



Human Rights Council**Forty-third session**

24 February–20 March 2020

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Human rights defenders operating in conflict and
post-conflict situations****Report of the Special Rapporteur on the situation of human rights
defenders***Summary*

In the present report, the Special Rapporteur on the situation of human rights defenders analyses the situation of human rights defenders operating in conflict and post-conflict areas. He addresses their critical contribution in these settings, spells out the applicable legal framework and the attached obligations, and considers current trends with respect to their protection and key rights for them to operate effectively. He reviews the initiatives of States and other stakeholders, and the United Nations response to date. In the report, he highlights the extreme risks to which defenders are exposed, the wide-ranging attempts to silence their work and the persistence of protection gaps and impunity, in spite of positive developments. The Special Rapporteur calls for compliance with the existing legal norms and standards, and suggests ways forward to protect and support defenders striving to operate in these contexts.



I. Introduction

We are also human beings. We have families. We have feelings. We have tears. Families of prisoners sometimes ask me: what did you do for my husband? For my son? I sometimes have nightmares. We will not be resilient nor achieve our ambitions, unless we get access to psychological support. (Defender, Occupied Palestinian Territories)

1. In September 2019, staff members of the Afghanistan Independent Human Rights Commission and the international community of defenders lost Abdul Samad Amiri, a 28-year-old husband and father of one who was abducted and assassinated by the Taliban in the Jalriz district of Maidan Wardak Province. He had been a staff member of the Commission for six years, documenting violations and reaching out to those affected. Others before him had lost their lives to their commitment to human rights and to their institution. Colleagues will carry on. That same month, in Myanmar, the youth activists Seng Nu Pan and Paw Lu were sentenced under the Peaceful Assembly and Peaceful Procession Law for staging a street performance denouncing the resumption of hostilities in Kachin State. Just one day later, several hundred defenders and their organizations joined forces nationwide to issue a statement on the situation in neighbouring Shan State, yet another forgotten conflict, calling on all parties to end the war and protect civilians and on the international community to step in.

2. Voices of defenders concur, within and beyond borders. They must be protected and allowed to resonate without interference. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders) recalls the fundamental relationship between international peace, security and the enjoyment of human rights and fundamental freedoms. It recognizes the valuable work of individuals, groups and associations in contributing to the effective elimination of all violations of human rights and fundamental freedoms in relation to mass, flagrant or systematic violations and in strengthening peace. The present report comes at a time when more countries have recently experienced violent conflict than at any other time in nearly three decades.¹ Many defenders are affected by several armed conflicts at once, upsurges in inter-ethnic violence, terrorism or other criminal activities, with armed responses sometimes generating further risks for human rights. Others grapple with wide-ranging post-conflict challenges that do not exclude relapse into armed conflict. Defenders shape the present, immediate and long-term future of societies in which they live and operate. Yet they strive to operate in these settings, under considerable pressure, too often solely responsible for their own protection.

3. The present report comes in response to a demand from many of them. It takes forward the endeavours of several special procedures² and hopes to contribute to developments under way, notably by the United Nations on peacebuilding and on expanding the civic space. It addresses the situation of defenders operating in post-conflict and conflict areas, including under occupation, notably in the context of so-called “fragile States”.³ This includes a number of situations on the agenda of the Security Council, the Peacebuilding Commission and the Peacebuilding Fund, or under preliminary examination or investigation by the International Criminal Court.

4. The present report builds on activities of the mandate holder. It is informed by submissions received from Member States, national human rights institutions, intergovernmental and non-governmental organizations (NGOs) and networks, as well as individual defenders. Valuable contributions were also received from the field presences of the Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations missions and offices, and a commission of inquiry. The contributions relate to over

¹ A/72/707-S/2018/43, para. 3.

² A/HRC/31/55, para. 27; A/HRC/37/51, paras. 33–43 and 50–62; A/HRC/40/60, paras. 71–72; A/58/380; A/HRC/11/4.

³ www.worldbank.org/en/topic/fragilityconflictviolence/brief/harmonized-list-of-fragile-situations.

45 situations of relevance, from all regions. The report also draws on the findings of an international consultation with defenders held in November 2019. Several international experts helped consolidate findings and recommendations. The Special Rapporteur would like to express his sincere gratitude to all defenders who contributed to this effort and made it possible.

II. Contribution and profile of defenders

A. Active on all fronts

Few can now operate in Donbass. Among those on the contact lines who still do are women volunteers providing humanitarian support and helping displaced families and those who had their homes destroyed. (Defender, Ukraine)

5. Defenders in conflict and post-conflict settings are active on all fronts. Their fieldwork is of paramount importance in upholding human rights. In conflict-affected areas, they provide emergency relief or help secure access to civilians, including internally displaced persons, and support the development of self-reliance solutions. They risk their lives to maintain access to health, for example, or children's right to education in areas sometimes deserted by public institutions and security forces. Under occupation and in disputed areas, they reach out to those affected, including victims of torture and detainees and families in need of material, medical, psychosocial or legal support. In post-conflict contexts, they support persons with disabilities, including those with war-related impairments. They assist those claiming back their houses, land or sea areas so they can channel their demands in strategic and peaceful ways. Through public petitions, demonstrations and strategic litigation, they also challenge impunity and represent victims of violations of international law before national, regional and international jurisdictions.

6. Defenders are also at the forefront in documenting, exposing and opposing civilian casualties and wider violations of international law resulting from the operations of armed groups, military and paramilitary forces, intelligence services and civilian authorities working in collusion with private corporations. Their fact-finding and public advocacy work keeps human rights, international humanitarian law and other relevant standards of international law on the agenda, while political considerations may downplay attention to these as matters of urgency. Their work is critical in unveiling the often wide spectrum of underlying violations driving or aggravated by conflict. As indispensable watchdogs, they challenge amnesty laws or the prospects thereof in immediate or longer term post-conflict contexts, as well as emergency or security-related legislation, when this is a source of undue restrictions on public freedoms.

7. Defenders bring opportunities for war-torn societies to move towards sustainable peace. Their voices help broker ceasefires and international mediation, secure inclusive peace negotiations and agreements, and support transitions with wider chances for the participation of all segments of society in transitional justice or key institutional reforms. They help build or rebuild responsive and accountable institutions. Their role is equally decisive in developing a broader culture based on the rule of law, freedom of expression and public deliberation. Their initiatives in civic education, post-conflict memory and social cohesion counter factional divides, identity politics and, ultimately, escalation or relapse into conflict and the recurrence of widespread violations of international law.⁴

8. Where United Nations entities, alongside other organizations and diplomatic missions, are not in a position to secure access or have little field presence, defenders remain the eyes and ears of the international community. They are major partners of OHCHR, the special procedures of the Human Rights Council and its ad hoc investigation mechanisms such as commissions of inquiry. They gather and help to corroborate information and direct resources and advocacy where most urgent. Their cooperation prevents entire areas becoming "black holes" and impunity traps. It allows for international

⁴ A/HRC/37/65, paras. 58–70 and 94–96.

follow-up on individual cases, such as those involving arbitrary detention, torture, enforced disappearances or extrajudicial executions. Without their efforts to secure evidence, reach out to witnesses and victims, facilitate their participation and access to reparations, the International Criminal Court and others simply could not fulfil their mandates. Ultimately, defenders also give echo to the recommendations made by international entities and track follow-up. This requires more forceful acknowledgment as we reflect on responsibilities in protecting and supporting defenders.

