

AMNESTY INTERNATIONAL'S INPUT ON THE IMPLEMENTATION OF THE DECLARATION ON HUMAN RIGHTS DEFENDERS

Amnesty International welcomes the opportunity to provide the Office of the United Nations High Commissioner on Human Rights (OHCHR) with inputs on the ways in which relevant United Nations bodies, offices, departments and specialized agencies, including at the country level (hereinafter, UN entities), can give due consideration 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 (HRD Declaration) as requested on 21 March 2018 pursuant to paragraphs 16 and 17 of General Assembly resolution A/RES/72/247 of 25 January 2018.¹

1. Progress and achievements

Amnesty International welcomes the efforts made in particular by the Special Rapporteur on Human Rights Defenders (SR on HRDs) and the Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association (SR on FoAA) in articulating and conceptualizing the role and diverse work of HRDs and civil society organisations, including the specific challenges they face, as well as clarifying how their work should be supported and protected by States, intergovernmental organizations and other relevant stakeholders. The SR on HRDs most recent reports on human rights defenders of People on the Move (A/HRC/37/51) and on Environmental HRDs (A/71/281), and regular consultations with women HRDs during country visits,² set important examples of good practice. Meanwhile, the previous SR on FoAA's in the context of natural resource exploitation³ and on fundamentalism's impact on freedom of assembly, revealed specific challenges that human rights defenders face.⁴ It is equally important to highlight the joint report issued by the SR on FoAA and the SR on extrajudicial, summary or arbitrary executions on the proper management of assemblies, based on best practices and lessons learned, that contain an important compilation of practical recommendations for States.⁵

Amnesty International also welcomes the different initiatives to join efforts not only between the UN offices, departments and specialized agencies but also with Regional Mechanisms, including organising joint visits for greater impact.⁶

¹ <https://www.un.org/en/ga/72/resolutions.shtml>

² http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/37/51; <https://undocs.org/A/71/281>

³ <http://undocs.org/A/HRC/29/25>

⁴ <http://undocs.org/A/HRC/32/36>

⁵ <https://undocs.org/A/HRC/31/66>

⁶ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22484&LangID=E>

In addition, for example, the Europe Regional Office of the OHCHR and the Human Rights Committee have been vocal in relation to serious concerns in Poland⁷ and in Hungary⁸, countries in which the threat to civil society space and a safe and enabling environment for HRDs have been seriously undermined.

The Colombia office of OHCHR has played an important role in monitoring and reporting on the human rights situation during the implementation of the peace agreement, monitoring attacks on HRDs, advising the Colombian state in its efforts to protect them and end impunity.⁹

We welcome the efforts of mandates such as the Working Group on Enforced or Involuntary Disappearances highlighting the use of enforced disappearances in retaliation against HRDs, particularly against those working on the promotion and protection of economic, social and cultural rights.¹⁰

The organization also welcomes efforts by UN entities in the following areas:

- **Reprisals:** Amnesty International welcomed the expansion of the mandate of the Assistant Secretary-General for Human Rights to counter acts of harassment, intimidation and reprisals against HRDs who engage with the United Nations and its mechanisms. A step forward into addressing these serious concerns was the publication of the 2016 report (A/HRC/33/19), which lists 29 countries, 11 of which are members of the Human Rights Council, regarding cases of reprisals and intimidation were documented.¹¹
- **Environmental HRDs:** The organisation welcomes the UN Environment Programme's policy paper issued in March 2018 proposing the establishment of a Rapid Response Mechanism through which environmental human rights defenders will be able to communicate cases of threats or attacks against them. The policy sets out concrete steps to improve its advocacy and legal assistance to environmental HRDs; proposes to launch a campaign to raise awareness about environmental HRDs; and announces a scaling-up of partnerships with State and non-State actors to improve the protection of HRDs at risk and ensure a safe and enabling environment for them.¹² Also crucial in this regards is the report on Environmental HRDs (A/71/281) issued by the SR on HRDs, raising concern over the alarming rate of killings and other attacks that environmental HRDs face, highlighting how States have the twofold duty to guarantee both a safe, clean and sustainable environment and the safety of

