHR, Article 8(2): “There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”;

Shimovolos v Russia, Application No 30194/09, EctHR, Judgment, 21 June 2011, para 66, holding that the registration of a member of a human rights organization in a “Surveillance Database” that was not accessible to the public violated the right to privacy under the ECHR;

Association for European Integration and Human Rights and Ekimdzhiiev v Bulgaria, EctHR, Application No 62540/00, Judgment, 28 June 2007, para 76: “[...] the nature of the offences which may give rise to an interception order; a definition of the categories of people liable to have their communications monitored; a limit on the duration of such monitoring; the procedure to be followed for examining, using and storing the data obtained; the precautions to be taken when communicating the data to other parties; and the circumstances in which data obtained may or must be erased or the records destroyed”;

Members of the Corporation Lawyers Collective “José Alvear Restrepo” (CAJAR) v Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 506, 18 October 2023: “The effective protection of the rights to privacy and freedom of thought and expression, combined with the extreme risk of arbitrariness posed by the use of surveillance techniques [...] of communications, especially in light of existing new technologies, leads this Court to conclude that any measure in this regard (including interception, surveillance, and monitoring of all types of communication [...]) requires a judicial authority to decide on its merits, while also defining its limits, including the manner, duration, and scope of the authorized measure”;

UN Human Rights Committee, General Comment No 16, Article 17 “Right to Privacy”, The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation (1988), para 8: “[s]urveillance, whether electronic or otherwise, interceptions of telephonic, telegraphic and other forms of communication, wire-tapping and recording of conversations should be prohibited [...]”;

UNGA Resolution, The right to privacy in the digital age, UN Doc. A/RES/68/167 (2014), preamble, para 4: “Noting that the rapid pace of technological development enables individuals all over the world to use new information and communication technologies and at the same time enhances the capacity of governments, companies and individuals to undertake surveillance, interception and data collection, which may violate or abuse human rights”;

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 9(h): “The Human Rights Council [...] [c]alls upon States [...] [t]o refrain from the use of surveillance technologies against human rights defenders, including through hacking, in a manner that is not compliant with international human rights obligations and commitments”;

Parliamentary Assembly of the Council of Europe, Protecting human rights defenders in Council of Europe Member States, Resolution 2225 (2018), para 5.8: “refrain from arbitrary surveillance of human rights defenders online and other communications”;

Declaration of the Committee of Ministers on Risks to Fundamental Rights stemming from Digital Tracking and other Surveillance Technologies, 11 June 2013, para 2: “Data processing in the information society which is carried out without the necessary safeguards and security can raise major human rights related concerns. Legislation allowing broad surveillance of citizens can be found contrary to the right to respect of private life”;

Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, Compilation of good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism, including on their oversight, UN Doc. A/HRC/14/46, para 34: “In most States, intelligence services have recourse to intrusive measures, such as covert surveillance and the interception of communications, in order to collect information necessary to fulfil their mandates. It is a fundamental requirement of the rule of law that individuals must be aware of measures that public authorities may use to restrict their rights and be able to foresee which activities may give rise to their use. National law outlines the categories of persons and activities that may be subject to intelligence collection, as well as the threshold of suspicion required for particular collection measures to be initiated. Some national laws also impose specific limitations on the use of intrusive collection measures against particular categories of individuals, notably journalists and lawyers. These measures are designed to protect professional privileges deemed to be essential to the functioning of a free society, such as the right of journalists not to disclose their sources, or lawyer-client privilege. Strict limitations on the use of intrusive collection methods help to ensure that intelligence collection is both necessary and limited to individuals and groups that are likely to be involved in activities posing a threat to national security. National law also includes guidelines on the permissible duration of the use of intrusive collection measures, after which time intelligence services are required to seek reauthorization in order to continue using them. Similarly, it is good practice for national law to require that intelligence collection measures are ceased as soon as the purpose for which they were used has been fulfilled or if it becomes clear that that purpose cannot be met. These provisions serve to minimize infringements on the rights of individuals concerned and help to ensure that intelligence-collection measures meet the requirement of proportionality”;

UN Human Rights Committee, Concluding observations on the fourth periodic report of the United States of America, UN Doc. CCPR/C/USA/CO/4 (2014), para 22: calling on a State to ensure that its surveillance activities fully conform with its obligations under the ICCPR, including Article 17, and more specifically that any interference “be authorized by laws that (i) are publicly accessible; (ii) contain provisions that ensure that collection of, access to and use of communications data are tailored to specific legitimate aims; (iii) are sufficiently precise and specify in detail the precise circumstances in which any such interference may be permitted; the procedures for authorizing; the categories of persons who may be placed under surveillance; limits on the duration of surveillance; procedures for the use and storage of the data collected; and (iv) provide for effective safeguards against abuse”;

and discriminatory targeted surveillance, including so-called emotion recognition and gender detection technologies, which fail to respect human dignity and violate human rights by design.⁹²

- (g) Ensure that any personal data collected, stored, processed, analyzed, or otherwise used by business enterprises or government bodies is done so consistently with human rights,⁹³

⁹² UNHRC Resolution, The promotion and protection of human rights in the context of peaceful protests, UN Doc. A/HRC/RES/50/21 (2022), para 29: “The Human Rights Council [...] [u]rges States to refrain from the arbitrary or unlawful use of biometric identification technologies, including facial recognition, to identify those peacefully participating in an assembly”.

⁹³ See footnotes 11 and 84 above on the right to privacy;

Charter of Fundamental Rights of the European Union, Article 8(1): “everyone has the right to the protection of personal data concerning him or her”;

Z v Finland, Application No 22009/93, EctHR, Judgment, 25 February 1997, para 95: “the protection of personal data [...] is of fundamental importance to a person’s enjoyment of his or her right to respect for private and family life as guaranteed by the Article 8 of the Convention (art. 8)”;

Association for European Integration and Human Rights and Ekimdzhiiev v Bulgaria, Application No 62540/00, EctHR, Judgment, 28 June 2007, paras 76-77: recalling the minimum safeguards that should be set out in statute law to avoid abuses, including “the nature of the offences which may give rise to an interception order; a definition of the categories of people liable to have their communications monitored; a limit on the duration of such monitoring; the procedure to be followed for examining, using and storing the data obtained; the precautions to be taken when communicating the data to other parties; and the circumstances in which data obtained may or must be erased or the records destroyed”;

Liberty v UK, Application No 58243/001, EctHR, Judgment, 1 July 2008, para 69: finding the State to be in violation of Article 8 of the ECHR because it did not consider that “the domestic law at the relevant time indicated with sufficient clarity, so as to provide adequate protection against abuse of power, the scope or manner of exercise of the very wide discretion conferred on the State to intercept and examine external communications. In particular, it did not, as required by the Court’s case-law, set out in a form accessible to the public any indication of the procedure to be followed for selecting for examination, sharing, storing and destroying intercepted material”;

ASEAN Human Rights Declaration (2012), para 21: “[e]very person has the right to be free from arbitrary interference with his or her privacy, family, home, or correspondence including personal data”;

Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, ETS No 108, Article 9(2): recognizing that the ability to control the use of personal data is an essential element of the right to privacy and allowing for exceptions so long as they are provided for by the law of the State and constitute a necessary measure in a democratic society in the interests of protecting State security, public safety, the monetary interests of the State or the suppression of criminal offences;

UNGA Resolution, The right to privacy in the digital age, UN Doc. A/RES/75/176 (2020), para 7(c): calling upon States to “review, on a regular basis, their procedures, practices and legislation regarding the surveillance of communications, their interception and collection of personal data, including mass surveillance, interception and collection”;

UNGA Resolution, The right to privacy in the digital age, UN Doc. A/RES/68/167 (2014), preamble, para 4: “Noting that the rapid pace of technological development [...] enhances the capacity of governments, companies and individuals to undertake surveillance, interception and data collection, which may violate or abuse human rights”;

Declaration of the Committee of Ministers on Risks to Fundamental Rights stemming from Digital Tracking and other Surveillance Technologies, 11 June 2013, para 2: “Data processing in the information society which is carried out without the necessary safeguards and security can raise major human rights related concerns. Legislation allowing broad surveillance of citizens can be found contrary to the right to respect of private life”;

IACmHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.Doc 66 (2011), para 541(-15): “The Inter American Commission on Human Rights recommends to the States of the Americas [...] [to] [r]efrain from any type of arbitrary or abusive meddling in the home of human rights defenders or offices of human rights organizations, or in their correspondence and telephone and electronic communications. Instruct the authorities attached to state security agencies to respect these rights, and impose disciplinary and criminal sanctions on those who engage in such practices”;

UNHRC, The right to privacy in the digital age, Report of the Office of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/51/17 (2022), para 19: “Even if legitimate goals are being pursued, such as national security objectives or the protection of the rights of others, the assessment of the necessity and proportionality of the use of spyware severely limits the scenarios in which spyware would be permissible. There are strong arguments that tools such as Pegasus, which enable unfettered intrusions into people’s lives and can even reach into their inner thoughts, could affect the essence of the right to privacy and interfere with the absolute rights to freedom of thought and opinion. Given the substantial adverse impacts of the use of spyware and its reach far beyond any intended target, its use should be limited to cases where it would serve to prevent or investigate a specific serious crime or act amounting to a grave threat to national security. Its use should be narrowly targeted to an investigation of the person or persons suspected of committing or having committed such acts. This should be a last resort, in other words, all less intrusive measures should have been exhausted or have been shown to be futile, and should be strictly limited in scope and duration. Only relevant data should be accessed and collected. The measures should also be subject to rigorous independent oversight; prior approval by a judicial body is essential. In addition, robust and transparent export controls that explicitly take into account human rights risks can be a powerful tool for preventing rights violations and abuses. OHCHR reiterates its recent call as well as those of human rights experts and groups for a moratorium on the sale, transfer and use of hacking tools until a human rights-based safeguards regime is in place”;

empowering individuals to make informed choices about what happens to their information, and preventing unauthorized access to data or its misuse.⁹⁴

In addition, States should:

- (h) Not force individuals to connect online in order to receive public services or participate in civic life, and should respect their right to disconnect from the digital realm.
- (i) Ensure that artificial intelligence systems and other emerging technologies operate in compliance with international human rights law and refrain from or cease the use of technology that poses undue risks to the enjoyment of human rights, especially of those who are at risk, including human rights defenders.⁹⁵
- (j) Regulate ICT companies in conformity with international human rights law to prevent the misuse of social media and messaging platforms to target or silence human rights defenders.⁹⁶ This includes requiring ICT companies to implement mechanisms for rapid responses to reports of harassment or threats, and the development of tools to guarantee

Report of the Special Rapporteur on the situation of human rights defenders: Mission to India, UN Doc. A/HRC/19/55/Add.1 (2012), para 139: "Finally, the personnel assigned to the protection of defenders or witnesses should not gather information for intelligence purposes".

⁹⁴ Charter of Fundamental Rights of the European Union, Article 8(2): "Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified";

UN Human Rights Committee, General Comment No 16, Article 17 "Right to Privacy", The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation (1988), para 10: "[...] every individual should have the right to ascertain in an intelligible form, whether, and if so, what personal data is stored in automatic data files, and for what purposes. Every individual should also be able to ascertain which public authorities or private individuals or bodies control or may control their files"; UNGA Resolution, The right to privacy in the digital age, UN Doc. A/RES/75/176 (2020), paras 7(p), para 8(b): calling upon States to consider developing or to maintain legislation, preventive measures and remedies addressing harm from the processing, use, sale or multiple resale or other corporate sharing of personal data without the individual's free, explicit, meaningful and informed consent" [...] [t]o inform users in a clear and easily accessible way about the collection, use, sharing and retention of their data that may affect their right to privacy and to establish transparency policies that allow for the free, informed and meaningful consent of users, as appropriate".

⁹⁵ UNGA Resolution, Seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustainable development, UN Doc. A/78/L.49 (2024), para 5: "Emphasizes that human rights and fundamental freedoms must be respected, protected and promoted throughout the life cycle of artificial intelligence systems, calls upon all Member States and, where applicable, other stakeholders to refrain from or cease the use of artificial intelligence systems that are impossible to operate in compliance with international human rights law or that pose undue risks to the enjoyment of human rights, especially of those who are in vulnerable situations, and reaffirms that the same rights that people have offline must also be protected online, including throughout the life cycle of artificial intelligence systems";

Council of Europe, Round-table on Combating racism and racial discrimination against people of African descent in Europe, organized by the Office of the Council of Europe Commissioner for Human Rights, Report (2021), para 43(4): "Pay special attention to the impact of the use of AI systems on the freedoms of assembly and association; strictly regulate the use of facial recognition technology, including through legislation setting out clear limitations for its use, and public transparency".

⁹⁶ UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), para 9: "[...] the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities";

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 18: calling upon States "to take appropriate measures for the prevention of all forms of violence, intimidation, threats, harassment and attacks against human rights defenders on the Internet and through digital technologies and tools, to refrain from the use of surveillance technologies against human rights defenders, in a manner that is not compliant with international human rights obligations, and to protect human rights defenders, including women human rights defenders, in online spaces and to consider adopting laws, policies and practices that protect them against online threats of violence and intimidation while also affirming the rights to freedom of expression and privacy, and further encourages social media companies to condemn attacks against human rights defenders when they occur on their platforms";

the safety and privacy of human rights defenders online.⁹⁷

- (k) Take all necessary steps to protect access to information, freedom of expression, and the right to form and hold an opinion, including by not unlawfully censoring the internet, requiring registration of accounts, devices, or SIMs, passing vague, arbitrary, or overbroad laws on fake news and cybercrime, or establishing troll farms, internet referral units, or other brigades that abuse tech platforms to silence or censor human rights defenders.⁹⁸

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), para 109: "All technology companies should resist any demands to restrict, or collude in restricting, human rights, especially the right to privacy, and the freedoms of expression, and of assembly and association. Human rights defenders ought not to be tracked or be put under surveillance when using the technology, they rely on to do their work. They need to be supported in taking measures to protect themselves and business enterprises that understand and respect the work that human rights defenders do can play a vital role in sharing knowledge about the technology they have created".

⁹⁷ UNHRC, Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, UNHRC, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, UN Doc. A/HRC/17/31 (2011), Principle 15: "In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including: (a) A policy commitment to meet their responsibility to respect human rights; (b) A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights; (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute";

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), para 114: "Social media companies should [...] [q]uickly and efficiently respond to requests to remove online threats".

⁹⁸ ICCPR, Article 12(3): "The above-mentioned rights [i.e. the right to liberty of movement and freedom to chose his residence] shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant";

ECHR, Article 18: "The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed";

Council of Europe, Protocol No 4 of ECHR, 16.IX.1963 (1963), Article 2(3): "No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others";

UN Human Rights Committee, General Comment No 34: Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para 22: "[r]estrictions are not allowed on grounds not specified in paragraph 3 [...] Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated"; UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 9(g): "To refrain from Internet shutdowns, network restrictions or any other measures aiming to disrupt or prevent human rights defenders from having access to and disseminating information and communicating safely and securely, including interference with the use of technologies, such as encryption and anonymity tools".

ARTICLE 10

Access to Resources

Note: Article 13 of the Declaration provides that human rights defenders have the right to receive and utilize resources for the express purpose of promoting and protecting human rights. In practice, however, they are often subject to various financial and administrative restrictions, including pursuant to recommendations issued by the Financial Action Task Force, as well as certain banking rules and practices. The provision below is intended to address this.

