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Thirty-fourth meeting of Chairs of the human rights treaty bodies

Geneva, 30 May–3 June 2022

**Implementation by the treaty bodies of the
Guidelines against Intimidation or Reprisals
(the San José Guidelines), with a particular focus
on trends and cases of reprisals in the treaty bodies**

Practices of the human rights treaty bodies on intimidation and reprisals and issues for further action by the Chairs

Note by the Secretariat*

Summary

The present report is focused on the changing landscape of reprisals in 2021, given the continuing coronavirus disease (COVID-19) pandemic, and contains information on recent developments and good practices, with a view to keeping the Chairs of the treaty bodies, the treaty body experts and the focal points on reprisals apprised of the situation of preventing reprisals and responding to, and reporting on, allegations thereof. Partly due to the restrictions in place to mitigate the spread of the COVID-19 pandemic, which prevented the holding of in-person meetings until September 2021, the number of allegations, and the dynamics of treaty bodies' interactions with civil society and non-governmental organizations, differed during the reporting period.

In that regard, fewer allegations of reprisals or harassment and intimidation when submitting information and testimony to, or cooperating with, the treaty bodies were reported to the Secretariat and the treaty body focal points.

* Agreement was reached to publish the present document after the standard publication date owing to circumstances beyond the submitter's control.



I. Introduction

1. In its resolution 68/268, the General Assembly strongly condemned all acts of intimidation and reprisals against individuals and groups for their contribution to the work of the human rights treaty bodies, and urged States to take all appropriate action to prevent and eliminate such human rights violations. The present document was drafted in preparation for the thirty-fourth meeting of the Chairs of the human rights treaty bodies, to be held from 30 May to 2 June 2022, and contains information that is supplemental to that contained in the note by the Secretariat on mapping the practices of the treaty bodies on intimidation and reprisals,¹ which was prepared for the thirty-third meeting of Chairs but not considered.
2. The travel and other restrictions in place to mitigate the spread of the coronavirus disease (COVID-19) pandemic prevented the holding of in-person meetings until September 2021, therefore, fewer reviews of States parties took place in 2021. Despite those limitations, the treaty bodies completed a total of 61 such reviews, adopting 59 sets of concluding observations and 132 documents containing lists of issues, lists of issues prior to reporting or lists of issues in the absence of a report. A total of 18 sets of concluding observations were adopted in meetings held virtually, and 41 sets in hybrid-format meetings. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment undertook a mission to Bulgaria, and the Committee on Enforced Disappearances undertook a visit to Mexico. The Subcommittee undertook regional consultations and exchanged best practices virtually with national preventive mechanisms and national stakeholders.
3. Although virtual formats have the potential to open up United Nations spaces and mechanisms to more diverse voices, including previously excluded ones, the transition from largely in-person to almost fully virtual engagement has not been a smooth one. During the pandemic, fewer allegations of reprisals or intimidation experienced by those submitting information to, or cooperating with, the treaty bodies were reported to the Secretariat and the treaty body rapporteurs or focal points on reprisals. The overarching obstacles that have contributed to the decline in reporting include lack of clarity and awareness of how to participate through online channels, lack of access to virtual channels by victims, their relatives and lawyers and civil society actors and lack of trust in online channels, in particular with regard to reporting on sensitive issues, or engaging with the treaty bodies thereon, from high-risk environments.
4. As the Chair of the Committee against Torture, Claude Heller, noted in his statement to the General Assembly in 2021, the absence of reported cases of reprisals may actually reveal a lack of access by victims to international and national mechanisms, as well as lawyers, due to COVID-19 and its consequences.

II. Background

5. Everyone, in particular victims of human rights violations and civil society actors, has the right to have unhindered access to, and communicate with, the human rights treaty bodies, without any fear of intimidation or reprisals. Civil society organizations and victims bring information and testimonies that are indispensable to the work of the treaty bodies and that allow them to carry out their work on the basis of an overall view of the situations concerned and what is at stake. Providing first-hand testimonies and valuable information to treaty body experts informs their work and makes it more meaningful. States have a primary responsibility to prevent, refrain from and address acts of intimidation and reprisal. States also have an obligation to protect individuals against reprisals and to investigate allegations and provide effective remedies to victims thereof.
6. On 7 October 2021, a statement was made at a meeting of the Third Committee of the General Assembly, on behalf of 60 Member States,² on civic space and civil society participation and reprisals in United Nations spaces and in the context of United Nations

¹ [HRI/MC/2021/2](#).