B. Multiple profiles, uneven recognition

9. The contribution of humanitarian aid workers, journalists, including investigative reporters and bloggers, other media and associated personnel, has been rightfully in focus. The same goes for staff of international organizations, including staff of the United Nations and the International Committee of the Red Cross (ICRC) who protect and assist civilians and investigate alleged violations. In these and many other capacities, the unwavering commitment of women defenders is also increasingly recognized,⁵ although their extreme exposure to risks is not. Women defenders continue to lead in long-standing international movements seeking truth, accountability and reparations for war crimes and crimes against humanity. They also relentlessly advocate for equal participation in peace negotiations and post-conflict processes and for the effective implementation of the women, peace and security agenda. Recent situations and initiatives also illustrate the potential of religious leaders and faith-based organizations in opposing major human rights violations and in preventing and mediating conflict.

10. Lawyers and paralegals play an equally critical role. They assist victims of violations of international law during armed conflict, including peaceful protesters unlawfully arrested and detained or those baselessly charged for terrorism or sedition. They challenge deviations from human rights norms under exceptional legal regimes and raise legal awareness in communities affected by military operations, notably those subject to land grabs. Prosecutors and judges who fight impunity and assaults on their independence do so too, as do elected and public officials such as mayors and members of parliament who denounce corruption. A wider spectrum of professionals and, with them, unions and professional associations also deserve recognition. Academics, teachers, engineers and artists have joined citizens' movements and campaigns against violations perpetrated by belligerents or authorities under emergency laws or military regimes and have voiced demands for peace and urgent post-conflict reforms.

I became a human rights activist after my husband's enforced disappearance in 2010. Since I filed a case, I have been subjected to intimidation, hate speech and harassment. But, whatever the circumstances, I and the activist community will continue our struggle for justice. (Defender, Sri Lanka)

11. In conflict and post-conflict situations, many people become defenders as a result of circumstances or out of necessity. They include first responders in areas under active hostilities, the relatives of those murdered or disappeared who pursue truth and justice, those honouring the dead and working towards a shared collective memory for the societies they live in. They also include children calling for peace and equal access to education;⁶ defenders forced into exile, challenging assaults on public freedoms or indefinite military service back home; and those speaking up for the most vulnerable in camps for internally displaced persons and refugees. Because they are not formalized, not attached to a particular affiliation or profession and are performed in the most isolated areas or in transitory settings, countless of these contributions continue to remain invisible.

⁵ General Assembly resolution 68/181, para. 16; S/2018/900, para. 1; Committee on the Elimination of Discrimination against Women, general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, para. 6; A/72/707-S/2018/43, para. 64.

⁶ www.ohchr.org/Documents/HRBodies/CRC/Discussions/2018/CRC_DGD_2018_OutcomeReport.pdf, pp. 18–21.

Acknowledgment of these persons' status and contributions as defenders must be a common agenda. What defines defenders is primarily their actions.

12. National human rights institutions have also stepped up their efforts in these areas, with guidance and support from international and regional networks.⁷ Several actively report on violations of both humanitarian and human rights law, tackle conflict-induced displacement and reach out to civilians living along contact lines and detainees. They also spearhead initiatives of importance to peacebuilding, transitional justice and post-conflict education. Still, they continue to face interferences in their operations, including when seeking to protect other defenders. The wider community of defenders in conflict-affected States continues to call for the establishment and effective operation of such national human rights institutions in areas concerned.

III. Normative framework of reference

A. Applicable legal norms, duty bearers and States' responsibility to protect defenders

13. Defenders operating in conflict and post-conflict areas are protected under international human rights law, international humanitarian law (which is only applicable to situations of armed conflict, including occupation), international criminal law and international refugee law. Opposable norms include obligations under customary law and peremptory norms (*jus cogens*).⁸ The Special Rapporteur recalls that international human rights law and international humanitarian law are mutually reinforcing and complementary, not mutually exclusive.⁹ Parties to armed conflict, including occupying powers, must uphold the protections these regimes afford, regardless of their position on their applicability.¹⁰ States in particular cannot rely on their domestic legal system to justify non-compliance¹¹ and non-State actors exercising government-like functions and control over a territory are obliged to respect human rights norms when their conduct affects the human rights of the individuals under their control.¹² This includes provisions of the Declaration on Human Rights Defenders, which is addressed to all individuals, groups and organs of society.

14. States' responsibility to protect defenders cannot be outsourced or renounced on account of exceptional circumstances. States must exert due diligence to prevent, investigate and punish acts by private persons or entities that would impair the enjoyment of rights recognized in the Declaration on Human Rights Defenders and enshrined in legally binding human rights instruments, vis-à-vis non-State actors.¹³ Likewise, States have an obligation to protect defenders against violations committed by armed groups against them, including terrorist organizations. They must address the general conditions placing defenders' lives at risk, such as armed conflict but also high levels of criminal violence.¹⁴ They must protect defenders from arbitrary deprivation of life in the context of

⁷ Global Alliance of National Human Rights Institutions, Strategy and Strategic Plan 2017–2019; Network of African National Human Rights Institutions, "The role of national human rights institutions in conflict resolution, management and peacebuilding" (Nairobi, 2017); and European Network of National Human Rights Institutions, Human Rights in (Post-) Conflict project.

⁸ A/HRC/42/17, paras. 9 and 13; A/HRC/19/69, para. 106.

⁹ Human Rights Committee, general comments No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency and No. 36 (2018) on the right to life, para. 64; Committee on the Elimination of Discrimination against Women, general recommendation No. 30, para. 24.

¹⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories, Advisory Opinion, I.C.J. Reports 2004*, p. 136, paras. 107–112; CCPR/C/ISR/CO/4, para. 5.

¹¹ Vienna Convention on the Law of Treaties, art. 27.

¹² Security Council resolution 2286 (2016), para. 2; A/HRC/42/17, para. 12; A/HRC/25/21, para. 11; A/HRC/39/44, para. 43.

¹³ Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 8; A/65/223, paras. 34–36.

¹⁴ Human Rights Committee, general comment No. 36, para. 26.

law enforcement or security operations.¹⁵ They are directly responsible for the actions of affiliated armed groups or militias, and remain so in case of de facto devolution of authority, especially legislative or jurisdictional authority, to a non-State actor.¹⁶ Their responsibility extends to all defenders under their jurisdiction or effective control, including outside their territory, when acting as an occupying power;¹⁷ providing decisive support to belligerents;¹⁸ having decisive influence over de facto authorities in control;¹⁹ or when acting within or on the basis of the mandate of an international or intergovernmental organization or coalition, for example as part of an international peacekeeping force.²⁰ If losing control of part of their territory, they must seek to re-establish jurisdiction.²¹

B. Key legal protections

15. In conflict and post-conflict areas, defenders who by definition operate through peaceful means must at all times benefit from the core protections attached to their right to life, as well as to complementary protections, including against gender-based violence, covered by core United Nations and regional human rights instruments. These protections also relate to, inter alia, the right to liberty and security of person, the prohibition of torture and enforced disappearance and the rights to privacy, family life and housing. In armed conflict, including occupation, defenders should also enjoy protection as civilians and, notably, as women and children.²² Any intentional attacks against them in this context would constitute a war crime.²³ Specific protections, of a customary nature, exist for certain categories of defenders such as journalists, humanitarian relief workers and medical and religious personnel,²⁴ or can be found in specific instruments.²⁵ Other defenders, such as teachers and educational personnel, should enjoy equal protection as civilians. While debates continue to be held on potential normative gaps, the priority lies with the effective endorsement of, compliance with and enforcement of these existing protections.