States should not hinder the flow of financial resources to human rights defenders, including through domestic and international funding.⁹⁹

⁹⁹ ICCPR, Article 22(1): “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”;

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), paras 9(a)-(b): “The Human Rights Council [...] [a]lso calls upon States: (a) [t]o ensure reporting requirements placed on individuals, groups and organs of society do not inhibit functional autonomy [of associations]” and “do not discriminatorily impose restrictions on potential sources of funding”;

UN Human Rights Committee, Views of the UN Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political rights, Communication No 1274/2004, UN Doc. CCPR/C/88/D/1274/2004 (2006), para 7.2: “the right to freedom of association relates not only to the right to form an association, but also guarantees the right of such an association freely to carry out its statutory activities. The protection afforded by article 22 extends to all activities of an association”. Fundraising activities are therefore protected under article 22 of the Covenant, and funding restrictions that impede the ability of associations to pursue their statutory activities constitute an interference with article 22;

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/39 (2013), paras 8, 17, 79 and 82: “The ability to seek, secure and use resources is essential to the existence and effective operations of any association, no matter how small. The right to freedom of association not only includes the ability of individuals or legal entities to form and join an association but also to seek, receive and use resources – human, material and financial – from domestic, foreign, and international sources – text of para 8” [...] “The Declaration on Human Rights Defenders constitutes another relevant frame of reference: article 13 states that ‘everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration [...] This provision is important because it makes no distinction between the sources of funding, be it from domestic, foreign or international sources. It is also essential because it makes clear that not only legally registered associations, but also individuals – and therefore associations which have no legal status, such as unregistered associations – are eligible to access funding [...] In the light of this reasoning, and taking due consideration of the provisions of the Covenant, which make no distinction between registered and unregistered associations, the Special Rapporteur underlines that legislation limiting foreign funding to registered associations only, as is the case in existing and draft legislation in Bangladesh, violate international human rights norms and standards pertaining to freedom of association – text of para 17” [...] “The Special Rapporteur considers the two issues discussed in the present report to be critical for the enjoyment of the rights to freedom of peaceful assembly and of association. He expresses serious concern that undue barriers to funding are put in place, especially in a climate of harassment and exclusion of civil society actors on one hand, and in the context of a global financial crisis on the other. It is crucial that civil society not bear any more restrictions and obligations than private corporate bodies, for instance, in these areas. In a framework of ongoing democratic reforms in several countries across the world and of discussions related to the post-2015 Millennium Development Goals Agenda, he believes States have the obligation to facilitate, not restrict, access for associations to funding, including from foreign sources, so that they can effectively take part in the democratic process and enrich post-Millennium Development Goals talks, and ultimately contribute to development – text of para 79” [...] “In relation to freedom of association, the Special Rapporteur calls upon States: (a) To adopt a regime of notification for the formation of associations, and to allow for the existence of unregistered associations; (b) To ensure that associations – registered and unregistered – can seek, receive and use funding and other resources from natural and legal persons, whether domestic, foreign or international, without prior authorization or other undue impediments, including from individuals; associations, foundations or other civil society organizations; foreign Governments and aid agencies; the private sector; the United Nations and other entities; (c) To recognize that undue restrictions to funding, including percentage limits, is a violation of the right to freedom of association and of other human rights instruments, including the International Covenant on Economic, Social and Cultural Rights; (d) To recognize that regulatory measures which compel recipients of foreign funding to adopt negative labels constitute undue impediments on the right to seek, receive and use funding; (e) To adopt measures to protect individuals and associations against defamation, disparagement, undue audits and other attacks in relation to funding they allegedly received – text of para 82”;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 286(15): “With this goal in mind [i.e. the prevention of laws contrary to international law standards], the American States should [...] [r]espect the rights of human rights defenders and organizations to manage their resources, including their financing, in accordance with legitimate laws and to formulate their program of activities with total independence and without undue interference from the authorities”;

In particular, States shall:

- (a) Ensure that human rights defenders can seek, receive, and use funding and other resources from individuals, associations, foundations or other civil society organizations, governments, aid agencies, the private sector, the UN, and other entities, whether domestic or foreign, including in highly restrictive environments.¹⁰⁰
- (b) Not impose any discriminatory, unreasonable or arbitrary restrictions, conditions, reporting requirements, and other administrative processes and obstacles that impede human rights defenders' or their registered or unregistered associations' capacity to seek, receive, or use funding or other resources, for example under the pretext of combating foreign interference or for the defense of national security, anti-corruption, money laundering, or for countering terrorism.¹⁰¹

IACmHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124.Doc. 5 rev.1 (2006), para 342(19): "Refrain from restricting the means of financing of human rights organizations. The States should allow and facilitate human rights organizations' access to foreign funds in the context of international cooperation, in transparent conditions".

100 See footnote 12 above on the right to seek, receive and use funding;

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/39 (2013) paras 20, 35, 82(c): "Under international law, problematic constraints include, inter alia, outright prohibitions to access funding; requiring CSOs to obtain Government approval prior to receiving funding; requiring the transfer of funds to a centralized Government fund; banning or restricting foreign-funded CSOs from engaging in human rights or advocacy activities; stigmatizing or delegitimizing the work of foreign-funded CSOs by requiring them to be labeled as 'foreign agents' or other pejorative terms; initiating audit or inspection campaigns to harass CSOs; and imposing criminal penalties on CSOs for failure to comply with the foregoing constraints on funding. The ability of CSOs to access funding and other resources from domestic, foreign and international sources is an integral part of the right to freedom of association, and these constraints violate article 22 of the International Covenant on Civil and Political Rights and other human rights instruments, including the International Covenant on Economic, Social and Cultural Rights – text of para 20" [...] "limitations must be proportionate to the interest to be protected and must be the least intrusive means to achieve the desired objective – text of para 35" [...] "As general recommendations, the Special Rapporteur calls upon States [...] [t]o recognize that undue restrictions to funding, including percentage limits, is a violation of the right to freedom of association and of other human rights instruments, including the International Covenant on Economic, Social and Cultural Rights – text of para 82(c)";

IACmHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124.Doc. 5 rev.1 (2006), para 342(19): "Refrain from restricting the means of financing of human rights organizations. The states should allow and facilitate human rights organizations' access to foreign funds in the context of international cooperation, in transparent conditions";

Council of Europe, Round-table on Human rights of LGBTI people in Europe: current threats to equal rights, challenges faced by defenders and the way forward, organized by the Office of the Council of Europe Commissioner for Human Rights, Report (2021), para 88: "Member states should ensure that LGBTI organisations have access to public or private funding which is sufficient and stable enough to enable them to carry out their work effectively".

101 ICCPR, Article 22(2): "No restrictions may be placed on the exercise of [the right to freedom of association] other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others";

ECHR, Article 18: "The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed";

ACHR, Article 30: "The restrictions that, pursuant to this Convention, may be placed on the enjoyment or exercise of the rights or freedoms recognized herein may not be applied except in accordance with laws enacted for reasons of general interest and in accordance with the purpose for which such restrictions have been established";

UN Human Rights Committee, General Comment No 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para 26: "Laws restricting the rights enumerated in article 19, paragraph. 2 [...] must not only comply with the strict requirements of article 19, paragraph. 3 of the Covenant but must also themselves be compatible with the provisions, aims and objectives of the Covenant. Laws must not violate the non-discrimination provisions of the Covenant";

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental, UN Doc. A/RES/70/161 (2016), para 10(d): "The General Assembly [...] [c]alls upon States [...] to ensure that [...] [w]here legislation and procedures governing the registration and funding of civil society organizations exist, they are transparent, non-discriminatory, expeditious, inexpensive, allow for the possibility to appeal and avoid requiring re-registration, with national legislation being in compliance with international human rights law";

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 9(b): stating that any requirements must conform with "those ordinarily laid down for any other activity unrelated to human rights within the country to ensure transparency and accountability", and providing that "no laws should criminalize or delegitimize activities in defense of human rights on account of origin of funding thereto";

- (c) Not discriminate or retaliate against any person or entity engaged in the exercise of the right to defend human rights on the basis of the source of their funding, including foreign funding.¹⁰²

In addition, States should:

- (d) Provide resources, including financial resources, both individually and through international cooperation, to enable the full exercise and realization of the right to defend human rights.¹⁰³
- (e) Encourage and create conditions for private sector philanthropy and initiatives to support human rights defenders, including through enabling legislation and tax benefits for donations made to human rights advocacy and causes.¹⁰⁴

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/39 (2013), paras 35, 82(c): "limitations must be proportionate to the interest to be protected and must be the least intrusive means to achieve the desired objective - text of para 35" [...] "In relation to freedom of association, the Special Rapporteur calls upon States [...] [t]o recognize that undue restrictions to funding, including percentage limits, is a violation of the right to freedom of association and of other human rights instruments, including the International Covenant on Economic, Social and Cultural Rights - text of para 82(c)"; IACmHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.Doc 66 (2011), para 541 (21): "The Inter American Commission on Human Rights recommends to the States of the Americas [...] [to] [r]efrain from restricting the means of financing of human rights organizations. The States should allow and enable human rights organizations' access to foreign funding, provided as international cooperation, under the conditions of transparency mentioned in this report";

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 286(17): "With this goal in mind [i.e. the prevention of laws contrary to international law standards], the American States should [...] [e]xercise the functions of control and supervision of foreign sources of financing of organizations and human rights defenders within the framework of the law and, in the interests of transparency, eliminate any undue and arbitrary restriction to funding sources, for example under the pretext of 'combating foreign interference' or for the "defense of national interests".

102 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/39 (2013), para 82(d): "In relation to freedom of association, the Special Rapporteur calls upon States [...] [t]o recognize that regulatory measures which compel recipients of foreign funding to adopt negative labels constitute undue impediments on the right to seek, receive and use funding";

UN Committee against Torture, Concluding observations on the fifth periodic report of the Russian Federation, UN Doc. CAT/C/RUS/CO/5 (2012), para 12(a): "The Committee recommends that the State party should [...] amend its legislation requiring human rights organizations that receive foreign funding to register as 'foreign agents'";

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 286(16): "With this goal in mind [i.e. the prevention of laws contrary to international law standards], the American States should [...] [r]eform and/or repeal all legislation that prohibits or criminalizes organizations or human rights defenders for the simple fact of receiving foreign funding destined to support their work";

Joint interim opinion on the draft law amending the law on non-commercial organisations and other legislative acts of the Kyrgyz Republic Adopted by the Venice Commission At its 96th Plenary Session (Venice, 11-12 October 2013), CDL-AD(2013)030, Venice Commission Opinion No 738/2013 ODIHR Opinion-Nr.: FOASS-KYR/239/2013, para 22: "A series of recent reports by UN Special Rapporteurs (on the right to freedom of peaceful assembly and of association, and on human rights defenders respectively) have expressly stated [...] that 'legislation limiting foreign funding to registered associations only [...] violates international human rights norms and standards pertaining to freedom of association'".

103 ICESCR, Article 2(1): "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures";

Report of the Special Rapporteur on the situation of Human Rights Defenders, UN Doc. A/HRC/31/55 (2016), para 113: "The Special Rapporteur recommends that States [...] [d]edicate sufficient funding, and refrain from interfering with externally sourced funding, for the protection of defenders";

Committee on the Elimination of Racial Discrimination, Concluding Observations on the combined nineteenth to twenty-first periodic reports of Sweden, adopted by the Committee at its eighty-third session, UN Doc. CERD/C/SWE/CO/19-21 (2013), para 21: "the Committee encourages the State party to consider increasing the compensation available to victims of discrimination and to implement the measures proposed by the Ombudsman in order to provide financial assistance to individuals and associations to facilitate litigation in discrimination cases [...] and strengthen the legal aid system";

UNHRC, Report of the Working Group on the Universal Periodic Review, Honduras, UN Doc. A/HRC/30/11 (2015), para 124.54: "Approve and implement a law on the protection of human rights defenders, journalists, social communicators and justice officials, and provide adequate human and financial resources to establish an effective State mechanism to protect those at risk".

104 UNHRC, General principles and guidelines on ensuring the right of civil society organizations to have access to resources: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/53/38/Add.4 (2023), paras 37, 50: "Tax incentives for donations to civil society organizations convey an important message: governments recognize the role of associations in addressing societal needs. Best practice dictates that States should equally promote unrestricted philanthropic flows across borders - text of para 37" [...] "States must respect, protect and facilitate associations'

ARTICLE 11

Rights and Protection During Conflict, Post-Conflict and Crisis-Affected Settings

Note: *The Declaration is silent on the obligations of States in times of conflict, post-conflict and crisis-affected settings. Given that human rights defenders often play a significant and indispensable role in conflict management, resolution, and peacebuilding, the provisions below are intended to provide them with additional protection in such times and to ensure that they are not the victims of unjustified and unnecessary infringements to their rights due to extraordinary circumstances.*

States shall ensure the continued protection of, and support for the right to defend human rights and those who exercise this right during conflict, post-conflict and crisis-affected settings, including situations of occupation, significant political unrest, natural disasters, and public health emergencies.¹⁰⁵

In particular, in conflict, post-conflict, and crisis-affected settings, States should:

- (a) Recognize the role of human rights defenders in conflict prevention, management, resolution, and peace building, including in humanitarian assistance during forced displacement.¹⁰⁶

right to freely seek, receive and use foreign funding and promote cross-border philanthropy. Recommended actions that States should take [...] [include adopting] positive measures to enable and promote cross-border giving, including ensuring legal and fiscal frameworks that enable donors – corporate and individual – to give donation charity to associations abroad and benefit from meaningful tax incentives – text of para 50”;

Council of Europe, Round-table on Human rights of LGBTI people in Europe: current threats to equal rights, challenges faced by defenders and the way forward, organized by the Office of the Council of Europe Commissioner for Human Rights, Report (2021), para 88: “Member states should ensure that LGBTI organisations have access to public or private funding which is sufficient and stable enough to enable them to carry out their work effectively. All donors are encouraged to consider increasing funding opportunities for LGBTI human rights defenders in Europe”.

105 See footnote 83 on the permissible restrictions to the rights of human rights defenders in times of public emergency;

UNHRC Resolution, Protection of human rights defenders, UN Doc. A/HRC/RES/13/13 (2010), para 8: “Calls upon States to fully support the role of human rights defenders in situations of armed conflict and provide them with the protection due to all civilians in such situations”;

OAS General Assembly Resolution, Human Rights Defenders: Support for the individuals, groups, and organizations of civil society working to promote and protect human rights in the Americas, AG/RES. 2280 (XXXVII-O/07) (2007), para 6: “To urge member states to continue stepping up their efforts to adopt necessary measures to safeguard the lives, freedom, and personal safety of human rights defenders and their relatives, including effective emergency protection measures in the case of imminent threat or danger”;

ACmHPR, Resolution on the need to protect civic space and freedom of association and assembly, ACHPR/Res. 475 (EXT.OS/XXXI) (2021), para 4: “Calls upon States to ensure that the right to a civic space for populations and all individuals is always protected in all situations of crisis including security, environmental, health or other natural disaster”.

106 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), preamble, para 8: “[...] recognizing the substantial role that human rights defenders can play in supporting efforts to strengthen conflict prevention, peace and sustainable development, including environmental protection, through dialogue, openness, participation and justice, including by monitoring, reporting on and contributing to the promotion and protection of all civil, political, economic, social and cultural rights, and other rights”;

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 2: “Also stresses the positive, important and legitimate role of human rights defenders, including women human rights defenders, in promoting and protecting human rights, strengthening understanding, tolerance and peace, and contributing to conflict prevention and resolution and post-conflict reconstruction”;

Report of the Special Rapporteur on the situation of human rights defenders, Pathways to peace: women human rights defenders in conflict, post-conflict and crisis-affected settings, UN Doc. A/78/131 (2023), para 24: “Women human rights defenders make an enormous contribution to peace and security in States in conflict, post-conflict or crisis situations”.

- (b) Recognize the activities of human rights defenders as essential services,¹⁰⁷ ensure that they can continue their work or activities, including monitoring and reporting on human rights conditions,¹⁰⁸ and involve them in planning and implementing response strategies in conflict, post-conflict and crisis-affected settings to ensure human rights are fully integrated and respected.¹⁰⁹

107 UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), preamble, para 1: "Reaffirming the importance of the Declaration on Human Rights Defenders and its full and effective implementation, and that promoting respect, support and protection for the activities of human rights defenders, including women human rights defenders, is essential to the overall enjoyment of human rights, including in conflict and post-conflict situations, inter alia, in support of conflict prevention and resolution and post-conflict reconstruction – text of the preamble" [...] "Stresses that the right of everyone, individually or in association with others, to promote and strive for the protection and realizations of all human rights and fundamental freedoms, as enshrined in the Declaration on Human Rights Defenders, without retaliation or fear thereof, including in conflict and post-conflict situations, is essential in building and maintaining inclusive, peaceful and democratic societies – text of para 1";

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), paras 5, 11(i): "Urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law as an essential component of ensuring their protection, including by respecting the independence of their organizations and by avoiding the stigmatization of their work – text of para 5" [...] "Calls upon States to ensure that all legal provisions and their application affecting human rights defenders are clearly defined, determinable and non-retroactive in order to avoid potential abuse to the detriment of fundamental freedoms and human rights, and specifically to ensure that [...] [d]issenting views may be expressed peacefully – text of para 11 (i)";

UNHRC Resolution, Protection of human rights defenders, UN Doc. A/HRC/RES/13/13 (2010), para 4: "Urges States to publicly acknowledge the legitimate role of human rights defenders and the importance of their work as an essential component of ensuring their protection".