² See https://estatements.unmeetings.org/estatements/11.0030/20211007/QGcGxDx6oDyY/WBIELG1Svdmg_en.pdf.

processes. They underlined that, during the pandemic, human rights defenders and civil society organizations and representatives had experienced a number of difficulties in gaining access to, and engaging in, the work of the United Nations, which had ranged from limitations on access to the physical premises and virtual meetings and unequal access to registration to the availability of information and opportunities to engage with Member States and other stakeholders.

7. At the twenty-seventh meeting of Chairs of the human rights treaty bodies, the Chairs endorsed the Guidelines against Intimidation or Reprisals (San José Guidelines). The Guidelines, which are aimed at improving the efficiency and effectiveness of treaty body action, contain six underlying general principles and provide for a range of possible operational measures to address and prevent reprisals.

8. All treaty bodies have appointed focal points or rapporteurs to address the issue of reprisals (see annex I). The Bureau of the Committee on Economic, Social and Cultural Rights acts as focal point. In the San José Guidelines, the functions of focal points and rapporteurs are set out comprehensively and explicitly; they are to (a) ensure consistency across the treaty body system; (b) receive and assess allegations of acts of intimidation; (c) determine the most appropriate course of action; (d) as part of a network of focal points and rapporteurs on reprisals, share information, facilitate supportive action and align approaches; and (e) compile information on good practices.

Thirty-third meeting of Chairs

9. Due to the pandemic-related restrictions on travel worldwide, the thirty-third meeting of Chairs was held virtually, and the format was adjusted from five full days of six-hour meetings to five days of two-hour meetings. As a result, the programme of work was adjusted accordingly, and the note by the Secretariat on mapping the practices of the treaty bodies on intimidation and reprisals³ was not considered. The present note provides an update on information in that document.

III. Allegations of reprisals, responses and protection measures

A. Responses of treaty bodies to allegations of reprisals

10. When addressing allegations of intimidation or reprisals, treaty bodies respond in a variety of ways, with the San José Guidelines serving as a basis for their responses. Some pursue both confidential and public actions, such as meeting with members of permanent missions, sending communications to States, raising cases with the special procedures of the Human Rights Council or the Office of the United Nations High Commissioner for Human Rights (OHCHR) or addressing them in concluding observations, visit reports, press releases or reports to the Council or the General Assembly. Treaty body rapporteurs or focal points on reprisals consider all allegations on a case-by-case basis, with the informed and free consent of the persons concerned and respecting the principles of “do no harm”, confidentiality, safety and security.

11. The San José Guidelines set out preventive measures, including specific steps, such as allowing confidential submissions from individuals and groups, having closed meetings with civil society, victims or legal representatives and reminding States parties of their obligation to prevent and refrain from all acts of intimidation or reprisal against those who cooperate with the treaty bodies. Awareness-raising initiatives are another way for the treaty bodies to reaffirm the importance of cooperation with all stakeholders and to disseminate information about the Guidelines.

³ [HRI/MC/2021/2](#).

B. San José Guidelines

12. When the rapporteurs or focal points on reprisals receive allegations, they complete an initial assessment, respecting confidentiality at all times. On a case-by-case basis and respecting the “do no harm” principle, once the allegations are verified, the rapporteurs or focal points inform the Chair and the country rapporteur, and they may then propose the adoption of protection measures, with the informed consent and agreement of the persons concerned, their relatives and/or their representatives. Protection measures may include:

(a) Sending a written communication signed by the rapporteur or focal point on reprisals to the State party concerned describing the allegations received and requesting information within a given deadline on the measures taken to investigate them and to protect and provide a remedy to the alleged victims;