16. The Special Rapporteur draws attention to the core protections also due to defenders against deprivation of due process and fair trial guarantees and the right to a remedy, which feature non-derogable elements.²⁶ These protections should invalidate exceptional legislation that makes possible arrest and prolonged detention without access to a lawyer or judicial review, or that provides statutory immunity for security forces engaged in law enforcement or counter-terrorism operations. In contexts of armed conflict, and notably occupation, defenders are to be specifically protected against forcible transfer, deportation to the territory of another State and retroactive use of legislation.²⁷ In more general terms, the enduring subjection of defenders operating in certain parts of the national territory or in occupied territories to exceptional legal regimes – notably to military legislation and jurisdiction – arguably is incompatible with the fundamental principles of equality and non-discrimination.

¹⁵ *Ibid.*, para. 13.

¹⁶ CCPR/C/DZA/CO/4, para. 9; S/2018/889, para. 67.

¹⁷ OHCHR, “Report on the human rights situation in Ukraine, 16 May to 15 August 2019”, para. 133.

¹⁸ A/HRC/42/17, para. 11.

¹⁹ CCPR/CO/RUS/7, para. 6.

²⁰ Committee on the Elimination of Discrimination against Women, general recommendation No. 30, para. 9.

²¹ Human Rights Committee, general comment No. 26 (1997) on the continuity of obligations, para. 4; CCPR/C/MDA/CO/2; CCPR/C/GEO/CO/3.

²² https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul, rules 134–135.

²³ Rome Statute of the International Criminal Court, art. 8; First Geneva Convention, art. 50; Second Geneva Convention, art. 51; Third Geneva Convention, art. 130; Fourth Geneva Convention, art. 147; Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts, art. 85.

²⁴ https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul, rules 25, 27–32 and 34.

²⁵ Convention on the Safety of United Nations and Associated Personnel and its Optional Protocol.

²⁶ International Covenant on Civil and Political Rights, arts. 14 and 26; Human Rights Committee, general comments No. 29, paras. 7–8, and No. 36.

²⁷ Rome Statute of the International Criminal Court, art. 7 (1) (d); Fourth Geneva Convention, art. 65.

17. Ultimately, defenders are also entitled to seek international protection, to benefit from relevant procedural guarantees and to be protected against refoulement.²⁸ They have a right to leave their own country²⁹ and, under occupation, to exit occupied territories.³⁰ They should be eligible for international protection in the context of conflict and generalized violence and, primarily, to refugee status, if and when facing actual risks of persecution as a result of their activities as defenders and/or based on other applicable grounds.³¹ These rights remain too often systematically denied to them through restrictive laws and regulations on exit or as a result of blockades and other restrictions of movement constituting violations of international law in and of themselves.

C. Key rights for defenders to operate in conflict and post-conflict situations

18. Several binding norms secure the right and means of defenders to promote and protect human rights in conflict and post-conflict settings. Defenders providing humanitarian relief must be free to move and be given rapid and unimpeded passage by all parties into and through the territories under their control, and should not be arbitrarily denied access nor subjected to targeted attacks.³² All defenders should be in a position to assist internally displaced persons, including in return, resettlement or reintegration procedures, and to protection when doing so.³³ Those active in human rights advocacy and monitoring should be protected against interferences in exercising their essential freedoms, including peaceful assembly and expression.³⁴

19. The Declaration on Human Rights Defenders foresees legal protection under national law for defenders peacefully scrutinizing and challenging public authorities for their omissions or actions resulting in human rights violations.³⁵ Defenders should always be in a position to oppose emergency legislation contravening human rights norms and military or law enforcement operations conducted in disregard of international obligations, including extraterritorially. They should be protected when publicly calling upon relevant stakeholders not to violate international law.

20. The Special Rapporteur draws attention to the complementary binding norms of relevance for defenders investigating or assisting victims of recurring violations in conflict and post-conflict situations. As with enforced disappearances, defenders have a right to form and participate freely in organizations and associations, report facts to the competent authorities and be protected when doing so.³⁶ Defenders and their family members addressing violations of the right to life, such as extrajudicial, arbitrary and summary executions are similarly entitled to protection and participation in the relevant investigations, during and after armed conflict.³⁷

²⁸ Convention relating to the Status of Refugees, art. 33, and its Protocol; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 3; Committee against Torture, general comment No. 4 (2017) on the implementation of article 3 in the context of article 22; Human Rights Committee, general comment No. 36, para. 31.

²⁹ International Covenant on Civil and Political Rights, art. 12 (2).

³⁰ Fourth Geneva Convention, art. 35.

³¹ Convention relating to the Status of Refugees, art. 1 (A) (2).

³² Rome Statute of the International Criminal Court, art. 8. See also https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul, rules 55–56.

³³ E/CN.4/1998/53/Add.2, annex, principles 25–26 and 30.

³⁴ Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 23.

³⁵ Art. 12 (3).

³⁶ International Convention for the Protection of All Persons from Enforced Disappearance, arts. 1, 12 and 24; guiding principles for the search of disappeared persons (CED/C/7), principles 5 and 14.

³⁷ *Minnesota Protocol on the Investigation of Potentially Unlawful Death* (United Nations publication, Sales No. E.17.XIV.3).

D. Exceptional legal regimes and restrictions on the activities of defenders

21. The enactment and prorogation of exceptional legal regimes and measures during conflict or post conflict – such as State- or region-wide emergency or martial laws, and security and antiterrorism legislation, curfews or other decisions restricting access to certain areas – tend to curtail public freedoms, drastically reduce judicial oversight and put defenders and their work at risk. The Special Rapporteur stresses that no circumstances can account for the suspension or sidelining of protections and rights enshrined in the Declaration on Human Rights Defenders, which is based on binding norms. In the limited cases where derogations are permissible, these must be prescribed in law, be in accordance with international law and meet both substantive and procedural conditions, including those of necessity and proportionality.³⁸

22. The Special Rapporteur is concerned by the fact that a number of domestic legal provisions and practices, including under occupation, relating to freedom of movement, assembly and access to information clearly do not stand this test. Unless in line with applicable human rights standards, no restrictions on public freedoms can be considered legitimate nor proportionate if they infringe on defenders' rights, inter alia, to freely publish impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms, study, discuss, form and hold opinions on their observance, both in law and in practice, and draw public attention to those matters.³⁹ National legislation must protect, not open grounds to prevent scrutiny, stifle dissent and interfere with defenders' legitimate activities.

23. The frequent use of exceptional legislation, along with contested views on the legal regimes applicable in some conflict and post-conflict contexts, and the relative fragmentation of protective and enabling norms covered in this section, highlight the importance of incorporating the Declaration on Human Rights Defenders within national legal frameworks. States and other stakeholders share responsibility for ensuring the Declaration's effective dissemination and for training civil and military authorities to enforce and comply with its provisions.⁴⁰ Judicial authorities should also receive training if they are to provide adequate guidance and redress.

IV. Concerns regarding protection, impacts and violations of key rights

A. Extreme exposure, systematic targeting, wide protection gaps and impunity

24. Defenders are not immune to situations of active hostilities, general insecurity, humanitarian crisis or breakdowns of public institutions and social services. Many engage as volunteers, as part of a group or independently, and are directly affected by the degradation of socioeconomic conditions, notably under occupation. Many are displaced or trapped and unable to access life-saving treatments because of blockades or restrictions on international travel or are killed or injured as a result of ground or airstrikes on their schools and hospitals. No significant progress in protecting defenders in conflict and post-conflict situations will be achieved as long as the most fundamental principles of international law continue to be systematically infringed, without consequences for those responsible.

25. Defenders are also at risk because of the sensitive nature of their work. When uncovering violations perpetrated by parties to armed conflicts, including under occupation, investigating certain cases of disappearances, opposing the expanding role of military forces in law enforcement or contesting public denials of war crimes, they expose themselves. When denouncing corruption and collusion between public actors, private

³⁸ Human Rights Committee, general comment No. 29; A/73/215, para. 24.