108 See footnote 83 on the permissible restrictions to the rights of human rights defenders in times of public emergency;

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 1: "Stresses that the right of everyone, individually or in association with others, to promote and strive for the protection and realizations of all human rights and fundamental freedoms, as enshrined in the Declaration on Human Rights Defenders, without retaliation or fear thereof, including in conflict and post-conflict situations, is essential in building and maintaining inclusive, peaceful and democratic societies";

UNHRC Resolution, The promotion and protection of human rights in the context of peaceful protests, UN Doc. A/HRC/RES/50/21 (2022), paras 14, 27: "Calls upon all States to pay particular attention to the safety and protection of those observing, monitoring and recording protests, including human rights defenders, lawyers, journalists and other media workers, taking into account their specific role, exposure and vulnerability, even if the protest has been declared unlawful or is dispersed – text of para 14" [...] "Recognizes the importance of documenting human rights violations and abuses committed in the context of peaceful protests, and of the role that can be played by national human rights institutions, civil society, including non-governmental organizations, journalists and other media workers, Internet users, human rights defenders and lawyers in this regard – text of para 27";

UNHRC, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/20/27 (2012), Summary, p 1: noting that the right to peaceful assembly covers not only the right to hold or participate in an assembly, but also protects the right to monitor peaceful assemblies, and calling on States to ensure the protection of those monitoring and reporting on violations and abuses in the context of peaceful assemblies; paras 48, 94: "The very presence of human rights monitors during demonstrations can deter human rights violations. It is therefore important to allow human rights defenders to operate freely in the context of freedom of assembly – text of para 48" [...] "States should also ensure the protection of those monitoring and reporting on violations and abuses in the context of peaceful assemblies – text of para 94";

Report of the Special Representative of the Secretary-General on the situation of human rights defenders, UN Doc. A/62/225 (2007), para 91: "monitoring of assemblies can provide an impartial and objective account of what takes place, including a factual record of the conduct of both participants and law enforcement officials. This is a valuable contribution to the effective enjoyment of the right to peaceful assembly. The very presence of human rights monitors during demonstrations can deter human rights violations. It is therefore important to allow human rights defenders to operate freely in the context of freedom of assembly".

109 See footnote 34 above on the involvement of human rights defenders in the creation, implementation and monitoring of laws and policies related to human rights and fundamental freedoms;

UNGA Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/RES/76/174 (2022), para 3: "[E]nsuring that measures adopted by authorities are inclusive, safe and enabling, underscores in this regard the significant role of human rights defenders in identifying and raising awareness of human rights impacts and risks of COVID-19-related emergency measures, including by expressing their views, concerns, support, criticism or dissent regarding government policy".

- (c) Refrain from stigmatizing peaceful assemblies or engaging in smear campaigns or hate speech against human rights defenders and act promptly to address any such acts, whether committed by State or non-State actors (including business enterprises).¹¹⁰
- (d) Ensure that responses adopted by law enforcement and public officials in conflict and crisis situations are always consistent with the principles of legality (including constitutionality), necessity, proportionality, accountability, do not endanger human life, are non-discriminatory, and are limited in time and periodically reviewed in conformity with international human rights law.¹¹¹
- (e) Refrain from internet shutdowns and other network restrictions, in accordance with international human rights and humanitarian law, including by refraining from physical or cyber-attacks on communication infrastructure.¹¹²

¹¹⁰ See footnote 43 above on stigmatization;

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 9(f): "Calls upon States: [...] [t]o refrain from delegitimization, criminalization or smear campaigns targeting human rights defenders for documenting human rights violations and abuses, including for communicating with non-State actors, such as armed groups for this purpose".

¹¹¹ The Declaration, Article 17: "In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society";

ICCPR, Article 4, allows States to derogate from their obligations in times of "public emergencies", but for a State to invoke Article 4, two conditions must be met, namely the situation must amount to a public emergency which threatens the life of the nation, and the State party must have officially proclaimed a state of emergency: "1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. 2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision. 3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation";

UN Human Rights Committee, General Comment No 29, States of Emergency (Article 4), UN Doc. CCPR/C/21/Rev.1/Add.11 (2001), paras 2, 9, 13(e): "Measures derogating from the provisions must be of an exceptional and temporary nature [...] When proclaiming a state of emergency with consequences that could entail derogation from any provision of the Covenant, States must act within their constitutional and other provisions of law that govern such proclamation and the exercise of emergency powers; it is the task of the Committee to monitor the laws in question with respect to whether they enable and secure compliance with article 4 - text of para 2" [...] "No measure derogating from the provisions of the Covenant may be inconsistent with the State party's other obligations under international law - text of para 9" [...] "No declaration of a state of emergency made pursuant to article 4, paragraph 1, may be invoked as justification for a State party to engage itself, contrary to article 20, in propaganda for war, or in advocacy of national, racial or religious hatred that would constitute incitement to discrimination, hostility or violence - text of para 13(e)";

UN Human Rights Committee, General Comment No 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para 22: "Paragraph 3 [concerning the requirements for limitations to freedom of expression in accordance with Article 19(3) of the ICCPR] lays down specific conditions and it is only subject to these conditions that restrictions may be imposed: the restrictions must be 'provided by law'; they may only be imposed for one of the grounds set out in subparagraphs (a) and (b) of paragraph 3; and they must conform to the strict tests of necessity and proportionality. Restrictions are not allowed on grounds not specified in paragraph 3, even if such grounds would justify restrictions to other rights protected in the Covenant. Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated";

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 11 (d): "Calls upon States to ensure that [...] [a]ny provision or decision that may interfere with the enjoyment of human rights respects the fundamental principles enshrined in international law so that they are lawful, proportionate, non-discriminatory and necessary in a democratic society".

¹¹² See footnote 75 above on access to the internet as being key to upholding fundamental human rights, including the right to the freedoms of opinion and expression;

UNHRC Resolution, The promotion and protection of human rights in the context of peaceful protests, UN Doc. A/HRC/RES/50/21 (2022), paras 16-17: "Stresses that, in times when physical assemblies are restricted, inter alia in times of crisis or emergency, it is all the more necessary that access to and use of the Internet be ensured by refraining from undue restrictions, such as Internet shutdowns or online censorship, by taking measures to ensure that access to the Internet extends to the entirety of the global population and that it is affordable, and by fully respecting and protecting each individual's rights to privacy and to freedom of opinion and expression,

- (f) Ensure that national and international responses to conflict, post-conflict and crises do not lead to the targeting of, or undue interference with the right to defend human rights or those who exercise this right.¹¹³
- (g) Ensure that measures adopted to respond to conflict, post-conflict and crises are not used to provide immunity to law enforcement for human rights abuses.¹¹⁴

including the freedom to seek, receive and impart information – text of para 16” [...] “Calls upon all States to refrain from and cease measures that violate human rights, including practices such as the disruption of communications through Internet shutdowns, or measures that unlawfully or arbitrarily block or take down media websites or social networks, and other widespread restrictions on Internet access, the dissemination of information online or from gathering in online spaces – text of para 17”;

UNHRC, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/39 (2013), para 83(e): “In relation to freedom of peaceful assembly, the Special Rapporteur calls upon States [...] [t]o ensure and facilitate at all times access to the Internet and other new communications technologies, and to further ensure that any restriction on such access or on the content of websites is reviewed by a competent judicial court”;

United Nations Secretary General’s Roadmap for Digital Cooperation, June 2020, p 6-7: “Inaccessibility to the Internet has posed a direct risk to individuals’ ability to save their own lives and livelihoods, as well as for Governments and front-line workers to respond quickly and effectively [...] [C]onnectivity needs to be prioritized as a foundation to ensure the continuation of critical services, enable digital literacy and promote social inclusion”.

113 See, generally, footnotes 83 and 102 above on States’ right to restrict fundamental freedoms in times of public emergencies and the limits thereto;

ACmHPR, Resolution on Human and Peoples’ Rights as Central Pillar of Successful Response to COVID-19 and Recovery from its Social-Political impacts, ACHPR/Res. 449 (LXVI) (2020), para 8.1: “Ensure that national responses to the COVID-19 pandemic do not lead to the targeting or undue interference with the work of human rights defenders”.

114 UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 9: “[C]alls upon States to exercise due diligence in preventing violations and abuses against human rights defenders, including through practical steps to prevent threats, harassment and violence against women human rights defenders, who face particular risks, and in combating impunity by ensuring that those responsible for violations and abuses [...] are promptly brought to justice through impartial investigations”;

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/66/164 (2012), para 8: “[U]rges States to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation committed by State and non-State actors, including cases of gender-based violence, against human rights defenders and their relatives, including by ensuring that complaints from human rights defenders are promptly investigated and addressed in a transparent, independent and accountable manner”;

UNGA Resolution, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/64/163 (2010), para 7: “Also urges States to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation, including cases of gender-based violence, against human rights defenders and their relatives, including by ensuring that complaints from human rights defenders are promptly investigated and addressed in a transparent, independent and accountable manner”;

UNGA Resolution, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/62/152 (2008), para 7: “Also urges States to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation, including cases of gender-based violence, against human rights defenders and their relatives, including by ensuring that complaints from human rights defenders are promptly investigated and addressed in a transparent, independent and accountable manner”;

UNGA Resolution, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/60/161 (2006), para 7: “Also urges States to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation, including cases of gender-based violence, against human rights defenders and their relatives, including by ensuring that complaints from human rights defenders are promptly investigated and addressed in a transparent, independent and accountable manner”;

UNGA Resolution, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/59/192 (2005), para 8: “Emphasizes the importance of combating impunity, and in this regard urges States to take appropriate measures to address the question of impunity for threats, attacks and acts of intimidation against human rights defenders”.

- (h) Prevent the misuse of emergency powers to target, harass, or detain human rights defenders under the guise of emergency response or national security when addressing conflict, post-conflict, and crisis-affected settings.¹¹⁵
- (i) Ensure that security forces deployed to police assemblies have received human rights training, especially in assembly facilitation and de-escalation techniques, and that they are placed under civilian command and oversight, have clearly defined responsibilities and rules of engagement, and are accountable.¹¹⁶
- (j) Ensure that excessive force is never used to retaliate against those exercising the right to defend human rights.¹¹⁷

115 ECHR, Article 18: “[R]estrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed”;

ACHR, Article 30: “The restrictions that, pursuant to this Convention, may be placed on the enjoyment or exercise of the rights or freedoms recognized herein may not be applied except in accordance with laws enacted for reasons of general interest and in accordance with the purpose for which such restrictions have been established”;

UN Human Rights Committee, General Comment No 34, Article 19: Freedoms of opinion and expression, para 22: “Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated”;

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 10: referring to measures intended to counter terrorism and preserve national security, and calling on States to ensure that such measures “do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights” and further calling “upon States to ensure that measures to combat terrorism and preserve national security: (a) Are in compliance with their obligations under international law, in particular under international human rights law, and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights; (b) Clearly identify which offences qualify as terrorist acts by defining transparent and foreseeable criteria, including, inter alia, considering without prejudice those formulated by the Special Rapporteur on the promotion and protection of human rights while countering terrorism; (c) Prohibit and do not provide for, or have the effect of, subjecting persons to arbitrary detention, such as detention without due process guarantees, the deprivation of liberty that amounts to placing a detained person outside the protection of the law, or the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, nor the unlawful deprivation of the right to life or the trial of suspects without fundamental judicial guarantees; (d) Allow appropriate access for relevant international bodies, non-governmental organizations and national human rights institutions, where such exist, to persons detained under anti-terrorism and other legislation relating to national security, and to ensure that human rights defenders are not harassed or prosecuted for providing legal assistance to persons detained and charged under legislation relating to national security”;

ACmHPR, Resolution on Human and Peoples’ Rights as Central Pillar of Successful Response to COVID-19 and Recovery from its Social-Political Impacts, ACHPR/Res. 449 (LXVI) (2020), para 8.2: “Refrain from using COVID-19 related emergency declarations to justify the adoption of repressive measures against specific groups such as human rights defenders”;

UNHRC, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/HRC/23/40 (2013), para 60: reiterating the concern about the use of “an amorphous concept of national security to justify limitations on the enjoyment of human rights”, a concept that “is broadly defined and is thus vulnerable to manipulation by the State as a means of justifying actions that target vulnerable groups such as human rights defenders, journalists or activists”.

116 UNHRC Resolution, Protection of human rights defenders, UN Doc. A/HRC/RES/13/13 (2010), para 11: “Also calls upon States to allocate resources for the effective implementation of necessary protection measures, including specific training for persons involved in their implementation”;

UNHRC Resolution, The promotion and protection of human rights in the context of peaceful protests, UN Doc. A/HRC/RES/50/21 (2022), para 22: “Also calls upon States to ensure adequate training of officials exercising law enforcement duties and, where applicable, to promote adequate training for private personnel acting on behalf of the State, including in international human rights law and, where appropriate, international humanitarian law, and in this regard urges States to include in such training the application of de-escalation and negotiation strategies”;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 287(26): “When applying criminal law, justice operators must [...] [e]nsure that those responsible for law enforcement have sufficient equipment and proper training, are subject to effective civilian oversight, and receive regular training on human rights”.

117 UNGA Resolution, UN Code of Conduct for Law Enforcement Officials, UN Doc. 34/169 (1979), Article 3: “law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.” The use of force should therefore be exceptional and under no circumstances go beyond what is reasonably necessary;

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/66/164 (2012), para 6: “Also calls upon States to ensure that human rights defenders can perform their important role in the context of peaceful protests, in accordance with national legislation consistent with the Charter of the United Nations and international human rights law, and in this regard to ensure that no one is subject to excessive and indiscriminate use of force, arbitrary arrest and detention, torture and other cruel, inhuman or degrading treatment or punishment, enforced disappearance, abuse of criminal and civil proceedings or threats of such acts”;

- (k) Ensure that no one is restricted from any humanitarian assistance due to their status or activities as a human rights defender in conflict, post-conflict, and crisis-affected settings.¹¹⁸
- (l) Establish dedicated support mechanisms for human rights defenders at risk, including emergency funding, legal assistance, and healthcare services, and humanitarian passage.¹¹⁹

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 8: "Calls upon States to ensure that human rights defenders, including women human rights defenders, can perform their important role in the context of peaceful protests, in accordance with national legislation consistent with the Charter of the United Nations and international human rights law, and in this regard to ensure that no one is subject to excessive or indiscriminate use of force, arbitrary arrest or detention, torture or other cruel, inhuman or degrading treatment or punishment, enforced disappearance, abuse of criminal and civil proceedings or threats of such acts";

UN Congress on the Prevention of Crime and the Treatment of Offenders, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 27 August to 7 September 1990, principles 4 and 5: "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result [...] (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment; (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment";

UNHRC Resolution, The promotion and protection of human rights in the context of peaceful protests, UN Doc. A/HRC/RES/50/21 (2022), para 18: "Urges all States to avoid using force during peaceful protests, to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force, and also to ensure that assistance and medical aid are rendered to any injured or affected person at the earliest possible moment";

UNHRC Resolution, The promotion and protection of human rights in the context of peaceful protests, UN Doc. A/HRC/RES/19/35 (2012), para 6: "Encourages all States to avoid using force wherever possible during peaceful protests, and to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force";

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 6: "Calls upon States to ensure that human rights defenders can perform their important role in the context of peaceful protests, in accordance with national legislation consistent with the Charter of the United Nations and international human rights law and, in this regard, to ensure that no one is subject to excessive or indiscriminate use of force, arbitrary arrest or detention, torture or other cruel, inhuman or degrading treatment or punishment, enforced disappearance, abuse of criminal and civil proceedings or threats of such acts";

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), para 112(f): "Intensify efforts to prevent excessive use of force by security forces";

UN Committee against Torture, Concluding Observations of the Committee against Torture: Greece, UN Doc. CAT/C/GRC/CO/5-6 (2012), para 11: expressing concern at "allegations of excessive use of force by law enforcement officials, often related to policing of demonstrations and crowd control", and urging the State party to take "immediate and effective measures to ensure that law enforcement officials only use force when strictly necessary and to the extent required for the performance of the duty".

118 *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)*, Judgment on Merits, ICJ, General List No 70, 27 June 1986, para 242: "There can be no doubt that the provision of strictly humanitarian aid to persons or forces in another country, whatever their political affiliations or objectives, cannot be regarded as unlawful intervention, or as in any other way contrary to international law";

UNHRC Resolution, Protection of human rights defenders, UN Doc. A/HRC/RES/13/13 (2010), para 8: "Calls upon States to fully support the role of human rights defenders in situations of armed conflict and provide them with the protection due to all civilians in such situations";

Joint Statement by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the European Commission, The European consensus on humanitarian aid, 2008/C 25/01, para 13: "Impartiality denotes that humanitarian aid must be provided solely on the basis of need, without discrimination between or within affected populations";

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), para 115(k): "Ensure that national law and administrative provisions and their application facilitate the work of all actors providing humanitarian assistance to and defending the human rights of migrants, refugees and asylum-seeker".