(b) Raising the case with permanent representative in Geneva of the State party concerned in a private meeting, if urgent protection needs arise, in liaison with other concerned OHCHR units, informing civil society protection networks or national protection mechanism of the case and seeking assistance;

(c) Raising the case during the dialogue with the delegation of the State party concerned in the context of the review of its periodic report;

(d) If necessary and as appropriate, addressing allegations of reprisals in the context of the periodic reporting cycle of the State concerned, including in lists of issues and questions, list of issues prior to reporting, concluding observations or the follow-up to concluding observations procedure, or in decisions or views on individual communications or findings of inquiries conducted;

(e) As appropriate and after having communicated with the State party concerned, issuing a public statement or press release, if so decided by the Committee and in liaison with relevant OHCHR units;

(f) Raising the case with other human rights treaty bodies, special procedure mandate holders, the Human Rights Council, the Assistant Secretary-General for Human Rights, regional human rights mechanisms, the United Nations country team, the national human rights institution and civil society organizations;

(g) As appropriate, including information on cases of intimidation or reprisals in the body’s annual report to the General Assembly.

The rapporteur on reprisals, in consultation with the treaty body, may also decide to make relevant correspondence with the State party concerned available on the OHCHR web page to facilitate follow-up by national actors.

IV. Recent developments and good practices

13. The general web page on reprisals with regard to those cooperating with the treaty bodies and the related web pages of the Committee on the Elimination of Discrimination against Women, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Committee on Enforced Disappearances have been recently updated with information on their procedures for handling reports of reprisals. The general web page contains information on what constitutes reprisals, the rapporteurs and focal points on reprisals for the treaty bodies, how to report an allegation of reprisals or submit information on reprisals and the overall procedure on reprisals for each body.

14. In April 2021, the Committee on Enforced Disappearances adopted guidelines on preventing and addressing intimidation and reprisals against individuals and groups cooperating with the Committee. In the guidelines, the Committee clarifies the scope and steps of the procedure and the division of responsibilities between the various actors involved in the treatment of such allegations.

15. On 23 June 2021, at its seventy-eighth session, the Committee on the Elimination of Discrimination against Women adopted its guidelines on addressing allegations of reprisals

and acts of intimidation against individuals and organizations cooperating with the Committee. The Committee endorsed the San José Guidelines in 2015 and appoints both a rapporteur and an alternate rapporteur, each for two-year terms.

16. The Committee against Torture continues to update its dedicated web page on reprisals. In principle, one week after the communication of allegations of reprisals to a State party, the Committee posts its letter on its dedicated web page, making it public, while maintaining the confidentiality or privacy of an individual, if necessary or requested. Allegation letters received in the context of article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, however, are published only once the inquiry is concluded.

A. Network of rapporteurs or focal points on intimidation and reprisals

17. New rapporteurs were appointed by several treaty bodies (see annex II).

B. Induction sessions

18. For the second time, sessions on reprisals were held in the three working languages of the treaty bodies, during a well-attended induction training, held in February 2021 for new members. The sessions covered the San José Guidelines and included an interactive session and a video message from the Assistant Secretary-General for Human Rights and the designated United Nations focal point on reprisals. Relevant information was also uploaded to an extranet site for treaty body experts. The sessions may be considered a good practice and should be continued and strengthened. They should be planned on an annual basis for all new experts.

V. Overview of cases of allegations of reprisals

19. The Committee against Torture handled three cases of alleged reprisals in 2021 with regard to Cyprus, Kazakhstan and Morocco, concerning individual communications. The letters, which are the Committee's formal response to the allegations, are posted on the Committee's reprisals web page. The Committee's Rapporteur on reprisals, Ana Racu, noted that not many allegations of reprisals due to cooperation with the Committee had been received, possibly due to the restrictions to mitigate the COVID-19 pandemic having limited access to international protection mechanisms and lawyers. No substantiated allegations of reprisals in the context of reporting or reviews of States parties' compliance with their obligations under the Convention were received in 2021, which may be due to COVID-19 pandemic-related restrictions, the limited number of interactive dialogues held with States parties and the fact that much of the work of the Committee had been conducted virtually.