⁷ <http://www.europe.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10063&LangID=E> ;
<http://www.europe.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10063&LangID=E>

⁸ http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HUN/CCPR_C_HUN_CO_6_30778_E.pdf;
<http://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL-HUN-1-2018.pdf>

<http://www.europe.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10063&LangID=E>

⁹ <https://www.amnesty.org/download/Documents/AMR2355732017ENGLISH.pdf>

¹⁰ http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/39

¹¹ <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session33/Pages/ListReports.aspx>

¹² https://wedocs.unep.org/bitstream/handle/20.500.11822/22769/Environmental_Defenders_Policy_2018_EN.pdf?sequence=1&isAllowed=y

environmental HRDs from abuses perpetrated by both State and non-State actors, and stresses the importance of empowering environmental HRDs.¹³

- **Business and Human Rights:** The Working Group on Business and Human Rights has been increasingly integrating a HRD perspective into its work, as reflected in the UN Guiding Principles on Business and Human Rights (UNGPs), urging both businesses assessing their human rights impact to consult HRDs as an expert resource and States to ensure that HRDs activities are not obstructed.¹⁴ The organisation also welcomes the SR on HRD's recommendations made to States, companies and financial institutions aimed at ensuring a safe and enabling environment for HRDs.¹⁵
- **Digital Security of HRDs:** Amnesty International welcomes that UN Special Procedures mechanisms increasingly include attention to the importance of digital security for HRDs, especially those who rely on information and communication technologies to conduct their work.¹⁶ The SR on the promotion and protection of the right to freedom of opinion and expression has noted a disproportionate impact of online surveillance on the freedom of expression of a range of groups who are disproportionately targeted because of who they are and what they stand for.¹⁷ In addition, Amnesty International welcomes that multiple UN Resolutions and mandates have explicitly recognized the risk of violence and abuse and against women's rights activists online.¹⁸ The SR on HRDs has also drawn attention to cases in which HRDs have been charged with defamation or blasphemy, because they published online articles, blog entries or tweets¹⁹. The SR on FoAA has similarly emphasized how the rights to freedom of assembly and of association in the digital sphere are increasingly the subject of restrictive laws and policies, with States using Internet shutdowns as a means of information control and targeting.²⁰
- **Human Rights Up Front (HRUF):** The UN Secretary-General's Human Rights Up Front initiative as an important effort to include human rights as an essential part of the work of all UN entities and to change a culture in the organization that up until recently confined human rights issues mostly to the chambers of bodies in Geneva and New York. Properly implementing HRUF would give UN country teams and other UN entities the possibility to identify risks to HRDs and prevent attacks, while fomenting free civil society engagement in

¹³ <https://undocs.org/A/71/281>

¹⁴ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

¹⁵ <http://undocs.org/a/72/170>

¹⁶ See for example: <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/AnnualReports.aspx>

¹⁷ See for example: <https://undocs.org/A/HRC/32/38> and <https://undocs.org/A/HRC/29/32> (which also highlights that digital encryption and anonymity is a human rights issue). See also <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21892&LangID=E>

¹⁸ See for example A/HRC/35/9 and UN General Assembly Resolution 68/181, which affirms that violence and abuse against women on social media platforms can be a form of systematic gender discrimination against women; A/HRC/31/55, which emphasize the need for gender-sensitive protection measures; A/HRC/16/44 highlighting that women human rights defenders are subjected to new online forms of violence.

¹⁹ <http://undocs.org/A/67/292>

²⁰ <http://www.ohchr.org/EN/newyork/Pages/GA72ndSession.aspx>

public affairs. Recent decisions by the Fifth Committee of the UN General Assembly denying funding to a position coordinating HRUF work in the Executive Office of the UN Secretary-General provides a worrying indication of the resistance by part of the UN membership to change that culture and allow all UN entities to engage on human rights issues. It is essential for the Secretary-General to overcome these political blockages and reiterate both his support to the work of HRDs and to the advance and consolidation of the HRUF initiative.