119 UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 21(b): "Urges States to adopt and implement policies and programmes that provide women human rights defenders with access to effective remedies, including by ensuring [...] adequate access to comprehensive support services for those women human rights defenders who experience violence, including shelters, psychosocial services, counselling, medical care and legal and social services";

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 9(d): "To develop comprehensive age- and gender-responsive legislation and policies protecting human rights defenders, including appropriate protection mechanisms, with particular attention paid to the protection needs of different groups, accessible to

- (m) Ensure that war technology, including drones and surveillance technology, is not used to target human rights defenders and their communities.¹²⁰
- (n) Ensure that social media is not used to target human rights defenders and their communities, or as a vector of disinformation, propaganda, and hate speech, which in turn may instigate public distrust and lead to violations of human rights.¹²¹
- (o) Refrain from hostility towards the communities that have taken measures to defend their rights and to secure their territories from violence and conflict, such as the establishment of humanitarian zones and peace communities.¹²²

defenders operating in conflict and post-conflict areas, functioning also as an early warning system to ensure that human rights defenders, when threatened, have immediate access to authorities that are competent and adequately resourced to provide effective protective measures, and to ensure human rights training of State personnel deployed to conflict-affected areas, including military, police and other security personnel”;

ACmHPR, Resolution on Human and Peoples’ Rights as Central Pillar of Successful Response to COVID-19 and Recovery from its Social-Political impacts, ACHPR/Res. 449 (LXVI) (2020): “To make special arrangements for enabling the judiciary to continue [...] legal assistance from civil society organizations and human rights defenders”;

Council of Europe, Round-table on Combating racism and racial discrimination against people of African descent in Europe, organized by the Office of the Council of Europe Commissioner for Human Rights, Report (2020), para 43(1): “Fulfil in good faith the obligation to protect human rights defenders who are in danger, including by establishing rapid-response mechanisms or protection programmes for human rights defenders”;

Council of Europe, Round-table on Human rights of LGBTI people in Europe: current threats to equal rights, challenges faced by defenders and the way forward, organized by the Office of the Council of Europe Commissioner for Human Rights, Report (2021), para 80: “Member states should fulfil the obligation to protect LGBTI human rights defenders who are in danger, including by ensuring that they have access to emergency protection mechanisms. Such emergency assistance programmes provide financial support to address urgent needs, including medical expenses, legal representation, temporary relocation, dependant support etc”.

120 UNGA Resolution, The right to privacy in the digital age, UN Doc. A/RES/68/167 (2014), preamble para 4: “Noting that the rapid pace of technological development enables individuals all over the world to use new information and communication technologies and at the same time enhances the capacity of governments, companies and individuals to undertake surveillance, interception and data collection, which may violate or abuse human rights”;

UNHRC Resolution, The promotion and protection of human rights in the context of peaceful protests, UN Doc. A/HRC/RES/50/21 (2022), para 31: “Expresses grave concern at the use of private surveillance technologies to commit widespread violations and abuses against those exercising their right to peaceful assembly, including through hacking”;

UN Human Rights Committee, General Comment No 16, Article 17 “Right to Privacy” (1988), para 8: “Surveillance, whether electronic or otherwise, interceptions of telephonic, telegraphic and other forms of communication, wire-tapping and recording of conversations should be prohibited”;

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/HRC/23/40 (2013), para 81: “Legislation must stipulate that State surveillance of communications must only occur under the most exceptional circumstances and exclusively under the supervision of an independent judicial authority”;

Declaration of the Committee of Ministers on Risks to Fundamental Rights stemming from Digital Tracking and other Surveillance Technologies, 11 June 2013, para 2: “Data processing in the information society which is carried out without the necessary safeguards and security can raise major human rights related concerns. Legislation allowing broad surveillance of citizens can be found contrary to the right to respect of private life”.

121 See footnote 93 on use of social media to target human rights defenders;

UNHRC Resolution, Role of States in countering the negative impact of disinformation on the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/21 (2022), preamble para 8: “Emphasizing that disinformation can be designed and spread so as to mislead, and to violate and abuse human rights, including privacy and the freedom of individuals to seek, receive and impart information, including in times of emergency, crisis and armed conflict, when such information is vital”;

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Disinformation and freedom of opinion and expression during armed conflicts, UN Doc. A/77/288 (2022), paras 3, 100: “Social media platforms play a dual role in modern conflicts. On the one hand, they enable people to remain connected to family, friends and the outside world and to access a wide range of critical life-saving information. On the other hand, they serve as vectors of disinformation, propaganda and hate speech – text of para 3” [...] “The information environment has become a dangerous, expanding theatre of conflict in the digital age. State and non-State actors, enabled by new technologies and social media platforms, have weaponized information to sow confusion, feed hate, incite violence, instigate public distrust and poison the information environment. The human suffering and damage to societal structures have gone far beyond the exigencies of war – text of para 100”.

122 IACmHR, Annual Report of the Inter-American Commission on Human Rights, OEA/Ser.L/V/II.122 Doc. 5 rev. 1 (2004), para 36: “The Commission has repeatedly expressed the importance of overcoming the hostility displayed by members of the different branches of government towards the human rights organizations, including those that carry out the work of accompanying communities at risk”.

- (p) Ensure that those who are forcibly displaced within and across international borders in conflict, post-conflict, and crisis-affected settings can defend their rights without the risk of punishment, persecution, or loss of access to humanitarian aid and essential services, and that they are recognized as human rights defenders.¹²³

123 The international instruments that provide for the right to freedom of association, freedom of opinion and expression, the right to participate in peaceful protest, the right to develop and discuss new human rights ideas, the right to privacy, and the right of access to information apply to all individuals within a State's territory, including therefore in instances where that individual has been displaced (see footnotes 5, 6, 7, 8, 9, 10, 14);

Office for the Coordination of Humanitarian Affairs, UN Guiding Principles on Internal Displacement (*GPID*), identifying the rights and guarantees relevant to internally displaced persons, and providing guidance for State and non-State actors, Principle 1(1): "Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced". The GPID has been recognized by the UNGA, insofar as it reflects, and is consistent with, international human rights law and international humanitarian law; *see, e.g.,*

UNGA Resolution, Protection of and assistance to internally displaced persons, UN Doc. A/RES/72/182 (2018), preamble, paras 8, 20: "Recalling the relevant norms of international law, including international human rights law, international humanitarian law and international refugee law, and recognizing that the protection of internally displaced persons has been strengthened by identifying, reaffirming and consolidating specific standards for their protection, in particular through the Guiding Principles on Internal Displacement, [...] Reaffirming its resolution 46/182 of 19 December 1991 and the guiding principles contained in the annex thereto, other relevant General Assembly and Economic and Social Council resolutions and agreed conclusions of the Council, reaffirming also the principles of humanity, neutrality, impartiality and independence in the provision of humanitarian assistance and reaffirming further the need for all actors engaged in the provision of humanitarian assistance in situations of complex emergencies and natural disasters to promote and fully respect these principles - text of preamble" [...] "Requests Member States to strengthen their efforts to ensure the protection of and better assistance to internally displaced persons, in particular to address the challenges of protracted displacement, by adopting and implementing gender sensitive policies and strategies, in accordance with national and regional frameworks, while recognizing the Guiding Principles on Internal Displacement as an important international framework for the protection of internally displaced persons - text of para 8" [...] "Welcomes the fact that an increasing number of States, United Nations organizations and regional and non-governmental organizations are applying the Guiding Principles on Internal Displacement as a standard, and encourages all relevant actors to make use of the Guiding Principles when dealing with situations of internal displacement - text of para 23".

PART III - EFFECTIVENESS OF THE RIGHTS AND PROTECTIONS ACCORDED TO HUMAN RIGHTS DEFENDERS

Note: While the Declaration itself is not a legally binding instrument, it records, reinforces and elaborates upon the obligations of States under international law as they pertain to the protection of human rights defenders. Yet full implementation remains a challenge, insofar as some States not only fall short of their commitments but actively obstruct efforts to monitor the implementation of, and compliance with, the principles in the Declaration. This section addresses the urgent need for States to effectively implement the Declaration, enforce the rights and protections embodied therein, and to monitor and report on such implementation and enforcement processes, in line with the principles set out in Articles 2 and 3 of the Declaration.

ARTICLE 12

Implementation of the Declaration and the Declaration +25

States shall adopt such legislative, administrative and other steps as may be necessary to implement the Declaration and the Declaration +25 within their jurisdiction and in territories under their control, in particular to ensure that the rights and protections accorded to human rights defenders under the Declaration and the Declaration +25 are given effect in domestic legislation, as well as by local governments and judicial bodies.¹²⁴

124 The Declaration, Article 2(2): “Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed”;

Several International treaties and conventions establish the obligation for States to implement legislation to enforce human rights: see, for example, ICCPR, Article 2(2): “Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant”;

ICESCR, Article 2: “1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures. 2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. 3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals”;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/78/216 (2023), para 11: “Urges States to promote a safe and enabling environment, online and offline, including through the implementation of existing national legislation that is in compliance with international human rights law and, where necessary, through the adoption and implementation of more comprehensive legislative and administrative measures, in which human rights defenders can operate free from hindrance, arbitrary or unlawful surveillance, reprisals and insecurity, ensuring, among other things, the right to take part in the conduct of public affairs and in cultural life, the freedom to seek, receive and impart information and equal access to justice, including to an effective remedy”;

UNGA Resolution, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/56/163 (2001), para 1: “Calls upon all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”;

In particular, States should:

- (a) As a priority, effectively disseminate, promote and implement the Declaration and the Declaration +25 within their jurisdiction and in territories under their control.¹²⁵
- (b) Ensure that human rights defenders, civil society groups, media, and other non-State actors (including business enterprises) and individuals (including ethnic, indigenous and religious leaders) are actively and meaningfully consulted in the process leading to the adoption of legislative, administrative, and other steps taken to ensure that the rights and freedoms referred to in the Declaration and the Declaration +25 are effectively guaranteed.¹²⁶

UNGA Resolution, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/57/209 (2003), para 1: "Calls upon all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms";

UNHRC Resolution, Arbitrary detention, UN Doc. A/HRC/RES/51/8 (2022), para 8(l): "The Human Rights Council [...] Encourages all States [...] [t]o give full effect to the Declaration";

Special Rapporteur on the situation of human rights defenders, Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, (2011), p 12: "States should harmonize their domestic legal frameworks with the Declaration on Human Rights Defenders. To enhance the protection of defenders and ensure that the rights and freedoms referred to in the Declaration are guaranteed, it is paramount that States review their national legal frameworks and abolish legal or administrative provisions impeding the work and activities of defenders";

Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/13/22 (2009), paras 63-64: "States should harmonize their domestic laws with the Declaration on Human Rights Defenders. To enhance the protection of defenders and ensure that the rights and freedoms referred to in the Declaration are guaranteed, it is paramount that States review their national laws and abolish legal or administrative provisions impeding the work and activities of defenders. The Special Rapporteur welcomes the resolutions adopted by several parliaments acknowledging the role and status of human rights defenders. At the end of her country visit to the Democratic Republic of the Congo in June 2009, she welcomed the recent attempt by the Parliament of the South Kivu province to adopt a law on the protection of human rights defenders, and called on provincial parliamentarians to adopt a revised text in the near future, in close consultation with civil society and the United Nations – text of para 63" [...] "States should verify that their security legislation, including their intelligence and counter-intelligence legislation, is not used to impede the work of defenders. States should also translate and disseminate the Declaration on Human Rights Defenders and organize training for law enforcement officials and judges on the rights contained in the Declaration – text of para 64".

125 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/78/216 (2023), para 4: "Urges States to redouble their efforts in fulfilling their duty to promote and protect all human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights and referenced in the Vienna Declaration and Programme of Action and The Declaration on Human Rights Defenders";

Special Rapporteur on the situation of human rights defenders, Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (2011), para 12: "States should also translate and disseminate The Declaration on Human Rights Defenders and organize training for law enforcement officials and judges on the rights contained in the Declaration";

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/13/22 (2009), para 64: "States should verify that their security legislation, including their intelligence and counter-intelligence legislation, is not used to impede the work of defenders. States should also translate and disseminate the Declaration on Human Rights Defenders and organize training for law enforcement officials and judges on the rights contained in the Declaration".

126 The right to participate in the conduct of public affairs does not only include the right to vote and be elected, but also the right to take part in the conduct of public affairs by exerting influence through engaging in public debate and dialogue (See footnote 13 above). See, e.g.,

ICCPR, Article 25: "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country";

The Declaration, Article 8: "1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs. 2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms";

- (c) Support and cooperate fully with regional and international human rights bodies and mechanisms relevant to the right to defend human rights and those who exercise this right and give proper and good faith consideration to the implementation of recommendations from such bodies and mechanisms.¹²⁷
- (d) Take all necessary measures to ensure that the rights under the Declaration and the Declaration +25 are not only recognized in laws and policies, but are also respected, protected, and enforced in practice.¹²⁸

Special Rapporteur on the situation of human rights defenders, Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (2011), p 21: “States should adopt national and provincial laws on the protection of human rights defenders, with a specific reference to the work of women human rights defenders. These laws should be developed in consultation with civil society and on the basis of technical advice from relevant international agencies”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/13/22/Add.2 (2009), para 97: “The Special Rapporteur recommends that the Government [...] [a]dopt national and provincial laws on the protection of human rights defenders, with a specific reference to the work of women human rights defenders, developed in consultation with civil society and on the basis of technical advice from relevant international agencies”.

127 UNGA Resolution, Twentieth anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/72/247 (2018), para 5: “Encourages partnerships and collaboration between States, national human rights institutions, civil society and other stakeholders in promoting, protecting and realizing all human rights and fundamental freedoms, including through consultative bodies, focal points within the public administration, national human rights mechanisms for reporting or follow-up, or measures aimed at enhancing the recognition in society of the valuable role played by human rights defenders, while fully recognizing the importance of the independent voice of human rights defenders and other civil society actor”;

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/66/164 (2012), para 10: calling on States to “give serious consideration to responding favourably to the requests of the Special Rapporteur to visit their countries, and urges them to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to and implementation of her recommendations, so as to enable the Special Rapporteur to fulfil her mandate even more effectively”;

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 20: “Encourages States to avail themselves of technical assistance in follow-up to the present and previous resolutions of the General Assembly and the Human Rights Council on the protection of human rights defenders, such as through collaboration, based on mutual consent, with national human rights institutions, regional organizations, the Office of the United Nations High Commissioner for Human Rights and relevant special procedures, and other relevant international agencies and organizations, and with other States”;

UNHRC Resolution, Mandate of Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/RES/52/4, para 3: “Urges all States to cooperate with and assist the Special Rapporteur in the performance of his or her tasks, to provide all information and to respond to the communications transmitted to them by the Special Rapporteur without undue delay”;

UNHRC Resolution, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, UN Doc. A/HRC/RES/49/18 (2022), para 21: “Encourages States to avail themselves of technical assistance in follow-up to the present and previous resolutions of the General Assembly and the Human Rights Council on the protection, individually and collectively, of human rights defenders, such as through collaboration, based on mutual consent, with national human rights institutions, regional organizations, the Office of the United Nations High Commissioner for Human Rights and relevant special procedures of the Human Rights Council, other relevant international agencies and organizations, and with other States”.

128 UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), paras 6-8: “The legal obligation under article 2, paragraph 1, is both negative and positive in nature. States Parties must refrain from violation of the rights recognized by the Covenant, and any restrictions on any of those rights must be permissible under the relevant provisions of the Covenant. Where such restrictions are made, States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights. In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right – text of para 6” [...] “Article 2 requires that States Parties adopt legislative, judicial, administrative, educative and other appropriate measures in order to fulfil their legal obligations. The Committee believes that it is important to raise levels of awareness about the Covenant not only among public officials and State agents but also among the population at large – text of para 7” [...] “The article 2, paragraph 1, obligations are binding on States [Parties] and do not, as such, have direct horizontal effect as a matter of international law. The Covenant cannot be viewed as a substitute for domestic criminal or civil law. However, the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities. There may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those rights, as a result of States Parties’ permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities. States are reminded of the interrelationship between the positive obligations imposed under article 2 and the need to provide effective remedies in the event of breach under article 2, paragraph 3. The Covenant itself envisages

ARTICLE 13

Monitoring and Reporting

States should ensure the regular monitoring and reporting of their actions to implement the Declaration and the Declaration +25 and the rights and protections embodied therein.¹²⁹

In particular, States should:

- (a) Develop and implement comprehensive monitoring and reporting frameworks and indicators to assess implementation of the Declaration and this Declaration +25. These processes should be regular and inclusive, allowing for the active participation of civil society actors and human rights defenders.¹³⁰

in some articles certain areas where there are positive obligations on States Parties to address the activities of private persons or entities. For example, the privacy-related guarantees of article 17 must be protected by law. It is also implicit in article 7 that States Parties have to take positive measures to ensure that private persons or entities do not inflict torture or cruel, inhuman or degrading treatment or punishment on others within their power. In fields affecting basic aspects of ordinary life such as work or housing, individuals are to be protected from discrimination within the meaning of article 26 – text of para 8”;

OAS, Human Rights Defenders in The Americas: Support for the Individuals, Groups, and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas, AG/RES. 1842 (XXXII-O/02), para 4: “To invite member states to publicize and enforce the instruments of the inter-American system and the decisions of its bodies on this matter, as well as the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”.