20. In 2021, the Committee on the Rights of Persons with Disabilities did not receive any allegations of intimidation or reprisals in the context of its sessions or the regional consultations held virtually.

21. Although the Committee on Enforced Disappearances did not receive allegations submitted to its Rapporteur on reprisals, several allegations or cases were addressed to the Committee through the urgent action procedure. In the context of the Committee's official visit to Mexico, a memorial was vandalized following the Committee's conversation with victims' groups. The Committee condemned⁴ the act of vandalism, at the press conference that took place at the end of the visit, stating that the solidarity and empathy of society with the victims was fundamental. The Committee recalled that no one who had participated in the conversations or contributed information to the Committee should be subject to reprisals.

22. On 16 July 2020 and 24 February 2021, the Committee on the Elimination of Discrimination against Women transmitted to the Government of Maldives a note verbale containing allegations online vilification and threats by religious groups and individuals

⁴ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27877&LangID=E>.

against members of the women’s human rights organization, Uthema, following the publication of its submission to the Committee.⁵ Uthema’s submission was prepared for the consideration of the sixth periodic report of Maldives, whose consideration was initially scheduled for 2020 and rescheduled for 2021, due to the COVID-19 pandemic.⁶ On 12 August 2021, the Government responded to the note verbale indicating that none of the Government agencies were currently pursuing any “measures of penalty” against Uthema. The Government noted that the Maldives Police Service had decided not to proceed with the case lodged against Uthema based on the evidence obtained. On 10 September 2021, the Committee acknowledged that the Maldives Police Service had discontinued the case against Uthema and informed the Government that it would continue to follow developments in the case, including following up on the ongoing allegation, if necessary. The Committee reviewed the sixth periodic report of Maldives in October 2021 and issued relevant recommendations.⁷ It recommended that the State party prevent reprisals against women human rights defenders, ensure their protection from violence and intimidation, investigate all threats and harassment against them and prosecute and adequately punish perpetrators.⁸

23. The United Nations Voluntary Fund for Victims of Torture, the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment jointly issued a public statement, on 26 June 2022, on the occasion of the United Nations International Day in Support of Victims of Torture, in which they noted that the trend of reprisals, through restrictive and retaliatory measures against civil society and torture survivors seeking redress through United Nations mechanisms, remained prevalent and showed no sign of subsiding, in particular during the COVID-19 pandemic that started the previous year.⁹

24. On 21 October 2021, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment received a confidential letter from the World Organization Against Torture expressing its deep concern in relation to the safety of a member of the national preventive mechanism of Honduras. The member of the mechanism had been receiving threats and hostile messages for some time from persons related to the armed forces in Honduras who were in charge of the administration of prisons.

25. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on the basis of the information provided by the World Organization Against Torture, sent a letter to the Permanent Mission of Honduras to the United Nations and other international organizations in Geneva, on 11 November 2021, expressing its concern and asking for more information regarding the case. The Subcommittee’s rapporteur on reprisals requested that the mission provide the information within a week of receipt of the letter. On 23 November, the mission sent a reply to the Subcommittee in which it stated that it was not possible to establish protective measures for the member of the national preventive mechanism. To date, the safety of the individual remains a concern. The establishment of national preventive mechanisms are an obligation of States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. National preventive mechanisms have an independent mandate to prevent torture at the domestic level by visiting places of deprivation of liberty, examining the treatment of the persons deprived of their liberty and providing recommendations to the national authorities to protect such people against torture and other cruel, inhuman or degrading treatment or punishment. The position of the Subcommittee is that members of national preventive mechanisms should also be protected from reprisals in the exercise of their functions.

⁵ See https://www.ohchr.org/Documents/Issues/Reprisals/A_HRC_48_28.docx.

⁶ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2488&Lang=en.

⁷ CEDAW/C/MDV/CO/6, para. 22.

⁸ See *Ibid.*

⁹ See <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27199&LangID=E>.

26. The Committee on the Elimination of Racial Discrimination, the Human Rights Committee, the Committee on the Rights of the Child, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Committee on Economic, Social and Cultural Rights did not receive reports of allegations of reprisals in 2021. The Human Rights Committee did follow up on allegations regarding one individual communication.