³⁹ Declaration, art. 6 (b)–(c); Human Rights Committee, general comment No. 34.

⁴⁰ Declaration, art. 16.

entities and criminal organizations, the illegal exploitation of natural resources and the illegal trade in arms, they challenge established interests and the distribution of power. Some also become directly exposed when promoting policies set by peace agreements that provide for disarmament or alternatives to illicit exploitations. In conflict and post-conflict situations, there is indisputable evidence that defenders are particularly at risk when they belong to indigenous communities or to certain religious or ethnic minorities or because of their sexual orientation or gender identity.

It is in main cities that defenders are most likely to find protection, with the presence of international organizations. But those in most remote areas are the forgotten one. (Defender, Democratic Republic of the Congo)

26. The relative isolation of some defenders and the systemic protection gaps are aggravating factors, particularly in remote conflict areas. Such areas can be almost entirely devoid of human rights organizations and defenders, many of who may already be in exile, leaving those remaining feeling disconnected and further exposed to threats, attacks and reprisal. In some conflict-affected areas, limited State presence, including of law enforcement and judicial authorities, perpetuates severe protection gaps. Where administrative and judicial oversight is missing, defenders are notably vulnerable to arbitrary arrest and detention.

If you bring up the issue of Boko Haram and try to intervene on the groundless cases of people jailed supposedly for links with the organization, people can quickly start to suspect you of complicity. (Defender, Cameroon)

27. Defenders are the potential target of a range of actors. Any human rights-related activity tends to trigger the imputation of opinions, allegiances or intentions and easily place defenders at risk. In areas controlled by militias and in areas witnessing the expansion or resurgence of armed groups or criminal gangs, they are routinely exposed. Where peace processes break down, the resumption of hostilities heightens the risks. Under occupation or in disputed areas, they are vulnerable not only vis-à-vis the authorities of the occupying powers or de facto authorities but also vis-à-vis extremist groups.

Not only do people attack us for our human rights work, but they attack us because we are women; they attack how we look, how we live. It is important to develop strategies for the protection of women defenders because we are totally alone. (Defender, Turkey)

28. Women defenders operating in conflict or post-conflict areas often work in life-threatening circumstances and are particularly exposed to gender-based violence, including sexual violence. They are more directly affected by breakdowns in health-care services, including sexual and reproductive services.⁴¹ Women defenders face patriarchal stereotypes, discrimination and harassment, direct threats to their physical integrity and psychological well-being, all of which often extend to their relatives. In certain contexts, women defenders are particular targets of armed or terrorist groups and of fundamentalist members of their own religious communities. In several conflict situations, the rights of women defenders are violated at alarming rates. While they gain international recognition, their legitimacy as defenders continues to be challenged. Too many of those seeking protection were reportedly advised to renounce their activities and withdraw from the public sphere.

29. More generally, the Special Rapporteur is alarmed by mounting evidence, in conflict and post-conflict situations, that systematic and often State-led strategies combining delegitimization and criminalization are used to silence defenders. Defenders are the target of orchestrated smear campaigns inciting discrimination and violence, in both public discourse and online. They are alternatively accused of being “foreign agents” conducting “anti-national activities”, “operatives with dual roles”, “internal enemies”, “terrorists” or “spoilers of peace, development or social harmony”. Such labelling and criminalization sometimes follows from their compelled engagement with non-State authorities and with

⁴¹ Committee on the Elimination of Discrimination against Women, general recommendation No. 30, paras. 2, 36 and 50.

the armed groups in control of the areas where they operate. In some instances, defenders are being arbitrarily arrested, detained and subjected to judicial harassment at unprecedented levels through the misuse of antiterrorism, sedition, national security and drug-related legislation. Multiple procedures and repeated adjournments of legal proceedings are often used to maintain pressure.

As defenders, we are on the hit list. I had to relocate my family, limit my movements within the country. I have to leave it periodically, return each time with a different phone number. (Defender, Somalia)

30. Impunity and failure to protect and provide effective remedy still prevail in several conflict and post-conflict situations, most notably where international scrutiny is limited or absent. Extrajudicial killings of defenders often remain unresolved and threats, including those carried out online, remain unaddressed. Individual defenders have been suspected of fabricating the threats they have sought to report and it has been suggested that they find and rely on their own protection solutions or simply terminate their activities. Failure to conduct independent and transparent investigations on wider violations of international law, including humanitarian law, persist. Those launched, including in contexts of occupation, often prove manifestly selective or limited in scope, are discontinued or excessively prolonged, or lead systematically to decisions not to prosecute or to acquittals. For some defenders, turning to public authorities for protection is simply not an option.

31. The Special Rapporteur has recently addressed the question of impunity.⁴² In conflict and post-conflict situations, emergency laws and other exceptional provisions often limit judicial oversight and restrict options to challenge the actions of the authorities, including law enforcement and armed forces, while State actors, most notably the security forces, often remain major perpetrators of violations of human rights and humanitarian law against defenders. Such violations often occur where no reliable protection mechanism can be activated by defenders and where awareness of defenders' rights and the legitimate nature of their work is excessively limited, including among the authorities. This situation needs to be urgently remedied.

B. Impacts on defenders, societies and the international community

The major challenge for me now is to remain in my region despite the threats and challenges, and continue to stand for the rights of our communities. This cannot be done if I leave. (Defender, Mali)

32. Repeated and systematic attacks on defenders in conflict and post-conflict situations have far-reaching consequences and impacts. They affect their physical and mental health and undermine their ability to work. Many of them have had no choice but to shut down their organizations and end their activities. Others must continuously censor themselves, work undercover or drastically downplay some of their advocacy. Considerable time and resources of organizations and individuals are diverted in order to ensure defenders' own security and that of colleagues or family, and to deflect attacks. Forced relocations, whether temporary or permanent, push many to remote urban centres, the capital, sometimes away from occupied areas or even beyond national borders. Many lose their regular job or are unable to secure employment because of judicial harassment. This reality is still overlooked and must be taken into account when designing protection and support programmes.

33. The broader consequences and impact on societies must be highlighted. Several countries in conflict and post-conflict situations that a few years ago had witnessed an expansion of civil society have since seen that course reversed. Reporting on human rights violations, access to support services for victims and international attention and scrutiny into these areas is declining. Attacks and human rights violations perpetrated against journalists, limit access to independent and reliable information. In areas of active hostilities, humanitarian organizations must sometimes withdraw, leaving civilians without essential assistance. In post-conflict contexts, intimidation of defenders perpetuates mistrust

⁴² A/74/159.

vis-à-vis institutions and transitional justice efforts. United Nations field presences also report on how their fact-finding, peacekeeping and humanitarian work is affected when local communities avoid cooperating for fear of reprisals.⁴³ These downward spirals must be stopped.

C. Violations of key rights of defenders operating in conflict and post-conflict areas

The legal framework we have now is basically filled with grounds for severe restrictions of our work. (Defender, Libya)

34. Defenders' freedom of association continues to be curtailed in the name of public order, national security and counter-terrorism, often in contravention of both constitutional and international obligations. This is nothing new.⁴⁴ Burdensome administrative requirements and unclear or costly fees sometime prevent or deter NGOs from registering. Arbitrary denial or withdrawal of registration have been reported, along with forced closures and assets freeze under states of emergency. NGOs are sometimes requested to disclose the identities of all their members. They must cope with complex tax-related, anti-money-laundering and security-related obligations, report extensively on their funding and activities in specific areas, and risk prosecution for activities likely to be defined as "political". Surveillance, repeated administrative checks, raids of their premises and the seizure or damage of essential equipment add to this pressure. Defenders have also reported being the target of a growing number of digital attacks, paralyzing their communications means. Entire organizations are thus repeatedly attacked, over protracted periods of time and by all means, including the judicial harassment of staff or board members. Many NGOs report working in a climate of permanent fear and facing difficulties to recruit, sometimes also due to major restrictions on freedom of movement.