129 ICCPR, Article 40: “The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights”;

ICESCR, Article 16: “The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein”;

ACHPR, Article 62: “Each state party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter”;

CEDAW, Article 18: “States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect” [...] “Within one year after the entry into force for the State concerned” [...] “Thereafter at least every four years and further whenever the Committee so requests” [...] “Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention”. These obligations require States to report on the measures taken to give effect to the rights and freedoms essential to the work or activities of human rights defenders;

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), para 112(b): “States should [...] [r]esource national human rights institutions to monitor the implementation of State human rights obligations, as well as responsibilities of non-State actors, including businesses, with respect to the rights of human rights defenders, including through systematic data collection and analysis”;

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/66/164 (2012), para 10: calling on States to “give serious consideration to responding favourably to the requests of the Special Rapporteur to visit their countries, and urges them to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to and implementation of her recommendations, so as to enable the Special Rapporteur to fulfil her mandate even more effectively”;

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 19: encouraging States to “include in their reports for the universal periodic review and to treaty bodies information on the steps taken to create a safe and enabling environment for human rights defenders”;

Report of the Special Rapporteur on the situation of human rights defenders, Mission to Ireland, UN Doc. A/HRC/22/47/Add.3, para 111(g): “Develop simple structural and outcome indicators to foster the implementation and evaluation of the European Union Guidelines on Human Rights Defenders, and consider appointing a dedicated focal point for human rights in Irish Aid”.

130 UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), paras 15, 17: highlighting the necessity for inclusive and open dialogues and underlining that participation by civil society should be facilitated in a transparent, impartial and non-discriminatory manner and reaffirming “the necessity for inclusive and open dialogue between civil society actors, particularly human rights defenders, and the United Nations in the field of human rights and, in this context, underlines that participation by civil society should be facilitated in a transparent, impartial and non-discriminatory manner – text of para 15” [...] “[s]tressing in particular the valuable contribution of national human rights institutions, civil society and other stakeholders in providing input to States on the potential implications of draft legislation when such legislation is being developed or reviewed to ensure that it is in compliance with international human rights law – text of para 17”;

- (b) Establish and maintain a comprehensive system for the monitoring and reporting of threats, attacks, and any forms of adverse actions against those exercising the right to defend human rights. This system shall include the compilation of detailed and disaggregated statistics on incidents against human rights defenders, along with information relating to their investigation and prosecution rates.¹³¹
- (c) Take steps, including through the development of action plans, to address challenges and implement recommendations identified by national, regional, and international human rights bodies and mechanisms relevant to human rights defenders.¹³²

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), para 112(b): “Resource national human rights institutions to monitor the implementation of State human rights obligations, as well as responsibilities of non-State actors, including businesses, with respect to the rights of human rights defenders, including through systematic data collection and analysis”;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 285(5): “In order to recognize the work of human rights defenders, States must [...] [i]nstruct government authorities to ensure that, from the highest-level, spaces for open dialogue with human rights organizations are created to receive their feedback regarding existing policies and the effect of such policies on their work, as well as on legislative gaps. Human rights organizations should also be consulted for inputs and opinions on proposed policies”;

Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention – Concluding Observations: Bosnia and Herzegovina, UN Doc. CRC/C/BIH/CO/2-4 (2012), para 81: “The Committee further recommends that the combined second to fourth periodic reports and written replies by the State party and the related recommendations (concluding observations) be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, media, youth groups, professional groups and children, in order to generate debate and awareness of the Convention and the Optional Protocols thereto and of their implementation and monitoring”.

131 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), para 25: “calls upon States to strengthen national disaggregated data collection, analysis and reporting on the number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention, torture and other harmful acts against human rights advocates, as reflected in Sustainable Development Goal indicator 16.10.1, and to do their utmost to make these data available to the relevant entities”;

IACmHR, Joint Statement on International Human Rights Defenders’ Day, The critical situation of human rights defenders: The urgent need to protect and recognize their contributions, 147/15 (2015): “I urge States that have national protection mechanisms in place to monitor violations committed against defenders, and continuously improve their functioning”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), para 49: “There are three areas that defenders have found valuable in developing their knowledge, skills and abilities: recognizing and defending their rights; adapting tactics and strategies in the face of threats and attacks; and managing their personal and collective security. Such support is being provided in a number of ways; through face-to-face and online training courses, workshops, seminars and conferences; accompaniment, mentoring and collaboration; and the development of databases, manuals, handbooks and tools”.

132 UNHRC Resolution, Promoting international cooperation to support national mechanisms for implementation, reporting and follow-up, UN Doc. A/HRC/RES/42/30 (2019), para 2: “Encourages States to establish or strengthen national mechanisms for implementation, reporting and follow-up for further compliance with human rights obligations or commitments, and to share good practices and experiences in their use for the elaboration of public policies with a human rights approach”;

UNHRC Resolution, Promoting international cooperation to support national human rights follow-up systems, processes and related mechanisms, and their contribution to the implementation of the 2030 Agenda for Sustainable Development, UN Doc. A/HRC/RES/36/29 (2017), preamble, last para: “Reaffirming the importance of strengthening the relevance and impact of human rights recommendations by providing technical assistance and capacity-building for their implementation, upon request and with the consent of the States concerned, including through the establishment or strengthening of national human rights mechanisms for reporting and follow-up, in collaboration with United Nations country team”;

IACmHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II/124 Doc. 5 rev. 1 (2006), para 342(8): “The Inter-American Commission on Human Rights recommends to the States of the Americas: [...] Allocate human, budgetary, and logistical resources to implement the adequate measures of protection sought by the Inter-American Commission or the Inter-American Court to protect the life and physical integrity of human rights defenders. Such measures should be in force for the time requested by the Commission or Court, and they should be agreed upon in consultation with the defenders to ensure they are appropriate and allow them to continue carrying out their activities”;

OHCHR, Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned: Report of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/32/20 (2016), para 85(d): “Develop or update a national policy framework and action plan to guide implementation of the recommendations formulated in the present report and of all international human rights law and standards relevant to civil society space”.

ARTICLE 14

Diplomatic Support to Human Rights Defenders

Note: *The diplomatic community can often be an important source of support for human rights defenders at the national level. Recognizing this, a number of States have developed diplomatic guidelines providing guidance to their embassies and representations abroad as to steps and measures that should be taken to support human rights defenders, particularly those at risk. This section addresses the need for States to support the mutual implementation of the Declaration and Declaration +25 by other States, as well as the need for States to provide enhanced diplomatic protection and support to human rights defenders at risk outside of the territory of that State.*

States should provide enhanced diplomatic protection and support to human rights defenders at risk outside of the territory of that State.¹³³

In particular, States should:

- (a) Develop strategies to encourage and support the implementation of the Declaration and the Declaration +25 by other States.¹³⁴
- (b) Use all necessary measures, including diplomatic channels, to advocate for the right to defend human rights, and to support and contribute to the protection of those who exercise

¹³³ European Union External Action, Ensuring Protection – European Union Guidelines on Human Rights Defenders, paras 10, 13: “In many third countries EU Missions (Embassies of EU Member States and European Commission Delegations) are the primary interface between the Union and its Member States and human rights defenders on the ground. They therefore have an important role to play in putting into practice the EU’s policy towards human rights defenders. EU Missions should therefore seek to adopt a proactive policy towards human rights defenders – text of para 10” [...] “Practical supports [from European Union and Member States] [...] can include the following [...] seeking to ensure that human rights defenders in third countries can access resources, including financial, from abroad – text of para 13”;

Council of Europe, Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities, 6 February 2008, para 2(xi): “The Committee of Ministers of the Council of Europe [...] [c]alls on member states to [...] provide measures for swift assistance and protection to human rights defenders in danger in third countries, such as, where appropriate, attendance at and observation of trials and/or, if feasible, the issuing of emergency visas”;

Report of the Special Rapporteur on the situation of human rights defenders, States in denial: the long-term detention of human rights defenders, Trends and patterns in the use of long-term detention against human rights defenders, UN Doc. A/76/143 (2021), para 159(b): “Governments carrying out advocacy efforts should [...] [r]aise with other States the cases of human rights defenders in long term detention”;

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), para 115(f): “The Special Rapporteur recommends that States [...] [p]rivately promote the work of defenders working in secret in other countries, without necessarily identifying them, and explore ways to better support their work”.

¹³⁴ UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (2004), para 2: “every State Party has a legal interest in the performance by every other State Party of its obligations. This follows from the fact that the ‘rules concerning the basic rights of the human person’ are erga omnes obligations and that, as indicated in the fourth preambular paragraph of the Covenant, there is a United Nations Charter obligation to promote universal respect for, and observance of, human rights and fundamental freedoms”;

European Union External Action, Ensuring Protection – The European Union Guidelines for the protection of human rights defenders provide some guidance for EU missions abroad, para 11: “The EU’s objective is to influence third countries to carry out their obligations to respect the rights of human rights defenders and to protect them from attacks and threats from non-state actors. In its contacts with third countries, the EU will, when deemed necessary, express the need for all countries to adhere to and comply with the relevant international norms and standards, in particular the UN Declaration”;

US Department of State, Guidelines for U.S. Diplomatic Mission Support to Civil Society and Human Rights Defenders (2021), p 3: “The United States is committed to the UN Declaration on Human Rights Defenders and continues to engage, both bilaterally and in multilateral fora, to protect and promote fundamental freedoms and the role of human rights defenders”.

this right, in particular in States where human rights defenders are at risk of discrimination, violence, or other harm, or where their rights and freedoms are at risk of being violated.¹³⁵

135 UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (2004), para 2: “every State Party has a legal interest in the performance by every other State Party of its obligations. This follows from the fact that the ‘rules concerning the basic rights of the human person’ are erga omnes obligations and that, as indicated in the fourth preambular paragraph of the Covenant, there is a United Nations Charter obligation to promote universal respect for, and observance of, human rights and fundamental freedoms”;

European Union External Action, Ensuring Protection - The European Union Guidelines for the protection of human rights defenders provide some guidance for EU missions abroad, paras 10, 13: “In many third countries EU Missions (Embassies of EU Member States and European Commission Delegations) are the primary interface between the Union and its Member States and human rights defenders on the ground. They therefore have an important role to play in putting into practice the EU’s policy towards human rights defenders. EU Missions should therefore seek to adopt a proactive policy towards human rights defenders - text of para 10” [...] “Practical supports [from European Union and Member States] [...] can include the following [...] seeking to ensure that human rights defenders in third countries can access resources, including financial from abroad”;

US Department of State, Guidelines for U.S. Diplomatic Mission Support to Civil Society and Human Rights Defenders (2021), p 12-14: “U.S. missions support and protect civil society and human rights defenders through bilateral and multilateral engagement and through public diplomacy”;

Canada’s Guidelines on Supporting Voices at Risk Human Rights Defenders (2019), p 11: “Support for HRDs is a priority issue for Canada’s diplomatic missions”;

Council of Europe, Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities, 6 February 2008, para 2(xi): “The Committee of Ministers of the Council of Europe [...] [c]alls on member states to [...] provide measures for swift assistance and protection to human rights defenders in danger in third countries, such as, where appropriate, attendance at and observation of trials and/or, if feasible, the issuing of emergency visas”;

Report of the Special Rapporteur on the situation of human rights defenders, States in denial: the long-term detention of human rights defenders, Trends and patterns in the use of long-term detention against human rights defenders, UN Doc. A/76/143 (2021), para 159(b): “Governments carrying out advocacy efforts should [...] [r]aise with other States the cases of human rights defenders in long term detention”;

Report of the Special Rapporteur on the situation of human rights defenders, Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers, UN Doc. A/77/178 (2022), para 115(f): “The Special Rapporteur recommends that States [...] [p]rivate promote the work of defenders working in secret in other countries, without necessarily identifying them, and explore ways to better support their work”.

ARTICLE 15

Support to Human Rights Defenders on the Move, Displaced, or Exiled

Note: Human rights defenders who were consulted in the drafting of this Declaration +25 highlighted the numerous difficulties encountered as a result of their work or activities in the protection of human rights. These include, for instance, the imposition of red notices and travel bans, as well as exile and displacement and the difficulties in exercising their work or activities as human rights defenders while in transit or in exile. These obstacles affect not only the human rights defenders themselves, but also their families and communities which in turn face separation and loss.

This provision addresses the need to implement measures to guarantee the safe movement and passage of human rights defenders on a non-discriminatory basis, so that they may travel or seek refuge or asylum freely, without risk or fear of displacement or refoulement, and with the same ease as those who are not human rights defenders.

States shall facilitate the right to freedom of movement and take all necessary measures to support human rights defenders who are on the move, displaced, or in exile, ensuring their safety and continued ability to carry out their work to defend human rights.¹³⁶

136 ICCPR, Articles 12(1)-12(2): “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence [...] Everyone shall be free to leave any country, including his own”;

Council of Europe, Protocol No 4 of ECHR, 16.IX.1963 (1963), Article 2: “1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 2. Everyone shall be free to leave any country, including his own. 3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. 4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society”;

UDHR, Article 13: “1. Everyone has the right to freedom of movement and residence within the borders of each state. 2. Everyone has the right to leave any country, including his own, and to return to his country”;

Convention Relating to the Status of Refugees (1951) Article 26: “Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory”;

UN Human Rights Committee, General Comment No 15: The position of aliens under the Covenant, UN Doc. HRI/GEN/1/Rev.9 (Vol. I) (1986), paras 1-2, 5, 7, 9-10: “In general, the rights set forth in the Covenant apply to everyone, irrespective of reciprocity, and irrespective of his or her nationality or statelessness – text of para 1” [...] “Thus, the general rule is that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens. Aliens receive the benefit of the general requirement of non-discrimination in respect of the rights guaranteed in the Covenant, as provided for in article 2 thereof – text of para 2” [...] “The Covenant does not recognize the right of aliens to enter or reside in the territory of a State party. It is in principle a matter for the State to decide who it will admit to its territory. However, in certain circumstances an alien may enjoy the protection of the Covenant even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment and respect for family life arise – text of para 5” [...] “Aliens thus have an inherent right to life, protected by law, and may not be arbitrarily deprived of life. They must not be subjected to torture or to cruel, inhuman or degrading treatment or punishment; nor may they be held in slavery or servitude. Aliens have the full right to liberty and security of the person. If lawfully deprived of their liberty, they shall be treated with humanity and with respect for the inherent dignity of their person. Aliens may not be imprisoned for failure to fulfil a contractual obligation. They have the right to liberty of movement and free choice of residence; they shall be free to leave the country. Aliens shall be equal before the courts and tribunals, and shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law in the determination of any criminal charge or of rights and obligations in a suit at law. Aliens shall not be subjected to retrospective penal legislation, and are entitled to recognition before the law. They may not be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence. They have the right to freedom of thought, conscience and religion, and the right to hold opinions and to express them. Aliens receive the benefit of the right of peaceful assembly and of freedom of association – text of para 7”;

Parliamentary Assembly of the Council of Europe, Protecting human rights defenders in Council of Europe member States, Resolution 2225 (2018), para 5.9: “The Assembly therefore calls on member States to: [...] facilitate the granting of emergency visas, residence permits or asylum to human rights defenders who are at risk in their own countries and provide them with temporary refuge, if need be”;

In particular, States shall:

- (a) Ensure that human rights defenders who are on the move, displaced, or in exile are protected from arbitrary arrest and detention¹³⁷ as a result of their work or activities and that they benefit from the prohibition of refoulement to persecution, as articulated in the Convention Relating to the Status of Refugees and other international instruments and customary international law.¹³⁸
- (b) Recognize visas as a protection tool for human rights defenders in situations of immediate or anticipated risk in the jurisdictions in which they operate and ensure a facilitated, non-discriminatory, expeditious granting of travel documents, emergency visas, and residence permits to these human rights defenders and their families, with a view to guaranteeing their fundamental rights and enabling them to continue their work or activities to defend human rights.¹³⁹

Concluding document of the Vienna meeting 1986 of representatives of the participating States of the conference on security and co-operation in Europe (1989), para 20: "The participating States [...] have adopted and will implement the following: [...] deal favourably with applications for travel abroad without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, age or other status";

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), para 115(a): "States, businesses, NGOs and donors should support [...] [l]ocal protection funds that allow for relocation both within and outside the country";

IACmHR, Report on the Situation of Human Rights Defenders in the Americas, OAS/SER.L/V/II.124 doc. 5 Rev.1 (2006), para 47: "In this regard, the Inter American Court has found that this right could be violated when a defender is a victim of threats or harassment and the State does not provide the guarantees necessary to allow the person to move about freely and reside in the territory in question, even when those threats and acts of harassment are carried out by non State actors".