2. Challenges

Despite these welcome steps forward, Amnesty International recognizes that a lot still can be done by UN entities to ensure that the provisions of the HRDs Declaration are fully implemented:

- **Killings and enforced disappearances:** Rarely a day goes by without reports of attacks against HRDs, targeted for what they do or for who they are. In 2017 alone, Front Line Defenders received reports on the killing of 312 defenders in 27 different countries.²¹ When an HRD is killed, it is often a culmination of a string of threats and warnings. In many countries, the authorities do not investigate or prosecute such threats effectively and rarely respond appropriately after attacks. This inaction allows the perpetrators to enjoy impunity, giving them a licence for repeated threats and attacks.²² At the same time, high levels of risk are also the result of failure by states to address systemic violence against women, LGBTI people, Indigenous peoples and other marginalized groups. This is an area on which UN entities, particularly UN country teams, need to convey a sense of urgency and take a stronger stance to demand effective action by states to prevent attacks, address the root causes that lead to the conditions of risk faced by HRDs, conduct effective investigations and end impunity, and calling on states to implement a comprehensive public policy for the protection for human rights defenders at risk, including specific protection mechanisms, starting with those countries with persistently high levels of killings.
- **Reprisals:** The ability to communicate and interact with inter-governmental organisations is essential for HRDs' work. Despite the commitment of the Assistant Secretary-General for Human Rights to do more to counter reprisals against HRDs engaging with the UN and its mechanisms, a lot remains to be done to prevent and address reprisals.

Accreditation procedures with the ECOSOC Committee on Non-Governmental Organizations are often used by some Member States to prevent NGOs from engaging in UN affairs²³. The UN and its Member States have recognized the historic and current important and expert role NGOs play in the UN and should "facilitate, in the most effective manner possible, the contributions of non-governmental organizations to the work of the United

²¹ <https://www.frontlinedefenders.org/en/resource-publication/annual-report-human-rights-defenders-risk-2017>

²² <https://www.amnesty.org/en/documents/act30/6011/2017/en/>

²³ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22844&LangID=E>

Nations.”²⁴ To ensure this contribution is forthcoming, members of the ECOSOC and its subsidiary body, the Committee on NGOs, need to ensure a transparent process is in place to allow civil society organizations to fully engage with UN entities and participate as much as feasible in all its meetings.

Equally, since most UN sessions are held at the New York and Geneva headquarters (HRC, CSW, UNPFII, UPR, etc), it is crucial that steps are taken to ensure civil society representatives are granted visas.²⁵

- **Smear campaigns and stigmatization:** Smear campaigns and stigmatization are commonly used to delegitimize HRDs and undermine their work. This concerns all HRDs, but women human rights defenders, including LGBTI defenders, and other defenders who are systematically discriminated and marginalized for who they are, are some of the most affected. The UN has an important role to play in counteracting these attacks by exposing and condemning intersecting forms of discrimination, insisting on the legitimacy and importance of human rights defence work, championing individual HRDs and groups, and providing them with public statements of support and a public platform at national and international level. Both UN experts and the SR on HRDs (A/HRC/37/51/Add.2) have, for example, urged the Government of Mexico to counter the current stigmatisation campaign against HRDs.²⁶ This relatively simple exercise is key to enhancing the legitimacy and recognition of HRDs but is not done systematically by UN entities at all possible opportunities, including during sessions at headquarters, country visits and by national offices.
- **Shrinking of civic space:** The rights to freedom of peaceful assembly, association, expression, and movement are increasingly under attack at global level. HRDs and civil society organizations, especially those critical to those in power, are particularly affected by undue restrictions and at times are forced to limit or wind down their activities. Laws curtailing civil society activities and their funding have been proposed or enacted recently in more than 90 states.²⁷ UN entities should recognize the severity of what is clearly a global upsurge of new legislation, policies and practices introduced to restrict the legitimate exercise of human rights and the shrinking space for civil society, and establish a common strategy to tackle this new worrying trend.
- **Surveillance, internet censorship and online harassment:** Mass surveillance and targeted surveillance of HRDs – on and offline – continues to grow worldwide, whether conducted by