VI. Petitions, individual communications and urgent actions

27. From 2021 to 2022, the treaty bodies received several allegations of reprisals, concerning individual communications and urgent actions. There was a slight increase from the previous year, when the COVID-19 pandemic possibly limited access to the international mechanisms of protection.

28. Regarding individual communications, seven allegations of reprisals were addressed and responded to by two treaty bodies, namely, the Committee against Torture and the Human Rights Committee, of the eight treaty bodies with individual communications procedures currently in effect. The secretariats of the treaty bodies continued to register and process the allegations received and to share information with relevant parts of OHCHR, including with regard to input for the annual report of the Secretary-General on reprisals and intimidation.

29. The United Nations treaty bodies assist in providing protection from reprisals or other intimidation to the alleged victims and their family members and legal representatives, by requesting States concerned to take interim or protection measures. The treaty bodies, in the context of individual communication procedures, continued to grant requests for interim measures and for protection measures in response to allegations of reprisals received. The requests for protection can range from easing the detention regime, refraining from refoulement to a place where the author of a communication would face a risk of torture, which might be compounded by reprisals, or preventing any intimidation due to the fact of the author's reaching out to the committee concerned. In one case, the Human Rights Committee found the allegations of reprisals too general and not sufficiently substantiated, and therefore no measures of protection were issued (case No. 3978/2021 concerning allegations against Guatemala). Requests for protection measures generally refer to the substantive provisions of the convention concerned and the San José Guidelines.

30. In line with previous practice and the San José Guidelines, the treaty bodies continued to identify information that might corroborate or substantiate allegations of reprisals and the committee rapporteurs on reprisals drafted allegation to send to the State party concerned. In two instances, the treaty bodies addressed the allegations of reprisals in the final decisions, finding a violation of substantive provisions of the convention concerned and requesting the State party to refrain from further reprisals (e.g. Committee against Torture decision in case No. 650/2016 concerning allegations against Morocco).

31. Several allegations of reprisals received concerned the perceived deterioration of a detention regime in retaliation for a previously submitted complaint of ill-treatment when in detention or prison (e.g. Committee against Torture cases No. 840/2017 concerning allegations against Kazakhstan and No. 1065/2021 concerning allegations against Cyprus). In another case, the alleged reprisals concerned the counter-measures by the national authorities against the family members or counsel who submitted the complaint (Committee against Torture case No. 606/2014 concerning allegations against Morocco).

32. Allegations of reprisals were also received regarding a number of requests for urgent action submitted to the Committee on Enforced Disappearances, usually involving threats and attacks against family members of disappeared persons aimed at dissuading them for participating in or promoting search and investigation processes. In 2021, the Committee requested protection measures with regard to 63 urgent action requests registered that year and concerning cases of disappearance in Colombia (2 cases), Honduras (1 case), Iraq (13 cases), Mexico (44 cases), Morocco (2 cases) and Paraguay (1 case). The Committee also requested protection measures in favour of urgent actions registered in previous years, including urgent action No. 785/2019 concerning a disappearance in Iraq. The Committee

received information that the disappeared person's father, who had repeatedly called for his son's release and for criminal sanctions to be imposed against the perpetrators, had been shot dead. In view thereof, the Committee requested that the State party take immediate measures to relocate the victims' relatives, who were at risk of reprisals, to a safer region.

33. Continued advocacy with States parties is recommended, in order to prompt greater cooperation in terms of investigating allegations of reprisals, while offering protection measures to the authors of communications, as necessary.

VII. Report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights

34. At the forty-eighth session of the Human Rights Council, the Assistant Secretary-General presented the report on intimidation and reprisals for 2021,¹⁰ in which the Secretary-General highlighted that cases of intimidation and reprisals remained high. He noted opportunities for enhanced participation in the COVID-19 context and expressed his concern about online and offline surveillance and the use of restrictive laws, in particular legislation on national security and non-governmental organizations. He indicated signs of possible patterns of reprisals in several countries, including the systemic detention of those who cooperated with the United Nations, as well as the high level of risks affecting cooperation with the United Nations in certain contexts, and expressed his concern that individuals or groups exercised self-censorship and refrained from engaging with the United Nations for fear of harm or retribution.