137 CCPR, Articles 12(1)-12(2): "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence - text of Article 12(1)" [...] Everyone shall be free to leave any country, including his own - text of Article 12(2)";

UNHRC Resolution, Protecting human rights defenders, UN Doc. A/HRC/RES/22/6 (2013), para 6: "States to ensure that human rights defenders can perform their important role in the context of peaceful protests, in accordance with national legislation consistent with the Charter of the United Nations and international human rights law and, in this regard, to ensure that no one is subject to excessive or indiscriminate use of force, arbitrary arrest or detention, torture or other cruel, inhuman or degrading treatment or punishment, enforced disappearance, abuse of criminal and civil proceedings or threats of such acts";

Concluding document of the Vienna meeting 1986 of representatives of the participating States of the conference on security and co-operation in Europe (1989), para 23.1: "The participating States will [...] ensure that no one will be subjected to arbitrary arrest, detention or exile".

138 Convention Relating to the Status of Refugees (1951), Article 33(1): "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion";

CAT (1984), Article 3: "No State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture";

International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), 2010, Article 16: "No State Party shall expel, return ('refouler'), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance".

139 ECHR, Article 14 (prohibition of discrimination): "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status";

Charter of Fundamental Rights of the European Union, 2000/C 364/01, Article 21 (Non-Discrimination): "1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. 2. Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited";

ICERD, Article 2(2): "States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved";

- (c) Guarantee the safe passage of human rights defenders at risk as they seek refuge from prosecution and persecution arising from their human rights work, particularly amidst conflicts and political crises. States shall ensure that these human rights defenders have the right to seek asylum, with their status determined in a fair, transparent, confidential, and timely manner and collaborate with international organizations and other countries to provide resettlement opportunities to human rights defenders, ensuring that the resettlement processes are prompt.¹⁴⁰
- (d) Enable human rights defenders to carry out their human rights work or activities (either individually or collectively) regardless of their immigration status, and including if they are in exile; in particular, human rights defenders shall be able to exercise, inter alia, their right to defend human rights as well as the rights to freedom of information, freedom of expression, freedom of association, and freedom of assembly, and they shall have access to essential services and can enjoy their rights to health, education, and work without discrimination.¹⁴¹

ICESCR, Articles 2(2), 3: "The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status – text of Article 2(2)" [...] "The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant – text of Article 3";

ICCPR, Article 26: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status";

Parliamentary Assembly of the Council of Europe, Situation of human rights defenders in Council of Europe member states, Resolution 1660 (2009), paras 13.2, 14.5: "establish humanitarian visa schemes or take any other appropriate measure for human rights defenders facing imminent danger or in need of respite as a consequence of persistent persecution in third countries, or at least facilitate the issue of emergency visas for them in such situations – text of para 13.2" [...] "support assistance and protection measures for human rights defenders at risk, such as the issue of emergency visas, trial observation and involvement in networks of parliamentarians in support of human rights defenders – text of para 14.5";

Parliamentary Assembly of the Council of Europe, Protecting human rights defenders in Council of Europe Member States, Resolution 2225 (2018), para 5.9: "facilitate the granting of emergency visas, residence permits or asylum to human rights defenders who are at risk in their own countries and provide them with temporary refuge, if need be";

Council of Europe, Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities, 6 February 2008, para 2(xi): "Calls on member states to: [...] provide measures for swift assistance and protection to human rights defenders in danger in third countries, such as, where appropriate, attendance at and observation of trials and/or, if feasible, the issuing of emergency visas";

Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), para 112(h): "Enable fast and efficient visa processing for human rights defenders who need to relocate".

140 UDHR, Article 14(1): "Everyone has the right to seek and to enjoy in other countries asylum from persecution";

Convention Relating to the Status of Refugees (1951), Article 33(1): "No Contracting State shall expel or return [...] a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".

141 The Declaration, Articles 5, 6, 12: "For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: a. To meet or assemble peacefully; b. To form, join and participate in non-governmental organizations, associations or groups; c. To communicate with non-governmental or intergovernmental organizations – text of Article 5" [...] "Everyone has the right, individually and in association with others: a. To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; b. As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; c. To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters – text of Article 6" [...] "1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms. 2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration. 3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms – text of Article 12";

- (e) Ensure that human rights defenders who are on the move, displaced, or in exile enjoy their right to family unity and benefit from family reunification promptly, without burdensome administrative, legal, and financial barriers.¹⁴²

UN Human Rights Committee, General Comment No 15: The position of aliens under the Covenant, UN Doc. HRI/GEN/1/Rev.9 (Vol. I) (1986), paras 1-2, 7, 9-10: "In general, the rights set forth in the Covenant apply to everyone, irrespective of reciprocity, and irrespective of his or her nationality or statelessness – text of para 1" [...] "Thus, the general rule is that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens. Aliens receive the benefit of the general requirement of non-discrimination in respect of the rights guaranteed in the Covenant, as provided for in article 2 thereof – text of para 2" [...] "Aliens thus have an inherent right to life, protected by law, and may not be arbitrarily deprived of life. They must not be subjected to torture or to cruel, inhuman or degrading treatment or punishment; nor may they be held in slavery or servitude. Aliens have the full right to liberty and security of the person. If lawfully deprived of their liberty, they shall be treated with humanity and with respect for the inherent dignity of their person. Aliens may not be imprisoned for failure to fulfil a contractual obligation. They have the right to liberty of movement and free choice of residence; they shall be free to leave the country. Aliens shall be equal before the courts and tribunals, and shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law in the determination of any criminal charge or of rights and obligations in a suit at law. Aliens shall not be subjected to retrospective penal legislation, and are entitled to recognition before the law. They may not be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence. They have the right to freedom of thought, conscience and religion, and the right to hold opinions and to express them. Aliens receive the benefit of the right of peaceful assembly and of freedom of association – text of para 7";

UN Human Rights Committee, General Comment No 36, Article 6: right to life, UN Doc. CCPR/C/GC/36 (2019), para 19: "The duty to protect by law the right to life also requires States parties to organize all State organs and governance structures through which public authority is exercised in a manner consistent with the need to respect and ensure the right to life, including establishing by law adequate institutions and procedures for preventing deprivation of life, investigating and prosecuting potential cases of unlawful deprivation of life, meting out punishment and providing full reparation";

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/37/51 (2018), para 66(c): "Enable people to promote and protect human rights regardless of their immigration status; in particular, people on the move and those who defend their rights should be able to exercise, inter alia, their right to freedom of information, freedom of expression, freedom of association and freedom of assembly".

142 Final Act of the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, UN Doc. A/CONF.2/108/Rev.1 (1951), p 8: "The Conference, considering that the unity of the family [...] is an essential right of the refugee [...] [r]ecommends Governments to take the necessary measures for the protection of the refugee's family, especially with a view to: Ensuring that the unity of the refugee's family is maintained";

UNHCR, Regional Bureau for Europe, UNHCR recommendations on flexible approaches to family reunification procedures in Europe Regional Bureau for Europe (2023), p 2: "UNHCR recommends to European States that they ensure that family reunification procedures for all refugees are flexible, prompt and effective [...] More concretely, UNHCR recommends: [...] [t]o show flexibility and simplify evidentiary requirements to remove obstacles and ensure effective access to family reunification. States should flexibly give credence to documents issued by States where refugees and family members are residing in lieu of the original documents".

ARTICLE 16

Responding to Violations Emanating From or Perpetrated Outside a State's Territory

Note: *The global nature of the challenges faced by human rights defenders requires States not only to respond to domestic threats but also to extend their protective measures to counteract extraterritorial risks and violations. This provision emphasizes States' role in promoting accountability for grave violations against human rights defenders, regardless of where these violations come from or are perpetrated.*

States shall protect and support human rights defenders within their territory or under their control from threats, risks, attacks, and violations which emanate from, or are perpetrated, outside the jurisdiction of that State,¹⁴³ and they shall promote universal respect for, and observance of, the rights of human rights defenders wherever they are located.¹⁴⁴

143 On States' obligations to comply with their human rights obligations as regards individuals under their control, see: ICCPR, Article 2(1): "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status";

UN Human Rights Committee Decision, *Delia Saldias de Lopez v Uruguay*, Communication No 52/1979, UN Doc. CCPR/C/OP/1 (1984), para 12.3: "Article 2 (1) of the Covenant places an obligation upon a State party to respect and to ensure rights 'to all individuals within its territory and subject to its jurisdiction', but it does not imply that the State party concerned cannot be held accountable for violations of rights under the Covenant which its agents commit upon the territory of another State, whether with the acquiescence of the Government of that State or in opposition to it. According to article 5(1) of the Covenant: 'Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.' In line with this, it would be unconscionable to so interpret the responsibility under article 2 of the Covenant as to permit a State party to perpetrate violations of the Covenant on the territory of another State, which violations it could not perpetrate on its own territory";

Committee against Torture, *J.H.A. v Spain*, Communication No 323/2007, UN Doc. CAT/C/41/D/323/2007 (2008), para 8.2: "The Committee takes note of the State party's argument that the complainant lacks competence to represent the alleged victims because the incidents forming the substance of the complaint occurred outside Spanish territory. Nevertheless, the Committee recalls its General Comment No 2, in which it states that the jurisdiction of a State party refers to any territory in which it exercises, directly or indirectly, in whole or in part, de jure or de facto effective control, in accordance with international law. In particular, it considers that such jurisdiction must also include situations where a State party exercises, directly or indirectly, de facto or de jure control over persons in detention. This interpretation of the concept of jurisdiction is applicable in respect not only of article 2, but of all provisions of the Convention, including article 22. In the present case, the Committee observes that the State party maintained control over the persons on board the *Marine I* from the time the vessel was rescued and throughout the identification and repatriation process that took place at Nouadhibou. In particular, the State party exercised, by virtue of a diplomatic agreement concluded with Mauritania, constant de facto control over the alleged victims during their detention in Nouadhibou. Consequently, the Committee considers that the alleged victims are subject to Spanish jurisdiction insofar as the complaint that forms the subject of the present communication is concerned";

UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), para 10: "a State party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party";

UNHRC, Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, The Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, UN Doc. A/HRC/17/31 (2011), para 1: "States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication".

144 UN Charter, Article 55(c): "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote [...] universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion";

UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (2004), para 2: "every State Party has a legal interest in the performance by every other State Party of its obligations. This follows from the fact that the 'rules concerning the basic rights of the human person' are erga omnes obligations and that, as indicated in the fourth preambular paragraph of the Covenant, there is a United Nations Charter obligation to promote universal respect for, and observance of, human rights and fundamental freedoms".

In particular, States should:

- (a) Enact and enforce domestic laws and policies that protect human rights defenders who are present on their territory or are under their control from transnational repression in all of its forms, including killings, abductions, unlawful removals, abuse of consular services, red tagging and abuse of Interpol, the targeting and collective punishment of families of human rights defenders, digital attacks, and any other form of adverse actions by States.¹⁴⁵
- (b) Exercise universal jurisdiction to promote accountability for international atrocity crimes perpetrated against human rights defenders, wherever such crimes occur.¹⁴⁶

145 ICCPR, Article 6(1), 9: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life – text of Article 6(1)" [...] "1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement. 4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. 5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation – text of Article 9".

146 Geneva Convention Relative to the Protection of Civilian Persons in time of war (1949), Article 146: "The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article. Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case. Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article. In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949". Universal jurisdiction is recognized for the crimes of genocide. *See, e.g.;*

Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Preliminary Objections, Judgment, ICJ Reports 1996, para 31: "The Court notes that the obligation each State thus has to prevent and to punish the crime of genocide is not territorially limited by the Convention". It is also recognized for acts of torture and other cruel, inhuman, or degrading treatment. *See, e.g.;*

CAT, Article 5(2): "Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article";

Inter-American Convention to Prevent and Punish Torture, Article 12: "Every State Party shall take the necessary measures to establish its jurisdiction over the crime described in this Convention in the following cases: (a) When torture has been committed within its jurisdiction; (b) When the alleged criminal is a national of that State; or (c) When the victim is a national of that State and it so deems appropriate. Every State Party shall also take the necessary measures to establish its jurisdiction over the crime described in this Convention when the alleged criminal is within the area under its jurisdiction and it is not appropriate to extradite him in accordance with Article 11. This Convention does not exclude criminal jurisdiction exercised in accordance with domestic law". Furthermore, universal jurisdiction is recognized for enforced disappearances. *See, e.g.;*

ICPPED, Article 9(2): "Each State Party shall likewise take such measures as may be necessary to establish its competence to exercise jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognized";

Inter-American Convention on Forced Disappearance of Persons, Article 4: states that every State Party shall take the necessary measures to ensure that enforced disappearance constitutes an offence under its criminal law. Lastly, it is recognized in other contexts. *See, e.g.;*

UN Charter, Article 55: "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote [...] universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion";

UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (2004), para 2: "every State Party has a legal interest in the performance by every other State Party of its obligations. This follows from the fact that the 'rules concerning the basic rights of the human person' are erga omnes obligations and that, as indicated in the fourth preambular paragraph of the Covenant, there is a United Nations Charter obligation to promote universal respect for, and observance of, human rights and fundamental freedoms".

ARTICLE 17

Responsibility of States for Non-State Actors

Note: *The Declaration is addressed not only to States but to all individuals, groups, and organs of society (Preamble and Articles 11, 12.3, and 19). This encompasses a range of non-State actors, including armed non-State actors, who have responsibility to respect the right to defend human rights. Given that these non-State actors reside within State territories, it is imperative for States to ensure that such non-State actors abide by the Declaration and Declaration +25 and contribute to the protection of the right to defend human rights.*

States shall adopt and enforce laws and policies, and take all necessary measures to ensure that non-State actors (including business enterprises) respect human rights defenders and do not, directly or indirectly, violate or restrict their rights or activities.¹⁴⁷

In particular, States shall, in consultation with human rights defenders, ensure that non-State actors (including business enterprises):

¹⁴⁷ *Luna Lopez v Honduras*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 169, 10 October 2013, para 120: "The State's obligation to guarantee rights goes beyond the relationship between its agents and the persons under its jurisdiction; it also encompasses the obligation to prevent, within the private sphere, third parties from violating protected juridical rights";

Mapiripán Massacre v Colombia, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 134, 15 September 2005, para 111: "Said international responsibility may also be generated by acts of private individuals not attributable in principle to the State. The States Party to the Convention have erga omnes obligations to respect protective provisions and to ensure the effectiveness of the rights set forth therein under any circumstances and regarding all persons. The effect of these obligations of the State goes beyond the relationship between its agents and the persons under its jurisdiction, as it is also reflected in the positive obligation of the State to take such steps as may be necessary to ensure effective protection of human rights in relations amongst individuals. The State may be found responsible for acts by private individuals in cases in which, through actions or omissions by its agents when they are in the position of guarantors, the State does not fulfill these erga omnes obligations embodied in Articles 1 (1) and 2 of the Convention";

Suárez Peralta v Ecuador, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 261, 21 May 2013, para 129: "The obligation of guarantee goes beyond the relationship between the State agents and the persons subject to it jurisdiction, also encompassing the obligation to prevent, in the private sphere, third parties from violating the protected rights";

UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (2004), para 8: "The Covenant cannot be viewed as a substitute for domestic criminal or civil law. However the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities";

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), Principle A.2: "States should set forth clear expectations for business enterprises regarding the importance of respecting the rights of human rights defenders";

OSCE, Guidelines on the Protection of Human Rights Defenders, OSCE/ODIHR (2014), Section B, para 68: "The obligations of participating States to respect, protect and fulfil human rights requires that they refrain from any threats or acts of violence against human rights defenders, protect them from such acts by non-state actors and take proactive measures to ensure their safety";

UNHRC, Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, UN Doc. A/HRC/17/31 (2011), Principle 2: "States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations";

IACmHR, Business and Human Rights: Inter-American Standards, OEA/Ser.L/V/II CIDH/REDESCA/INF.1/19 (2019), para 47: "State must establish a clear legal framework that provides for sanctions against businesses that are involved in criminalization, stigmatization, abuses, and violence against those who defend human rights, including private security companies and contractors who act on behalf of the company involved".