35. Many defenders operating in conflict and post-conflict areas rely on international support for their activities. Their right to solicit, receive and use international funding is increasingly put in question. In several occupied or disputed territories, new clearance procedures have been introduced for accessing international grants. NGOs can face regulatory limitations and stringent controls. Public disclosure obligations facilitate their labelling as "foreign agents". Attempts to discredit them vis-à-vis international partners or to threaten these partners with retaliatory restrictions to their own or wider operations have also been reported. The Special Rapporteur is concerned about prospects of further legal restrictions and, in some instances, threats of prosecution for defenders receiving such support. He refers States to the existing standards and guidelines calling upon them not to impose undue restrictions on the ability of NGOs to access funding, including from foreign and international sources, and to refrain from invoking money-laundering and financing of terrorism as pretexts for such discriminatory restrictions or from monitoring their transactions.

36. In some areas, long-term curfews, emergency laws and blanket prohibitions on gatherings continue to jeopardize defenders' right to meet and assemble peacefully. Attempts to further restrict the legal framework have been reported. In areas under occupation, military orders or security legislation sometimes de facto prohibit the exercise of this right in contravention of applicable international human rights law. Defenders otherwise have to deal with stringent requirements, opaque procedures and excessive delays when trying to secure authorization for demonstrations or meetings, including on private premises. Laws on peaceful assembly are used to arrest and charge activists challenging the reinstatement of martial law or the resumption of hostilities. The Special Rapporteur is also alarmed by the wide repression of public demonstrations in a number of conflict and post-conflict contexts. Law enforcement and military responses have been carried out on the basis of rules of engagement inconsistent with international standards resulting in serious violations of international humanitarian and human rights law. Defenders seeking to

⁴³ A/HRC/39/41, para. 80.

⁴⁴ E/CN.4/2006/95/Add.3, paras. 20–21.

challenge excessive uses of force or arbitrary practices sometimes become the targets of counter-complaints or charges. Practices must urgently be aligned with existing guidance on the management of peaceful assembly and law enforcement, including in contexts of armed conflict.

37. Freedom of expression is virtually inexistent in some of the areas concerned. It is hampered by general suspensions affecting communications and online media, including social media. Journalists, media outlets and associations are particularly affected. Many individuals have been arrested and charged for interviewing armed groups, travelling to areas under their control or covering counter-terrorism operations. Many have been targeted for coverage considered to undermine the State's reputation or critical of military interventions. NGO staff members have been charged for spreading "false news" or endangering State security on the basis of vaguely defined criminal provisions; academics and students have been charged for "belonging to a terrorist organization"; religious leaders have been charged for sedition while denouncing extrajudicial killings; others have been charged for "treason" for revealing the sweeping repression of peaceful demonstrations or for "calling to extremism" or for "insulting a public agent" by questioning the actions of public authorities; and others still have been charged on multiple grounds for challenging illegal settlements in occupied territories. Challenges are no less acute in post-conflict settings, where the work of journalists and artists are criminalized for allegedly being harmful to national security. The Special Rapporteur recalls that sedition, treason, counter-terrorism and security-related laws should not be invoked to prevent access to and dissemination of information of public interest, in particular information concerning human rights violations, nor to prosecute defenders.⁴⁵ Intimidation and reprisals against their sources of information also must end.

38. Defenders' right to defend human rights and exercise their lawful profession is equally under threat. Journalists and paramedics have been deliberately targeted with lethal force while covering public protests and bringing assistance to demonstrators. Judges have been intimidated while working on cases relating to corruption and organized crime; some attempts at removing them have been successful. Lawyers have received direct threats when taking up sensitive cases involving the military or engaging with transitional justice institutions. The Special Rapporteur is concerned about legal reforms granting discretionary powers that allow prosecutors and judges to associate defenders with the actions of their clients and restricting the ability of NGOs to stand for victims in criminal procedures or submit public petitions before the courts. Many journalists covering public demonstrations have had their licences and work permits withdrawn or been removed from working for public media institutions.

39. Humanitarian aid workers continue to be denied access to civilian populations by the authorities, armed groups or terrorist organizations. They face bureaucratic hurdles to the movement of their personnel and goods into conflict-affected countries, arbitrary requisition of medical facilities for military purposes and deliberate attacks against them, their assets and facilities. Legal and social practitioners face similar challenges in monitoring detention. They are unable to access and assist detainees held in secret facilities, placed under administrative and preventive detention without judicial review or effective right to a lawyer or a doctor or illegally transferred beyond national borders.

The State must grant access to West Papua for journalists and international institutions, just like other parts of the country. (Defender, Indonesia)

40. Defenders from international NGOs and institutions are also regularly targeted and prevented from operating. Human rights researchers have been deported or arbitrarily denied entry, including into specific conflict-affected areas and occupied territories. NGOs have faced general suspensions and bans on their operations. International journalists have faced restrictions and stringent administrative requirements effectively challenging their in-country access. Individual defenders have been subjected to arrest and deportation, in what appear to be deliberate attempts to deter others. In situations of occupation, some have

⁴⁵ Human Rights Committee, general comment No. 34; Global Principles on National Security and the Right to Information, principle 10.

reportedly been intimidated by being subjected to prolonged border controls, security checks and interrogations. Such realities, which are of ongoing concern,⁴⁶ seem to be gaining in intensity. United Nations experts and representatives, including mandate holders competent for monitoring certain country situations, have also been openly targeted, including by the officials of States currently members of the Human Rights Council.

41. The Declaration on Human Rights Defenders recalls defenders' right to access and communicate with international human rights mechanisms. Gaps in self-recognition as defenders, lack of knowledge of these mechanisms and isolation from international networks certainly limit the capacity of defenders to communicate. Still, obstacles too often result from deliberate obstruction by States and non-State actors, including armed groups. A number of States and de facto authorities in control of specific areas or territories repeatedly deny access to United Nations special procedures, fact-finding missions and commissions of inquiry or other monitoring human rights institutions and effectively prevent defenders from engaging in-country, not only with such entities or mechanisms but also with diplomatic missions.

42. Defenders often experience reprisals after they have cooperated (or tried to cooperate) on human rights issues with United Nations entities, mechanisms and representatives, including during peace operations, with OHCHR field presences and with institutions such as the International Criminal Court and the World Bank. Such reprisals take the form of pre-emptive threats, travel bans, arbitrary detention, prosecution or threat thereof, ill-treatment and torture, and extrajudicial execution. Reprisals, when State-led, have sometimes extended beyond borders to Geneva and New York and to defenders' countries of refuge, mobilizing intelligence and diplomatic services. These represent wider efforts to deny defenders' right to defend human rights and expose violations. They continue to occur, despite the concerns expressed by the Special Rapporteur, the Assistant Secretary-General for Human Rights and other United Nations institutions.⁴⁷

V. Initiatives by States and civil society organizations and the response of the United Nations

A. States and public institutions

With other civil society organizations, we drafted a proposal for a law protecting defenders. It's been before Parliament for a year now, but still hasn't been looked at. (Defender, El Salvador)

43. Few conflict-affected States have adopted specific legislation, guidelines or protocols to protect defenders and secure their rights. Legislative processes in a number of States need to be fast-tracked to secure legislation or decrees essential for effective implementation. Whether adopted at the national or local level, such legislation must promote a broad and inclusive definition of defenders.