35. In her statement, the Assistant Secretary-General noted her deep concern that many individuals and groups exercised self-censorship and refrained from engaging with the United Nations for fear of harm or retribution. She stressed that that silence must be broken and that communication and cooperation between the Organization and Governments, civil society and other partners, and the forums that it provided for exchanges, was critical to the work of the United Nations and, ultimately, to the people it served. Self-censorship had been observed through non-governmental organizations, civil society and other stakeholders not appearing before the treaty bodies, technical access being hindered for some based on threats, censoring, firewalls or other Internet-related access issues and persons not wishing to engage with the treaty bodies due to fears of reprisals, harassment or lack of follow up by the treaty bodies to offer protection measures.

VIII. Recommendations in concluding observations of the treaty bodies

36. The San José Guidelines set out preventive measures on reprisals. The treaty bodies recommend action, policy and legal change to States parties, mainly in their concluding observations on the reviews of States parties' reports. Such awareness-raising and recognition of the importance of addressing and responding to allegations of reprisals, for preventive purposes, includes acknowledging the limited civic space that exists in some countries, the threats and attacks on human rights defenders, whether online or in person, as well as the reprisals for cooperation with the United Nations that may occur in States parties to the human rights treaties. There is frequent overlap on such issues. The United Nations has worked for many years on the protection of civic space, and it is important to note that the treaty bodies routinely address the prevention of reprisals for cooperation with the United Nations, as well as reduced civic space and the need to prevent attacks on the right to freedom of expression and association.

37. A number of the recommendations that the treaty bodies have extended to States parties on the prevention of reprisals, threats, harassment and attacks against human rights

¹⁰ A/HRC/48/28.

defenders, in their concluding observations on the reports of the States parties concerned, are set out below.

38. In its concluding observations on the sixth periodic report of Maldives,¹¹ the Committee on the Elimination of Discrimination against Women recommended that the State party prevent reprisals against women human rights defenders, ensure their protection from violence and intimidation, investigate all threats and harassment against them and prosecute and adequately punish perpetrators.

39. In its concluding observations on the eighth periodic report of the Russian Federation,¹² the Committee on the Elimination of Discrimination against Women reiterated its previous recommendations that the State party review the legislation requiring non-commercial organizations that received foreign funding to register as “foreign agents” and to ensure an environment in which women’s associations and non-governmental organizations working on women’s rights and gender equality might freely operate and raise funds. It also recommended that the State party ensure full respect for the rights of women human rights defenders to freedom of expression, peaceful assembly and association, refrain from any reprisals against them and ensure that they had effective access to justice and received protection from harassment, intimidation, retaliation and violence.

40. In its concluding observations on the combined eighth to tenth periodic reports of Egypt,¹³ the Committee on the Elimination of Discrimination against Women recommended that the State party respect its obligations in accordance with international human rights treaties when dealing with women human rights defenders and their organizations exercising the right to freedom of expression and association. The Committee also recommended that the State party systematically investigate cases of reprisals, harassment and restrictions against women human rights defenders, including gender-based violence and ill-treatment in detention by law enforcement officials.

41. In its concluding observations on the combined fourth to eighth periodic reports of Thailand,¹⁴ the Committee on the Elimination of Racial Discrimination recommended that the State party conduct effective, prompt, thorough and impartial investigations into all incidents of killings, enforced disappearance, intimidation and harassment of, and violence, threats and reprisals against, human rights defenders. It also recommended that the State party continue cooperating with OHCHR and take the measures necessary to ensure an open and safe space for the operation of civil society.

42. In its concluding observations on the combined twenty-second and twenty-third periodic reports of Chile,¹⁵ the Committee on the Elimination of Racial Discrimination recommended that the State party take specific, adequate and effective measures to prevent and protect human rights defenders, in particular those belonging to minority groups, from any forms of violence or abuse by the police, investigate allegations of such cases and prosecute and punish perpetrators.