- (a) Respect the right to defend human rights, and refrain from attacking and harassing those who exercise this right, or their communities.¹⁴⁸
- (b) Conduct thorough human rights diligence processes to identify, prevent, and remedy any adverse impacts their actions may have on the right to defend human rights and those who exercise this right, and publicly report on these measures.¹⁴⁹

148 Parliamentary Assembly of the Council of Europe, Protecting human rights defenders in Council of Europe Member States, Resolution 2225 (2018), para 5.2: “refrain from any acts of intimidation or reprisal against human rights defenders and protect them against attacks or harassment by non-State actors”;

Special Rapporteur on the situation of human rights defenders, Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, (2011), p 9-11: “As the Declaration on human rights defenders contains a series of principles and rights that are based on human rights standards enshrined in other legally binding international instruments, such as the International Covenant on Civil and Political Rights, the State’s duty to protect all human rights includes the protection of the rights of human rights defenders. Thus, for instance, the right to life, the right to privacy, and the rights to freedom of association and expression should be protected from violations not only by State agents, but also by private persons or entities. This duty should apply at all times (A/65/223, para. 31) [...] States bear the primary responsibility for protecting individuals, including defenders, under their jurisdiction, regardless of the status of the alleged perpetrators (A/HRC/13/22, para. 42). The State’s duty to protect the rights of defenders from violations committed by States and non-State actors is derived from each State’s primary responsibility and duty to protect all human rights, as enshrined in article 2 of the International Covenant on Civil and Political Rights, which establishes the obligation of States to guarantee to all individuals within their territories and subject to their jurisdiction the rights recognized in the Covenant without discrimination (A/65/223, para. 30) [...] Examples of actions or omissions which contravene the State’s duty of due diligence includes the failure to provide effective protection to defenders at risk who have documented attacks and threats by non-State actors or who have been granted interim protection measures by regional human rights mechanisms (A/65/223, para. 35). [...] State’s responsibility for the acts of non-State actors in the context of human rights violations by third parties, the obligation to protect, first, involves ensuring that defenders do not suffer from violations of their rights by non-State actors. Failure to protect could, in particular circumstances, engage the State’s responsibility (A/65/223, para. 29). For instance, acts and omissions committed by non-State actors under the instructions, control or direction of the State can, under certain circumstances, give rise to State responsibility. One example of a situation might be where a State creates or equips armed groups, such as paramilitaries or armed bands, and instructs them to attack human rights defenders. In this instance, the paramilitaries could be considered de facto State organs, and the commission of acts in breach of international law against defenders could be attributed to the State (A/65/223, para. 41). In cases involving non-State actors — including private companies and illegal armed groups — it is paramount that prompt and full investigations are conducted and perpetrators brought to justice. Failure by States to prosecute and punish such perpetrators is a clear violation of article 12 of the Declaration on Human Rights Defenders. Addressing the issue of impunity is a key step to ensuring a safe environment for defenders (A/HRC/13/22, para. 42). State responsibility in relation to actions and omissions of non-State actors as provided in article 12, paragraph 3, of the Declaration has been reiterated by numerous human rights bodies, including the Human Rights Committee and the Inter-American Commission on Human Rights. The rights enshrined in the International Covenant on Civil and Political Rights, including the right to life and freedom of association and expression, should be protected from violations not only by State agents, but also private persons or entities”;

UNHRC Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, UN Doc. A/HRC/17/31 (2011), Principle 2: “States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations”.

149 UNGA Resolution, Twentieth anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/72/247 (2018), para 12: “Urges non-State actors, including transnational corporations and other business enterprises, to respect, promote and strive for the protection of the human rights and fundamental freedoms of all persons, including human rights defenders, and underlines the need to ensure human rights due diligence and the accountability of, and the provision of adequate remedies by, transnational corporations and other business enterprises, while also urging States to adopt relevant policies and laws in this regard, including to hold all companies to account for involvement in threats or attacks against human rights defenders”;

UNHRC, Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, UN Doc. A/HRC/17/31 (2011), Principles 15(b), 17: “In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including [...] human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights – text of Principle 15(b)” [...] “In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence: (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships; (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations; (c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise’s operations and operating context evolve – text of Principle 17”;

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), para 42: “Ensure that mandatory human rights due diligence laws, including those concerning modern slavery and transparency in supply chains, also serve as a vehicle to safeguard human rights defenders through requirements of

- (c) Upon detecting risks to human rights defenders, consult with relevant local, national, and international civil society organizations, to determine the appropriate course of action.¹⁵⁰
- (d) Withdraw, where appropriate, from any relationships, be they business, academic, or otherwise, with entities involved in attacks or violations against human rights defenders.¹⁵¹
- (e) Engage with human rights defenders to support their work or activities, including through the provision of resources, technical support, and platforms to amplify their voices, in consultation and agreement with human rights defenders.¹⁵²

Further, in respect of non-State armed actors, States shall take all necessary and available measures to ensure respect for the right to defend human rights and those who exercise this right, in conformity with international human rights and humanitarian law and pursue accountability where violations or abuses occur.¹⁵³

consultation and access to information as well as through ensuring proper access to effective remedy as part of due diligence laws [and] require business enterprises to continually assess, address and mitigate risks to human rights defenders in their supply chains, including by making accessible, safe and respectful consultation with human rights defenders mandatory at all stages of due diligence processes”.

150 UNHRC, Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, UN Doc. A/HRC/17/31 (2011), Commentary of Principle 23: “Some operating environments, such as conflict-affected areas, may increase the risks of enterprises being complicit in gross human rights abuses committed by other actors (security forces, for example) [...] In complex contexts such as these, business enterprises should ensure that they do not exacerbate the situation. In assessing how best to respond, they will often be well advised to draw on not only expertise and cross-functional consultation within the enterprise, but also to consult externally with credible, independent experts, including from governments, civil society, national human rights institutions and relevant multi-stakeholder initiatives”;

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), Principle 2, paras 60-61: “Business enterprises should take into account adverse impacts to human rights defenders as part of their human rights due diligence [...] Illustrative actions that business enterprises should take [...] where there have been negative impacts on human rights defenders, improve pre-investment human rights due diligence activities to look systematically at contextual risks, including risks to human rights defenders, in the countries and sectors it invests in, and implement early-warning screening for risks to human rights defenders prior to investing. Upon detecting risks to defenders, consult with relevant local, national and international organisations, to determine the appropriate course of action”.

151 UNHRC, Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, UN Doc. A/HRC/17/31 (2011), Principles 13(b), 19(b): “The responsibility to respect human rights requires that business enterprises [...] [s]eek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts – text of Principle 13(b)” [...] “In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action [...] Appropriate action will vary according to: (i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship; (ii) The extent of its leverage in addressing the adverse impact – text of Principle 19(b)”;

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), Principle 1, para 59: “Business enterprises should develop policies on respect for the rights of human rights defenders [...] Illustrative actions that business enterprises should take [...] [include withdrawing] where appropriate, from business relationships with subsidiaries, suppliers or subcontractors involved in attacks on human rights defenders. Such decisions should be informed by the Guiding Principles, as should decisions on when and how to disengage”.

152 UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), Principle 7, paras 74-75: “Businesses should support human rights defenders, publicly and privately [...] [T]here are specific actions that a business enterprise can take to support human rights defenders and civic freedoms. Even if not specifically required under the Guiding Principles unless the business enterprise is causing, contributing to or directly linked to impacts on defenders, such action can nevertheless help to reinforce both the prevention of business-related human rights abuses, and the role of defenders as partners in human rights due diligence. It also strengthens an enabling environment for the respect of human rights – text of para 74” [...] “Publicly welcoming the work that human rights defenders do is an important way of respecting them. Businesses can show support, for example, by providing financial support to independent organisations that support defenders and their communities – text of para 75”.

153 *Pueblo Bello Massacre v Colombia*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 140, 31 January 2006, para 140: “The Court observes that even though the January 1990 massacre in Pueblo Bello was organized and perpetrated by members of a paramilitary group, it could not have been carried out if there had been effective protection for the civilian population in a dangerous situation that was reasonably foreseeable by the members of the Armed Forces or State security forces. It is true that

ARTICLE 18

Role and Responsibility of Business Enterprises

Note: While the Declaration is addressed not only to States but to all individuals, groups, and organs of society (Preamble and Articles 11, 12.3, and 19), it falls short in adequately addressing the responsibility of the private sector to refrain from impeding the work or activities of human rights defenders. In the face of continued attacks against human rights defenders raising concerns about business-related harms across the globe, and as highlighted in the consultation reports, increased scrutiny and action are needed to hold companies to account for adverse impacts in their operations, supply chains, and business relationships on human rights defenders. Attacks against defenders raising concerns about business-related harms occur in every region and in relation to almost every business sector. Many of these attacks are against people taking action to protect the climate, and environmental and land rights, and Indigenous defenders are disproportionately affected.

This provision outlines the responsibilities of business actors to respect the rights of defenders.

In consultation with human rights defenders, business enterprises, including financial institutions and investors, shall ensure that their activities, actions and omissions do not restrict or violate the right to defend human rights or those who exercise this right, and shall identify, address and

there is no evidence before the Court to show that the State was directly involved in the perpetration of the massacre or that there was a connection between the members of the Army and the paramilitary groups or a delegation of public functions from the Army to such groups. However, the responsibility for the acts of the members of the paramilitary group in this case in particular can be attributed to the State, to the extent that the latter did not adopt diligently the necessary measures to protect the civilian population in function of the circumstances that have been described. For the reasons set out in the previous paragraphs, the Court concludes that the State did not comply with its obligation to ensure the human rights embodied in Articles 4, 5 and 7 of the Convention [American Convention of Human Rights], because it did not comply with its prevention and protection obligations to the detriment of those who disappeared and were deprived of life in this case”;

Peace Community of San José de Apartadó v Colombia, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 140, 18 June 2002, paras 10-11: finding that the State was obligated to protect the right to life of members of the Peace Community, who took a principled non-violent and non-aligned stand against all armed actors in the Colombian war and were subjected to threats, harassment and persecution by paramilitary groups;

UN Human Rights Committee, General Comment No 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (2004), para 8: “The Covenant cannot be viewed as a substitute for domestic criminal or civil law. However, the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/65/223 (2010), para 6: “During times of armed conflict or states of emergency, human rights defenders are at great risk of being targeted by non-State armed groups. Defenders denouncing impunity and violations committed by armed groups are harassed and, consequently, work in a state of fear. In particular, their mental and physical integrity is at risk, as they often live in regions under the control of non-State armed groups or wherein these groups operate. In addition to being threatened and harassed by militias, warlords and other armed groups, women human rights defenders are, in addition, often subjected to rape and other forms of sexual violence because of their work. Human rights defenders helping victims to access justice for violations of human rights law or international humanitarian law, either locally or before regional or international tribunals such as the International Criminal Court, are also regularly subjected to threats, violence and harassment. In particular, the Special Rapporteur has received information about lawyers receiving death threats because of their work in defence of victims of international crimes. Humanitarian workers are also targeted by non-State armed groups and thus prevented from providing humanitarian assistance to victims of armed conflicts. Furthermore, in the context of civil conflict, paramilitaries often attempt to stigmatize the work of human rights defenders and legitimize campaigns of violence against them by alleging that they are associated with armed groups or ‘terrorists’. In such cases, it is vital that the Government publicly reaffirm the importance of the work carried out by human rights defenders and denounce any attempts at its delegitimization or stigmatization”.

remedy adverse impacts on human rights defenders associated with their own activities or as a result of their business relationships.¹⁵⁴

In particular, in safe and meaningful consultation with human rights defenders, business enterprises should:

- (a) Adopt, implement and evaluate company-wide public policy commitments and procedures to respect, protect, consult and support human rights defenders, address adverse impacts on defenders associated with their business operations or relationships, and adopt zero tolerance of or contribution to threats, attacks, intimidation, or reprisals of any kind.¹⁵⁵

154 UNGA Resolution, Twentieth anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/72/247 (2018), para 12: “Urges non-State actors, including transnational corporations and other business enterprises, to respect, promote and strive for the protection of the human rights and fundamental freedoms of all persons, including human rights defenders, and underlines the need to ensure human rights due diligence and the accountability of, and the provision of adequate remedies by, transnational corporations and other business enterprises”;

UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, including in the context of and recovery from the coronavirus disease (COVID-19) pandemic, UN Doc. A/RES/76/174 (2022), paras 24, 26: “Urges non-State actors, including transnational corporations and other business enterprises, to assume their responsibility to respect the human rights and fundamental freedoms of all persons, including human rights defenders, and underlines the need to ensure human rights due diligence and the accountability of, and the provision of adequate remedies by, transnational corporations and other business enterprises, while also urging States to adopt relevant policies and laws in this regard, including to hold all companies to account for involvement in threats or attacks against human rights defenders – text of para 24” [...] “Calls upon all States and encourages non-State actors to implement the Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, underscores the responsibility of all business enterprises, both transnational and other, to respect human rights, including the rights to life and to liberty and security of person of human rights defenders, and their exercise of the rights to freedom of expression, peaceful assembly and association, and participation in the conduct of public affairs, and underscores further the importance that business enterprises establish or participate in effective and accessible operational-level grievance mechanisms for individuals and communities who may be adversely impacted – text of para 26”;

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), paras 16, 18: “Encourages non-State actors to respect and promote the human rights and fundamental freedoms of all persons, including their economic, social and cultural rights, and to refrain from actions that undermine the capacity of human rights defenders to operate free from hindrance and insecurity – text of para 16” [...] “Encourages business enterprises of all categories to avoid, identify, assess and address any adverse human rights impact related to their activities through meaningful consultation with potentially affected groups and other relevant stakeholders in a manner consistent with the Guiding Principles on Business and Human Rights – text of para 18”;

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), para 11: “The Guiding Principles clearly stipulate that business enterprises operating anywhere need to assess whether they are causing, contributing to or are linked to human rights abuses, and this includes risks to human rights defenders. They then need to take action to either prevent, mitigate or remediate such risks or abuses. Business enterprises need proactive engagement with human rights defenders, and should follow the preventive approach outlined in the Guiding Principles”;

Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/72/170 (2017), para 54: “Whether the link is direct or indirect, all business enterprises have an independent responsibility to ensure that defenders can effectively and safely address the human rights impacts linked to their operations”.

155 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/74/146 (2020), para 23: “underlines the need to ensure human rights due diligence and the accountability of, and the provision of adequate remedies by, transnational corporations and other business enterprises”;

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 18: “Encourages business enterprises of all categories to avoid, identify, assess and address any adverse human rights impact related to their activities through meaningful consultation with potentially affected groups and other relevant stakeholders in a manner consistent with the Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, and underlines the importance of accountability, including of all business enterprises, both transnational and others, including their provision of or cooperation in remedial action”;

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, UN Doc. A/HRC/47/39/Add.2 (2021), paras 54, 123: “This entails business enterprises adapting their procedures to anticipate risks to rights holders including human rights defenders. Concretely, it means that business enterprises need to ensure, as a minimum, that their activities, actions and omissions, do not lead to retaliation, violence, death, legal harassment or any other form of silencing or stigmatization of human rights defenders, and they need to address adverse impacts on human rights

- (b) Engage in robust human rights and environmental due diligence that explicitly includes consideration of threats, risks and violations against human rights defenders and their communities, and identifies and addresses gender-specific risks and impacts in accordance with the UN Guiding Principles on Business and Human Rights and the UN Working Group's guidance on ensuring respect for human rights defenders.¹⁵⁶
- (c) Ensure that due diligence processes respect the right to free, prior, and informed consent (**FPIC**), including the right of Indigenous Peoples to define the process by which FPIC is achieved and to withhold consent, regardless of any opposing claim by the government.
- (d) Refrain from implementing or funding any project or initiative that may foreseeably violate the right to defend human rights, or harm those who exercise this right, or their communities.¹⁵⁷

defenders with which they are involved, either through their own activities or as a result of their business relationships. Managing and addressing these risks is a policy, governance and operational issue for the Board of each business enterprise – text of para 54" [...] "Recognise that meeting the responsibility to respect human rights in relation to risks to human rights defenders implies – at a very minimum – that their activities, actions and omissions do not lead to retaliation, violence or stigmatisation against human rights defenders – text of para 123".

156 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/74/146 (2020), para 23: "underlines the need to ensure human rights due diligence and the accountability of, and the provision of adequate remedies by, transnational corporations and other business enterprises";

UNGA Resolution, Twentieth anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/72/247 (2018), para 12: "Urges non-State actors, including transnational corporations and other business enterprises, to respect, promote and strive for the protection of the human rights and fundamental freedoms of all persons, including human rights defenders, and underlines the need to ensure human rights due diligence and the accountability of, and the provision of adequate remedies by, transnational corporations and other business enterprises";

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 18: "Encourages business enterprises of all categories to avoid, identify, assess and address any adverse human rights impact related to their activities through meaningful consultation with potentially affected groups and other relevant stakeholders in a manner consistent with the Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, and underlines the importance of accountability, including of all business enterprises, both transnational and others, including their provision of or cooperation in remedial action";

UNHRC, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprise, UN Doc. A/HRC/41/43 (2019), para 45(d): "Business enterprises ensure meaningful participation of potentially affected women, women's organizations, women human rights defenders and gender experts in all stages of human rights due diligence";

The Ten Principles of the UN Global Compact, Principle One: Human Rights: "In order to ensure and demonstrate (i.e. to know and show) that a company is meeting its responsibility to respect human rights it should undertake due diligence. Human rights due diligence is the ongoing process taken to identify, prevent and mitigate and account for negative human rights impacts which the company may cause or contribute to through its own activities or which may be directly linked to the company's products, operations or services by a business relationship".