44. Protection units or mechanisms to protect defenders, where they exist, still need to deliver. Ongoing challenges include accessibility, trust within the community of defenders and reactivity, for instance to unlock funds and effectively relocate defenders. The ability to have an impact also depends on adequate responses by law enforcement and judicial institutions. The prospects of such institutions responding adequately remain limited, either because they are absent or because of corruption and collusion with organized crime. Protection measures must be designed with affected defenders and communities, to ensure their suitability and the coverage of specific needs. Most protection schemes currently available consist in short-term remedial actions with an individual focus, while preventive and collective ones may be more effective alternatives. The Special Rapporteur is concerned about reports of defenders placed under protection schemes who are then

⁴⁶ A/58/380, para. 53; A/HRC/42/17, para. 72.

⁴⁷ A/HRC/42/30.

arrested for alleged narcotics trafficking or ties to armed groups. These suggest coherence gaps that must be addressed without delay.

45. An increasing number of public institutions, including national human rights institutions, are trying to address the challenges faced by defenders. They do so through public inquiry and advocacy, legislative input and interventions on specific cases. Some have developed guidelines on defenders or incorporated early warning mechanisms. Several others have regional or local satellite offices, including in or near conflict-affected areas. Lack of independence and statutory limitations preventing the investigation of alleged violations of human rights and international humanitarian law against defenders by armed forces remain challenges for national human rights institutions operating in conflict and post-conflict situations. The Special Rapporteur remains alarmed by the fact that several of these institutions or national protection mechanisms and their staff are themselves subjected to threats, interferences in their work and reprisals.⁴⁸

46. A number of States and regional organizations have developed external policy guidelines or strategies on defenders, recognizing their need for support in conflict and post-conflict areas. These offer relevant directions to conduct risk-assessments, diplomatic outreach and advocacy on individual cases of defenders and to support their activities, international engagement or relocation if necessary. Implementation and impact in practice needs to be subject to participatory reviews, in light also of the challenges defenders encounter in conflict and post-conflict areas, notably those under active hostilities.⁴⁹ Further attention to defenders must also be secured in States' international human rights, humanitarian aid and development policies.

B. Defenders and national and international non-governmental organizations

Training programmes help. We developed some, which address psychological and digital protection. We also created a shelter where defenders can regain a sense of security for a period of time. (Defender, Thailand)

We work in solidarity with defenders and women's rights networks outside the country. (Defender, the Sudan)

47. Individual defenders and local civil society organizations often rely on self-support and mutual support, including wider community-based protection. Yet due to the general insecurity or the polarized environments in which they operate, defenders are often unable to link with others nearby or in other cities. Some local NGOs have been able to develop their own physical and digital protection protocols and trainings. Several defenders have reported turning to individual officials, international NGOs, United Nations presences or diplomatic representations for protection, when accessible. Still, some also admit having limited know-how and capacities to counter surveillance, threats and attacks, including online. They stress their interest in receiving support to ensure their physical and digital security, to break their isolation and to increase opportunities for peer-networking at all levels.

A good share of defenders and journalists have already left the country. It is still possible to try to document violations, but difficult to find moral and technical support in doing so. (Defender, Burundi)

Lawyers help a great deal with the judicial harassment we face. (Defender, the Philippines)

48. National and international NGOs, as well as intergovernmental organizations, are active in monitoring and advocacy for defenders operating in conflict and post-conflict areas. They offer protection and support in the field or back the development of networks of solidarity. Several help defenders develop their security plans and respond to smear

⁴⁸ A/74/226, paras. 80–86.

⁴⁹ A/HRC/37/51, para. 37.

campaigns, online threats and attacks with digital security tools and counter defamation through training on media crisis management. Legal advice and assistance have helped some deal with judicial harassment. Professional organizations and networks, such as journalist unions, consortiums or bar associations, have also created security tools and sometimes act on individual cases.⁵⁰ Several international NGOs sponsor peer meetings and other opportunities for defenders to reflect together on strategies to conduct their advocacy in emergencies and in conflict or post-conflict contexts, for instance on social, economic and cultural rights or to push for national legislation to protect defenders.

Shelter and relocation initiatives need adequate channelling of funding. They should also be equally accessible to men and women. (Defender, Afghanistan)

49. Several relocation initiatives and schemes led or backed by States and coordinated by international NGOs, international consortiums and local authorities have been instrumental for defenders from conflict and post-conflict areas. Some have allowed specific categories of defenders, such as academics, to find temporary or longer-term protection and to continue with their professions and engagement as defenders. An assessment of these initiatives would help identify whether the specific needs of certain groups, including women defenders, are covered. Greater efforts must also be made to provide long-term and sustained support after periods of temporary relocation, as well as to secure the legal stay of defenders compelled to relocate to neighbouring countries.

50. Contributions received highlight the resilience of defenders but also the negative impact of the general conditions in which they operate, of certain aspects of their work (e.g. interviewing victims or witnesses of crimes) and of the repeated violations of their rights. How these affect their physical and psychological well-being remains underexplored and overlooked, including as regards defenders forced into exile. Several have suffered post-traumatic stress disorder and found themselves ill-prepared to deal with it. Some have reported finding few solutions within or outside their own organizations and pointed out the need for sustained psychological support. Available guidance – notably the Barcelona Guidelines on Well-being and Temporary International Relocation of Human Rights Defenders at Risk – must translate into practice.

51. Greater attention should be given to the situation of national staff, including support staff and interpreters, active in international humanitarian interventions but also in a wider spectrum of human rights-related projects, such as those with a focus on international crimes or environment-related violations. In the most insecure areas, they remain and continue to operate when situations worsen and international staff pull out. They are, in absolute terms and in rising proportions, those most affected by attacks.⁵¹ Nonetheless, the threats they face are still underassessed and underestimated by organizations. Participatory reviews are needed to identify and respond to such risks, to reconsider responsibilities to protect and strengthen the access of all these defenders to gender- and age-sensitive security training and protection measures.

C. United Nations entities and mechanisms

Attention to the situation of defenders in conflict and post-conflict situations

52. The United Nations has paid greater attention to the situation of human rights defenders in recent years. Human rights components of peace operations and OHCHR offices monitor and report on civilian casualties, including on protected categories and related violations of international humanitarian and human rights law.⁵² Systematic efforts to collect data on attacks and fatalities concerning peacekeepers and associated personnel, journalists or health workers,⁵³ many of whom might be human rights defenders, cover

⁵⁰ A/HRC/31/55.

⁵¹ Humanitarian Outcomes, *Aid Worker Security Report 2019 – Updated* (August 2019).

⁵² S/2019/373, para. 11.

⁵³ <https://en.unesco.org/themes/safety-journalists/observatory>; www.who.int/emergencies/attacks-on-health-care/surveillance-system/en/.

conflict and post-conflict contexts. Similarly, multi-stakeholder initiatives concerning teachers, educational personnel and health workers in conflict zones are also gaining momentum.⁵⁴ These are welcome steps, even though they sometimes fail to identify defenders specifically or to capture the full range of violations against them and their operations. More can certainly be done to systematically pay attention to and support defenders system-wide.