²⁴ <http://www.un.org/documents/ecosoc/res/1996/eres1996-3.htm>

²⁵ <https://www.ishr.ch/news/csw62-visa-restrictions-keep-defenders-away-isshr-launches-report-barriers-participation>

²⁶ <https://news.un.org/en/story/2016/04/526112-un-experts-urge-mexico-counter-current-smear-campaign-support-right-defenders>; <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/CountryVisits.aspx>

²⁷ CIVICUS, quoted in UN Special Rapporteur on HRDs, 2016, Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. (2016), para. 28

States, corporates or other non-State actors.²⁸ UN entities should promote awareness of the threat that electronic surveillance poses to HRDs and advocate for them to have access to secure digital communication tools that allow encryption and anonymity online.

Internet censorship, also on the rise, takes different forms as states use the criminal justice system or administrative sanctions to prosecute individuals for expressing their views online.

When addressing online security for HRDs, UN entities should recognize the risk and raise awareness of the particular threats faced by women human rights defenders, and the need for them to be afforded effective protection. As activism has evolved to include social media platforms as a powerful place to organize and share information about human rights abuses – threats, intimidation and harassment against women’s rights activists have also moved to these same platforms.²⁹

3. Recommendations

States have the ultimate duty to ensure a safe and enabling environment in which human rights defenders are able to work without fear of reprisals, and UN entities must revamp their efforts to play a key role in assisting states in strengthening the role and security of human rights defenders as outlined in the HRDs Declaration.

Based on the challenges outlined above, and with the aim of ensuring the promotion and the implementation of the Declaration, Amnesty International recommends that UN entities systematically and regularly put pressure on Member States to:

- a. Publicly recognize the role and importance of HRDs; and to ensure a safe and enabling environment in which they can defend and promote human rights without fear of punishment, reprisal or intimidation;
- b. Publicly acknowledge the role played by women human rights defenders, including LGBTI defenders and other human rights defenders who systematically face intersecting forms of discrimination, and to ensure they are able to work in an environment free from violence and discrimination.
- c. Publicly condemn threats and attacks against HRDs and carry out prompt, thorough, independent and impartial investigations into attacks against human rights defenders, including killings and enforced disappearances;
- d. Closely follow-up on the implementation of recommendations issued by the different UN bodies on the protection of HRDs at national level;

²⁸ We Will Find You, Anywhere: The Global Shadow of Uzbekistani Surveillance, Index: EUR 62/5974/2017, <https://www.amnesty.org/en/documents/eur62/5974/2017/en/>; It’s Enough for People to Feel it Exists: Civil Society, Secrecy and Surveillance in Belarus, Index number: EUR 49/4306/2016, <https://www.amnesty.org/en/documents/eur49/4306/2016/en/>; False Friends: How Fake Accounts and Crude Malware Targeted Dissidents in Azerbaijan, <https://medium.com/amnesty-insights/false-friends-how-fake-accounts-and-crude-malware-targeted-dissidents-in-azerbaijan-9b6594cafe60>

²⁹ See <https://www.amnesty.org/en/latest/research/2018/03/online-violence-against-women-chapter-2/>

- e. Ensure that domestic laws governing the surveillance of communications are in accordance with international law and standards, including by containing effective safeguards against indiscriminate mass surveillance, and guarantee that human rights defenders have access to the necessary tools to secure their communications, including encryption;
- f. Include, as part of the pledges presented at the elections process to serve in the Human Rights Council, the commitment to recognize the role of HRDs and pledge to work to ensure a safe and enabling environment in which they perform their essential function.