157 UNHRC, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, UN Doc. A/HRC/17/31 (2011), Principles 13(b), 19(b): "The responsibility to respect human rights requires that business enterprises [...] [s]eek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts – text of Principle 13(b)" [...] "In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action. [...] Appropriate action will vary according to: (i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship; (ii) The extent of its leverage in addressing the adverse impact – text of Principle 19(b)";

UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), Pillar 2 principle 1, para 59: "Business enterprises should develop policies on respect for the rights of human rights defenders – text of Pillar 2 principle 1" [...] "[i]llustrative actions that business enterprises should take [...] [include withdrawing] where appropriate, from business relationships with subsidiaries, suppliers or subcontractors involved in attacks on human rights defenders. Such decisions should be informed by the Guiding Principles, as should decisions on when and how to disengage – text of para 59".

- (e) Commit not to use SLAPPs and other judicial harassment tactics against human rights defenders or other actors who may be critical of its operations.¹⁵⁸
- (f) Take action in response to any allegation of company involvement in a threat or an adverse impact on those exercising the right to defend human rights. This includes ensuring transparency, accountability, and publicly reporting on actions taken to respond to allegations of adverse impacts on human rights defenders.¹⁵⁹
- (g) Evaluate the human rights commitments, impacts, and records of potential suppliers in awarding contracts and otherwise entering into business relationships.¹⁶⁰
- (h) Ensure access to effective remedies for human rights defenders adversely impacted by business activities or relationships, in accordance with the UN Guiding Principles on Business and Human Rights and the UN Working Group’s guidance on ensuring respect for human rights defenders.¹⁶¹

158 UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), para 125: recognizing that businesses should “not expose human rights defenders to undue risks, for example by initiating frivolous legal proceedings, including SLAPPs, or reporting them to authorities as a means of intimidating them. Recognise that SLAPPs are not only misguided as far as operating on a principled basis is concerned, as they are incompatible with responsible business, but also that engaging in them reflects poor strategic sense, as they destroy any credibility of corporate commitment to respect human rights at large”;

Office of the Council of Europe Commissioner for Human Rights, Report on Round table on “Human Rights Defenders in the Council of Europe Area in Times of Crises” (2022), Recommendations to Council of Europe Member States, para 7(b): “Provide a mechanism to dismiss SLAPPs at the earliest possible stage and punish abuses, particularly by reversing the costs of the proceedings”.

159 UNGA Resolution, Twentieth anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/72/247 (2018), para 12: “Urges non-State actors, including transnational corporations and other business enterprises, to respect, promote and strive for the protection of the human rights and fundamental freedoms of all persons, including human rights defenders, and underlines the need to ensure human rights due diligence and sthe accountability of, and the provision of adequate remedies by, transnational corporations and other business enterprises”;

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 18: “encourages all business enterprises to share and exchange best practices, and to communicate externally in an accessible form on how they address their adverse human rights impacts, including with information that is sufficient to evaluate the effectiveness and adequacy of the response to the particular human rights impact involved, particularly when concerns are raised by or on behalf of affected stakeholders, including by human rights defenders”.

160 The Ten Principles of the UN Global Compact, Principle One: Human Rights: “Companies should consider three sets of factors in determining the scope of their responsibility to respect human rights or, in other words, the risk of potential negative impacts on human rights in connection with the conduct of their business [...] The third set of factors is an analysis of the company’s relationships with Government, business partners, suppliers and other non-State actors to consider whether they might pose a risk for the company in terms of implicating it in human rights abuse. Look particularly at the provision or contracting of goods, services and even non-business activities, such as lending equipment or vehicles. Consider the track records of those entities your company deals with to assess whether the company might contribute to or be associated with abuse caused by those entities”;

UNHRC, The Guiding Principles on Business and Human Rights Implementing the United Nations “Protect, Respect and Remedy” Framework, UN Doc. A/HRC/17/31 (2011), Principle 17: “Human rights due diligence: [...] [s]hould cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships”.

161 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/74/146 (2020), para 21: “underscores further the importance that business enterprises establish or participate in effective and accessible operational-level grievance mechanisms for individuals and communities who may be adversely impacted”;

UNHRC Resolution, Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, UN Doc. A/HRC/RES/31/32 (2016), para 18: “Encourages business enterprises of all categories to avoid, identify, assess and address any adverse human rights impact related to their activities through meaningful consultation with potentially affected groups and other relevant stakeholders in a manner consistent with the UNHRC, The Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, and underlines the importance of accountability, including of all business enterprises, both transnational and others, including their provision of or cooperation in remedial action, and also encourages all business enterprises to share and exchange best practices, and to communicate externally in an accessible form on how they address their adverse human rights impacts, including with information that is sufficient to evaluate the effectiveness and adequacy of the response to the particular human rights impact involved, particularly when concerns are raised by or on behalf of affected stakeholders, including by human rights defenders”;

- (i) Proactively support an enabling environment for civic freedoms and human rights defense, including by exercising influence in support of human rights defenders at risk, and refrain from any lobbying for policies that restrict human rights and civic freedoms, including laws, policies, and actions that may criminalize human rights defenders.¹⁶²
- (j) Refrain from the development or use of technologies that may foreseeably restrict or violate the right to defend human rights and those who exercise this right, or restrict the access of human rights defenders to technology in a way that impacts their work or activities.¹⁶³

UNHRC, The Guiding Principles on Business and Human Rights Implementing the United Nations “Protect, Respect and Remedy” Framework, UN Doc. A/HRC/17/31 (2011), Principle 22: “Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”.

162 Report of the Special Rapporteur on the situation of human rights defenders, Final warning: death threats and killings of human rights defenders, UN Doc. A/HRC/46/35 (2020), para 113(a): “Businesses and international financial institutions should [...] invest in additional capacity to strengthen support for human rights defenders”.

163 UNHRC, The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/47/39/Add.2 (2021), para 109: “All technology companies should resist any demands to restrict, or collude in restricting, human rights, especially the right to privacy, and the freedoms of expression, and of assembly and association. Human rights defenders ought not to be tracked or be put under surveillance when using the technology, they rely on to do their work. They need to be supported in taking measures to protect themselves and business enterprises that understand and respect the work that human rights defenders do can play a vital role in sharing knowledge about the technology they have created”.

ARTICLE 19

Role and Responsibility of International and Regional Bodies and Mechanisms

Note: *International and regional bodies, such as the United Nations, the World Trade Organization, and other international financial institutions, hold immense influence on a global scale. In particular, they have the ability to sanction States (as well as non-State actors) which violate international norms, and this provides a substantial deterrence against the disregard of international human rights and humanitarian law. Their influence, resources, and political reach should also be utilized for the positive enforcement of the right to defend human rights.*

This Article outlines the roles and responsibilities of these international and regional bodies in implementing the Declaration and the Declaration +25.

International and regional bodies, mechanisms and processes, including multilateral processes, should, in consultation with human rights defenders, adopt and implement laws, policies and practices, and take all necessary measures, to recognize and enable the exercise of the right to defend human rights, particularly the right to communicate and cooperate with international and regional bodies, mechanisms and processes,¹⁶⁴ including by:

164 UN Charter, Articles 1(3), 55(c): stating that the purpose of the United Nations (including its subsidiary bodies of which the UNHRC is one) is, inter alia, to “promot[e] and encourage[e] respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion – text of Article 1(3)” [...] “[T]he United Nations shall promote: [...] universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion – text of Article 55(c)”;

The Declaration, Articles 5(c), 9(4): “For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels [...] To communicate with non-governmental or intergovernmental organizations – text of Article 5(c)” [...] “To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms – text of Article 9(4)”;

Optional Protocol to CAT, UN Doc. A/RES/57/199, Article 15: “No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way”;

Optional Protocol to CEDAW, UN Doc. A/RES/54/4 (1999), Article 11: “A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol”;

Optional Protocol to ICESCR, UN Doc. A/RES/63/117, Article 13: “A State Party shall take all appropriate measures to ensure that individuals under its jurisdiction are not subjected to any form of ill-treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol”;

UN Human Rights Committee, General Comment No 33: The Obligations of States Parties under the Optional Protocol to the International Covenant on Civil and Political Rights, UN Doc. CCPR/C/GC/33 (2009), para 4: “States parties are obliged not to hinder access to the Committee and must prevent any retaliatory measures against any person who has submitted a communication to the Committee”;

UN Human Rights Committee, General Comment No 35, UN Doc. CCPR/C/GC/35 (2014), para 54: “Article 9 also reinforces the obligations of States parties under the Covenant and the Optional Protocol to protect individuals against reprisals for having cooperated or communicated with the Committee, such as physical intimidation or threats to personal liberty”;

UNGA Resolution, UNHRC, UN Doc. A/RES/60/251 (2006), paras 2, 5(d), 5(f): “Decides that the Council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner – text of para 2” [...] “The Council shall [...] Promote the full implementation of human rights obligations undertaken by States and follow-up to the goals and commitments related to the promotion and protection of human rights emanating from United Nations conferences and summits – text of para 5(d)” [...] “Contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies – text of para 5(f)”;

- (a) Ensuring that any laws, policies or procedures developed by these bodies and mechanisms related to human rights defenders comply with international human rights standards.¹⁶⁵
- (b) Providing for the safe and meaningful access to, and engagement of human rights defenders with, international and regional bodies, mechanisms and processes.¹⁶⁶

UNGA Resolution, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/70/161 (2016), para 6: "Condemns all acts of intimidation and reprisal by State and non-State actors against individuals, groups and organs of society, including against human rights defenders and their legal representatives, associates and family members, who seek to cooperate, are cooperating or have cooperated with subregional, regional and international bodies, including the United Nations, its representatives and mechanisms, in the field of human rights";

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 18: "Reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms";

UNGA Resolution, Outcome of the review of the work and functioning of the Human Rights Council (Annex), UN Doc. A/RES/65/281 (2011), para 30: "The Council strongly rejects any act of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, and urges States to prevent and ensure adequate protection against such acts";

UNHRC Resolution, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, UN Doc. A/HRC/RES/24/24 (2013): "Reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies";

UNHRC Resolution, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, UN Doc. A/HRC/RES/12/2 (2009), para 2: "Condemns all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights".

165 UN Charter, Articles 1(3), 55(c): stating that the purpose of the United Nations (including its subsidiary bodies of which the UNHRC is one) is, inter alia, to "promot[e] and encourage[e] respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion - text of Article 1(3)" [...] "[T]he United Nations shall promote: [...] universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion - text of Article 55(c)". These obligations are binding on the UNHRC as a subsidiary organ of the UNGA.;

UNGA Resolution, UNHRC, UN Doc. A/RES/60/251 (2006), paras 2, 4-5(d), 5(f): "Decides that the Council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner - text of para 2" [...] "Decides further that the work of the Council shall be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development - text of para 4" [...] "[t]he Council shall [...] [p]romote the full implementation of human rights obligations undertaken by States and follow-up to the goals and commitments related to the promotion and protection of human rights emanating from United Nations conferences and summits - text of para 5(d)" [...] "[...] Contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies - text of para 5(f)";

UNHRC Resolution, The role of prevention in the promotion and protection of human rights, UN Doc. A/HRC/RES/24/16 (2013), para 6: "Acknowledges that the Human Rights Council shall, inter alia, contribute, through dialogue and cooperation, to the prevention of human rights violations and respond promptly to human rights emergencies."

166 UN Human Rights Committee, General Comment No 33, The Obligations of States Parties under the Optional Protocol to the International Covenant on Civil and Political Rights, UN Doc. CCPR/C/GC/33 (2009), para 4: "States parties are obliged not to hinder access to the Committee and must prevent any retaliatory measures against any person who has submitted a communication to the Committee";

UNGA Resolution, UNHRC, UN Doc. A/RES/60/251 (2006), para 3: "Decides also that the Council should address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon. It should also promote the effective coordination and the mainstreaming of human rights within the United Nations system";

UNGA Resolution, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, UN Doc. A/RES/68/181 (2014), para 18: "Reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms";

UNHRC Resolution, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, UN Doc. A/HRC/RES/24/24 (2013): "Reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies";

UNHRC Resolution, The role of prevention in the promotion and protection of human rights, UN Doc. A/HRC/RES/24/16 (2013), para 6: "Acknowledges that the Human Rights Council shall, inter alia, contribute, through dialogue and cooperation, to the prevention of human rights violations and respond promptly to human rights emergencies.";

Report of the Secretary-General on Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, UN Doc. A/HRC/24/29 (2013), para 6: "it is the Council's responsibility to ensure that all individuals participating in its meetings and cooperating with it are safe from intimidation and reprisals".

- (c) Providing and facilitating access to information about all human rights and fundamental freedoms.¹⁶⁷
- (d) Preventing, investigating, and promoting accountability for all acts of intimidation or reprisal associated with the exercise or attempted exercise of the right to defend human rights or to access, communicate or cooperate with international or regional bodies, mechanisms and processes.¹⁶⁸
- (e) Sanctioning any State or non-State actor responsible for any act of intimidation or reprisal and promoting non-recurrence.¹⁶⁹

167 UNGA Resolution, Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, UN Doc. A/RES/78/216 (2023), para 33: “Encourages the Office of the United Nations High Commissioner for Human Rights, in consultation with the Special Rapporteur and other special procedures of the Human Rights Council, to continue to compile and share information on best practices and challenges for the development of a more coherent approach to support the Declaration by the United Nations”;

UNGA Resolution, Transforming our world: the 2030 Agenda for Sustainable Development, UN Doc. A/RES/70/1 (2015), Goal 16.10: “Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements”;

Joint statement by a group of Chairs, Vice-Chairs and members of the UN human rights Treaty Bodies and the UN Special Rapporteur on Human Rights Defenders, 20th anniversary of the UN Declaration on Human Rights Defenders (2018): “The Special Rapporteur on human rights defenders has underscored how the Treaty Bodies benefit from the information provided to them by human rights defenders. This information is essential to monitoring implementation of the treaties and is a valuable early warning system to alert the international community to real, potential or imminent threats to peace, freedom, and security”.

168 UN Human Rights Committee, General Comment No 33, The Obligations of States Parties under the Optional Protocol to the International Covenant on Civil and Political Rights, UN Doc. CCPR/C/GC/33 (2009), para 4: “States parties are obliged not to hinder access to the Committee and must prevent any retaliatory measures against any person who has submitted a communication to the Committee”;

UN Human Rights Committee, General Comment No 35, UN Doc. CCPR/C/GC/35 (2014), para 54: “Article 9 also reinforces the obligations of States parties under the Covenant and the Optional Protocol to protect individuals against reprisals for having cooperated or communicated with the Committee, such as physical intimidation or threats to personal liberty”;

UNGA Resolution, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, UN Doc. A/HRC/RES/24/24 (2013), para 5: “[U]rges States to ensure accountability for any acts of intimidation or reprisal against those who seek to cooperate, cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights by ensuring impartial, prompt and thorough investigations of any alleged acts of intimidation or reprisal in order to bring the perpetrators to justice; to provide access to effective remedies for victims in accordance with their international human rights obligations and commitments; and to prevent any recurrence”;

UNGA Resolution, Outcome of the review of the work and functioning of the Human Rights Council (Annex), UN Doc. A/RES/65/281 (2011), para 30: “The Council strongly rejects any act of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, and urges States to prevent and ensure adequate protection against such acts”;

UNHRC Resolution, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, UN Doc. A/HRC/RES/24/24 (2013): “Reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies”;

UNHRC Resolution, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, UN Doc. A/HRC/RES/12/2 (2009), para 2: “Condemns all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights”.

169 UNGA Resolution, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, UN Doc. A/HRC/RES/12/2 (2009), para 3: “Calls upon States to ensure adequate protection from intimidation or reprisals for individuals and members of groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, and reaffirms the duty of all States to end impunity for such actions by bringing the perpetrators, including accomplices, to justice in accordance with international standards and by providing an effective remedy for their victims”;

UNGA Resolution, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, UN Doc. A/HRC/RES/24/24 (2013), para 5: “[U]rges States to ensure accountability for any acts of intimidation or reprisal against those who seek to cooperate, cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights by ensuring impartial, prompt and thorough investigations of any alleged acts of intimidation or reprisal in order to bring the perpetrators to justice; to provide access to effective remedies for victims in accordance with their international human rights obligations and commitments; and to prevent any recurrence”;

IACmHR, Report on Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II.Doc 49/15 (2015), para 285(7): “In order to recognize the work of human rights defenders, States must [...] give precise instructions to officials on this matter and take disciplinary action against those officials who fail to comply with such instructions”.

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