53. United Nations treaty bodies are increasingly addressing the situation of defenders in conflict and post-conflict settings, including when reviewing States' compliance with their international obligations.⁵⁵ The Secretary-General⁵⁶ and the Human Rights Council too have devoted particular attention to defenders and, notably, to the safety of journalists,⁵⁷ which has led to a specific plan of action.⁵⁸ A number of commissions of inquiry and fact-finding missions have also called for greater attention to be paid to defenders, who have been identified as being among the most exposed to violations in certain contexts.⁵⁹ In-depth thematic reporting by OHCHR has also greatly contributed to this trend.⁶⁰ Reprisals receive a more systematic response, engaging all institutions, representatives and mechanisms.⁶¹ The Special Rapporteur, jointly with others, has sought to address these and other attempts to delegitimize and criminalize the human rights work of civil society organizations and defenders.

Prevention, protection and support measures

54. OHCHR has issued training manuals for field offices and relevant guidance on the protection of victims, witnesses, sources and others cooperating with fact-finding missions or commissions of inquiry.⁶² The Special Rapporteur wishes to stress the challenge of ensuring that the principles of doing no harm and due diligence are applied consistently by United Nations representatives, mechanisms and entities, including the Security Council. The lack of secure means and channels of communication between the United Nations and defenders needs urgent attention as well as new thinking, resources and training for all to avoid interceptions and further exposure.

The work of OHCHR has been fundamental. Up to a point where it is sometimes thanks to it that we are still alive. Their work tends to be undermined as well.
(Defender, Guatemala)

55. United Nations field presences, including missions and OHCHR field offices in conflict and post-conflict settings, are often key, if not the only, interlocutors for assisting and supporting defenders at risk. They provide legal, psychological and other forms of support to many, including through referrals and grants to NGOs. They liaise with national and international NGOs to provide protection and services, also for relocation. Their efforts extend to making direct interventions with the authorities on individual cases, briefing the diplomatic community on defenders' situation and monitoring judicial trials. They also facilitate peer training on safety and security and develop protection manuals and online resources.

56. United Nations missions and OHCHR field offices often also support defenders' work by building their capacity to monitor human rights. They facilitate the participation of defenders in meetings held in Geneva and New York and in other international forums and

⁵⁴ Global Coalition to Protect Education from Attack; Safeguarding Health in Conflict Coalition.

⁵⁵ Committee on the Elimination of Discrimination against Women, general recommendation No. 30, para. 6; Human Rights Committee, general comment No. 36, para. 53.

⁵⁶ A/74/314.

⁵⁷ A/HRC/39/23; A/72/290.

⁵⁸ United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity.

⁵⁹ A/HRC/33/37, paras. 78–88.

⁶⁰ OHCHR, "The invisible boundary: criminal prosecutions of journalism in Myanmar" (11 September 2018).

⁶¹ A/HRC/42/30.

⁶² OHCHR, *Training Manual on Human Rights Monitoring* (New York and Geneva, 2001); OHCHR (2015), *Commissions of Inquiry and Fact-finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice* (New York and Geneva, 2015), pp. 74–78.

channel their advocacy. Joint human rights programming includes efforts to empower civil society and strengthen the State's capacity to play its role.⁶³ In several contexts, these often still ad hoc protection initiatives are in the process of becoming fully fledged strategies in line with OHCHR efforts to expand civic space. The Special Rapporteur calls for additional United Nations initiatives to support defenders' engagement at the international level and to raise the awareness of Governments, de facto authorities and other stakeholders on their important role and legitimacy and their right to operate in conflict and post-conflict contexts.

57. United Nations humanitarian aid, peacekeeping and peacebuilding operations can strengthen the protection and support afforded to defenders. While a number of peace operations have the protection of human rights defenders in their mandate,⁶⁴ not all do. Current efforts with respect to women rights defenders under the women, peace and security agenda and Member States' national action plans and at the Peacebuilding Commission level⁶⁵ can certainly also be stepped up. The full inclusion and participation of women, including women human rights defenders, has indeed yet to be achieved.⁶⁶ The Special Rapporteur urges States and United Nations envoys and agencies operating in conflict and post-conflict areas to recommit to this agenda.

58. The United Nations system must do more to tackle impunity. In its resolutions, the Security Council has increasingly referred to the situation of defenders,⁶⁷ beginning to bridge a gap long identified by the Special Rapporteur.⁶⁸ Existing United Nations sanctions committees deem attacks against peacekeepers and humanitarian personnel⁶⁹ and sometimes on hospitals and schools, and general violations of human rights and humanitarian law or acts undermining peace and security as criteria for listing. However, this approach is not taken systematically and, while including such criteria may provide a basis for imposing sanctions against those responsible for violations of defenders' rights, this has yet to materialize in practice.⁷⁰ For sanctions committees to move towards placing a greater focus on defenders in practice would seem consistent with progress made in resolutions and the mandates of peace operations. Bringing perpetrators to account for war crimes against defenders must also remain on the agenda of the United Nations and others. Convictions by the International Criminal Court to date show international attacks directed against personnel involved in humanitarian assistance missions have yet to be made a priority.

Beyond the United Nations system

59. Other international institutions must take a deeper look at their role and responsibility in protecting and supporting defenders they work with or rely on in conflict and post-conflict situations, or those who may raise human rights concerns in relation to the projects they conduct or finance. The International Criminal Court adopted guidelines governing its relations with "intermediaries" in 2014,⁷¹ and States parties to the Rome Statute have repeatedly acknowledged the importance of taking all necessary actions to address the threats directed at civil society organizations cooperating with the Court.⁷² Still, it is unclear to what extent those guidelines have been reviewed and to what extent the practices of the Court's different organs have been adjusted and harmonized. Development banks with projects in peacebuilding and post-conflict settings, including in fragile States,

⁶³ A/HRC/42/62, paras. 38–39.

⁶⁴ E.g., Security Council resolutions 2459 (2019), para. 7, and 2463 (2019), para. 29 (i) (a).

⁶⁵ A/72/707-S/2018/43, paras. 59–61.

⁶⁶ A/HRC/39/28; UN-Women, *Women's Meaningful Participation in Negotiating Peace and the Implementation of Peace Agreements* (New York, 2018), p. 4.

⁶⁷ Security Council resolution 2286 (2016).

⁶⁸ A/58/380, para. 40.

⁶⁹ E.g., Security Council resolutions 2127 (2013) and 2206 (2015).

⁷⁰ Security Council consolidated sanctions list.

⁷¹ www.icc-cpi.int/iccdocs/lt/GRCI-Eng.pdf.

⁷² Assembly of States parties' resolution ICC-ASP/17/Res.3; International Criminal Court, *Report on Preliminary Examination Activities* (2016), para. 144.

should similarly review their responsibilities in preventing and responding to the reprisals defenders claim they face when activating their grievance mechanisms. The stakes are high and positive steps must be replicated and followed through.⁷³ Additional resources must be allocated within the United Nations system and independent human rights institutions to monitor their own policies and practices.

60. In closing, the Special Rapporteur wishes to draw the attention of all stakeholders, starting with States (as contributors to the field operations of United Nations agencies) but also United Nations agencies, international donors and NGOs, to the existence of yet another ongoing challenge: the excessively short-term or declining support for defenders and the shifting priorities in funding and partnerships that affect them. In several contexts and conflict-affected countries, funding for emergency humanitarian responses that often lack a human rights-based programming approach tend to be prioritized to the detriment of critical human rights initiatives carried out by local defenders.