In addition, we urge all UN entities to:

- a. Strengthen coordination amongst UN entities in country to support the implementation of UN recommendations on the protection of HRDs;
- b. Strengthen coordination with national governments to implement UN recommendations on the protection of HRDs;
- c. Promote greater inter-agency integration and coordinated work on ensuring the creation of a safe and enabling environment for HRDs and on following-up on reprisals and other human rights violations;
- d. Adopt an intersectional approach to HRDs in all strands of work, taking into account the specific needs of women human rights defenders and others facing discrimination;
- e. Adopt measures to ensure the implementation of international recommendations and monitor and assess State's compliance with them;
- f. Work more closely with regional mechanisms to ensure the creation of a safe and enabling environment for HRDs and the implementation of follow-up procedures on reprisals and other human rights violations;
- g. Provide technical assistance to States for the adoption and implementation of legislation to recognize and effectively protect HRDs at national level;
- h. Strengthen the mechanisms for and the continuous engagement of HRDs with the different UN bodies and ensure their participation in all meetings, visits and other activities;
- i. Introduce accessible procedures to enable HRDs to report reprisals.
- j. Adopt a holistic approach to ensuring protection and security of HRDs, that interlinks physical security with digital security and includes attention to gender-specific threats and security needs;
- k. Urge companies to take concrete steps to improve how they identify, address and prevent violence and abuse against human rights defenders, in particular women human rights defender, on their platforms;
- l. Protect both digital and physical security of HRDs whenever these are communicating and interacting with UN mechanisms and providing information on human rights incidents.

In relation to Treaty Bodies, Amnesty International considers that these entities should:

- a. Strengthen participation of civil society organizations and their involvement in execution of the treaty bodies' mandates, such as periodic reviews, petitions and inquiries through the provision of private and safe spaces to present information;
- b. Provide defenders at risk if travelling with save remote participation alternatives;
- c. The treaty bodies that have not yet formally adopted the San Jose Guidelines should do so without further delay;
- d. Make available, in an easily accessible and visible place of the OHCHR website, how to go about when reprisals or intimidations need to be reported;
- e. Take into consideration the promotion and protection of HRDs when considering State parties' reports and conducting country enquiries.

In relation to Special Procedures of the Human Rights Council, Amnesty International considers that these entities should:

- a. Strengthen cooperation amongst Special Procedures and with other UN mandates working on HRDs;
- b. Strengthen and expand their public awareness-raising mandate in relations to violations against HRDs;
- c. Ensure meetings with human rights defenders during their country visits, in particular with those who face higher risk or lack of visibility, due to systemic marginalization and discrimination.
- d. Ensure a proper discussion at the Human Rights Council in relation to reprisals and intimidations, including attacks against Special Procedure mandate holders by states.
- e. Make available, in an easily accessible and visible place of the OHCHR website, how to go about when reprisals or intimidations need to be reported;
- f. Advise victims of human rights violations, including HRDs, whether a communication has been issued concerning their situation or not.³⁰
- g. To protect the digital security of HRDs whenever they are engaging with UN mechanisms;
- h. To incorporate safeguards to protect HRDs and mitigate any security risks when receiving, collecting, classifying, analyzing and storing sensitive human rights data that could place them at risk;
- i. To pay particular attention to the specific digital security risks faced by women human rights defenders.

4. Awareness-raising activities at the local, national, regional and international levels

Combating the shrinking space for civil society, and recognizing and protecting HRDs at risk is currently a top priority for Amnesty International. In 2017, Amnesty International launched

³⁰ Report of the Bureau of the fifty-fourth session of the Commission on Human Rights submitted pursuant to Commission decision 1998/112 (E/CN.4/1999/104), p.39 Observation 17 and Manual of operations, adopted at the 6th Annual Meeting of Special Procedures: 25.

a global campaign called “Brave” to address the different challenges HRDs are facing globally and we have issued two global reports: [Human rights defenders under threat](#), and [Deadly but preventable attacks](#), as well as several country and regional reports on the role of civil society organizations and HRDs play in the promotion and protection of human rights and the specific risks and attacks they face.