VI. Conclusion and recommendations

61. **The Special Rapporteur is alarmed by accounts from defenders describing wide-ranging and cumulative violations of their rights, in particular their right to defend human rights in conflict and post-conflict settings. Many point to a steady deterioration over recent years, with scores of fellow defenders displaced or in exile. They demand greater recognition for their work and their contribution to peace and sustainable development. They demand greater engagement from the international community to address the threats they face. They also call for greater support in strengthening their own capacity to respond and in building networks of solidarity.**

62. **The Special Rapporteur reiterates his recommendations to States to enact legislation and policy frameworks consistent with international law standards and guidance on key rights for defenders and to take all necessary measures to tackle impunity.⁷⁴ Ensuring wider respect for international law by the parties to armed conflicts and, in general, by States and non-State actors remains key for the effective protection of human rights defenders. At the same time, protection will continue to require context-specific approaches. The following recommendations should be read as complementary and non-exhaustive.**

63. **All stakeholders should publicly acknowledge the critical role that defenders play in conflict and post-conflict contexts and step up efforts to support defenders and their organizations targeted with disinformation and smear campaigns.**

64. **States and, for the recommendations in subparagraphs (a) and (c) below, de facto authorities should:**

(a) **Uphold respect for human rights and international humanitarian law, including peremptory and customary norms, securing the protection and operations of defenders, including journalists, humanitarian workers, health and education professionals and those assisting internally displaced persons and refugees;**

(b) **Become parties to international human rights and international humanitarian law instruments of direct relevance, such as the International Convention for the Protection of All Persons from Enforced Disappearance, and endorse and follow through on relevant initiatives;⁷⁵**

(c) **Uphold respect for the right of defenders to communicate with international human rights mechanisms, including by inviting special procedure**

⁷³ www.cao-ombudsman.org/documents/CAO-Reprisals-web.pdf; European Bank for Reconstruction and Development, “Retaliation against civil society and project stakeholders” (2019); A/HRC/42/30, para. 11.

⁷⁴ A/HRC/31/55, para. 113; A/74/159, para. 147.

⁷⁵ E.g., Safe Schools Declaration; Guidelines for Protecting Schools and Universities from Military Use During Armed Conflict.

mandate holders to visit their countries and by granting them, OHCHR and ad hoc investigation mechanisms effective access to all parts of the territory under their jurisdiction or effective control;

(d) Develop comprehensive gender- and age-sensitive legislation and policies protecting human rights defenders in line with the Declaration on Human Rights Defenders and the United Nations human rights treaty bodies and set up protection mechanisms accessible to defenders operating in conflict and post-conflict areas;

(e) Create or strengthen national human rights institutions in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), securing their ability to deploy in conflict-affected areas and, where applicable, to investigate and address violations against defenders without undue limitations or restrictions;

(f) Effectively disseminate the Declaration on Human Rights Defenders and ensure training of all State personnel deployed to conflict-affected areas, including military, police and other security personnel, as well as staff of both civil and military courts, where applicable;

(g) Develop or support, with relevant civil society and professional organizations, psychological support and rehabilitation programmes for defenders affected by conflict-induced and work-related trauma, in line with existing guidance;⁷⁶

(h) Uphold commitments in peace negotiations and peacebuilding processes, notably under the women, peace and security agenda, to ensure the participation of diverse civil society actors, including women, children and youth defenders;

(i) Deepen the engagement by diplomatic missions with defenders operating in conflict and post-conflict areas and with official or de facto authorities whose actions or omissions affect the protection and operations of defenders;

(j) Support and facilitate domestic, regional and international relocation initiatives and access thereto, including through flexible procedures and visa policies, ensure that these are equally accessible to defenders irrespective of their gender and take into account their family situation or other circumstances;

(k) Strengthen the protection of foreign defenders relocated from conflict-affected States and ensure their access to effective international protection procedures, their protection against refoulement and their access to complaints and protection mechanisms and to an effective remedy when still faced with threats or other violations of their rights.

65. National human rights institutions should:

(a) Strengthen the protection of the right to promote and protect human rights as a key strategic priority, reach out to defenders outside the capital in conflict and post-conflict areas and provide protection and support as necessary;

(b) Set up early warning mechanisms and focal points for the protection of defenders, and support the development of inclusive national and regional defenders' networks;

(c) Develop accessible, affordable and holistic protection programmes, including for physical and digital security and psychosocial support;

(d) Undertake a systematic review of legislation, including exceptional legislative or executive provisions, assessing consistency with international standards, notably on freedom of association, peaceful assembly, freedom of expression and access to information of public interest.

⁷⁶ Barcelona Guidelines on Well-being and Temporary International Relocation of Human Rights Defenders at Risk.

66. **Local, regional, national and international NGOs should:**

(a) **Reach out for support to the less prominent defenders active in conflict and post-conflict areas and in the context of humanitarian interventions, beyond visible human rights organizations and networks, and support leadership programmes, including for women defenders and defenders displaced as a result of conflict;**

(b) **Ensure that partnerships with local and national defenders are equitable and designed in ways that recognize and mitigate the specific risks they face. This can entail conducting gender-sensitive risk assessments and developing security plans, security training and emergency response mechanisms and solutions, including relocation where appropriate.**

67. **Donors and funding partners should:**

(a) **Ensure and maintain core support to defenders – individuals and organizations alike – whose operations can be affected by armed conflict or deliberate interferences and provide for budgets to cover protection measures, such as physical and digital security-related training and equipment, health and psychosocial well-being interventions, and legal advice and defence;**

(b) **Ensure or maintain equal and steady support to human rights defenders active in areas affected by hostilities, in conflict-induced humanitarian crises and in post-conflict phases;**

(c) **Support and facilitate meetings of defenders with international stakeholders, including relevant international NGOs, and opportunities for peer meetings and back the development of defenders' networks.**

68. **The Secretary-General should develop a United Nations-wide strategy on human rights defenders in line with the Declaration on Human Rights Defenders and secure the engagement of the United Nations, in particular the special envoys, the representatives of the Secretary-General, United Nations departments, specialized agencies and programmes, with defenders in humanitarian aid, peacebuilding and post-conflict development interventions.**

69. **Entities and mechanisms of the United Nations system should:**

(a) **Ensure that attention is systematically paid to defenders in situations under review by the Security Council and in the mandates of peace operations and consider systematically including those responsible for violating defenders' rights in sanctions lists;**

(b) **Ensure systematic focus on the situation of defenders in State reviews by treaty bodies, activities of special procedure mandate holders and ad hoc investigation mechanisms such as commissions of inquiry and fact-finding missions;**

(c) **Strengthen opportunities for peer exchanges and staff training for United Nations staff on the principles of doing no harm and due diligence, digital safety and security when cooperating with defenders, in particular for OHCHR and ad hoc investigation mechanisms;**

(d) **Follow up systematically on cases of reprisal in conflict and post-conflict contexts and pay greater attention to them, including in the context of elections for membership in the Human Rights Council and the sessions of the Working Group on the Universal Periodic Review;**

(e) **Raise the awareness of States or de facto authorities on the protection due to defenders and their rights, including in contexts of emergency and armed conflict, and facilitate defenders' access to both regional and international complaints human rights mechanisms;**

(f) **Ensure that the forthcoming United Nations system-wide guidelines on community engagement in building and sustaining peace recognize the role of human rights defenders in peacebuilding and support their participation and involvement;**

(g) **Strengthen procedures and develop guidance on access to international protection and refugee status determination for defenders from conflict and post-conflict areas.**⁷⁷

70. **The International Criminal Court should systematize reporting on intimidation and reprisals and undertake a participatory assessment of potential protection gaps for defenders submitting information to or cooperating with the Court as intermediaries and of the practices of its various organs.**

71. **International and regional reconstruction and development banks should adopt due diligence standards and zero-tolerance policies, protocols and procedures to address intimidation and reprisals against defenders raising human rights concerns in relation to projects financed by them.**⁷⁸

⁷⁷ A/HRC/37/51, para. 70.

⁷⁸ A/74/159, para. 151; A/72/170, para. 92.