43. In its concluding observations on the initial report of Singapore,¹⁶ the Committee on the Elimination of Racial Discrimination recalled its general recommendation No. 35 (2013) on combating racist hate speech, according to which the relationship between the proscription of racist hate speech and the flourishing of freedom of expression should be seen as complementary, and not the expression of a zero sum game where the priority given to one necessitates the diminution of the other. Accordingly, the Committee recommended that the State party take the measures necessary to ensure that journalists, human rights defenders or political opponents were not intimidated, arrested or prosecuted for exercising their freedom of opinion and expression, including on issues of racial discrimination and racism.

¹¹ CEDAW/C/MDV/CO/6.

¹² CEDAW/C/RUS/CO/9.

¹³ CEDAW/C/EGY/CO/8-10.

¹⁴ CERD/C/THA/CO/4-8.

¹⁵ CERD/C/CHL/CO/22-23.

¹⁶ CERD/C/SGP/CO/1.

44. In its concluding observations on the fourth periodic report of Belgium,¹⁷ the Committee against Torture recommended that the State party establish an independent mechanism to enable victims of torture, ill-treatment and unlawful violence to file a complaint more easily, make it a requirement that such complaints were investigated by the State party and ensure that, in practice, complainants were involved in the proceedings to the extent necessary to safeguard their legitimate interests, were informed of the progress of their complaints and were protected from any risk of reprisals.

45. In its concluding observations on the third periodic report of Serbia,¹⁸ the Committee against Torture, recalling its previous recommendations, urged the State party to adopt and implement a public policy for the protection of journalists and human rights defenders that was the outcome of a participatory process and to examine in greater depth the causes of the unprecedented violence towards those groups, with a view to ensuring that journalists and human rights defenders were able to carry out their work and activities freely in the State party, without fear of reprisals or attacks.

46. In the same concluding observations,¹⁹ the Committee against Torture, recalling its previous recommendations, urged Serbia to ensure that all fundamental legal safeguards against torture were guaranteed in practice, and not merely in law, for all detained persons from the outset of their deprivation of liberty, in accordance with international standards, including the right of detainees to have access to a competent and independent lawyer, by reinforcing the system of free legal aid, to request and receive a medical examination by an independent medical doctor from the outset of their deprivation of liberty, to medical examinations that were conducted out of hearing and out of sight of police officers and prison staff, unless the doctor concerned explicitly requested otherwise, to have their medical record immediately brought to the attention of a prosecutor whenever the findings or allegations might indicate torture or ill-treatment and to have access to health-care professionals that were not exposed to any form of undue pressure or reprisals when fulfilling their duties.

47. In the same concluding observations,²⁰ the Committee against Torture recommended that Serbia ensure that, in cases of alleged torture or ill-treatment, suspected perpetrators were suspended from duty immediately and for the duration of the investigation, in particular when there was a risk that they might otherwise be in a position to repeat the alleged act, commit reprisals against the alleged victim or obstruct the investigation.

48. In its concluding observations on the third periodic report of Kyrgyzstan,²¹ the Committee against Torture recommended that the State party ensure that human rights defenders and journalists were able to conduct their work and activities freely in the State party, without fear of reprisals or attack.

49. In its concluding observations on the third periodic report of the Plurinational State of Bolivia,²² the Committee against Torture recommended that the State party ensure that human rights defenders and journalists could carry out their work without fear of reprisals or assault, ensure that persons suspected of having committed torture or ill-treatment were suspended immediately and remained so throughout the investigation, in particular if there was any risk that they might otherwise be in a position to repeat the alleged act, commit reprisals against the alleged victim or interfere with the investigation, establish a system of protection and assistance to protect victims and witnesses of acts of torture carried out against persons deprived of their liberty from all forms of reprisal and take prompt disciplinary and criminal action against State agents responsible for threats or reprisals against victims and witnesses of acts of torture.

¹⁷ CAT/C/BEL/CO/4.

¹⁸ CAT/C/SRB/CO/3.

¹⁹ Ibid.

²⁰ Ibid.

²¹ CAT/C/KGZ/CO/3.

²² CAT/C/BOL/CO/3.

IX. Reports of the treaty bodies

50. In 2021, a number of treaty bodies included specific reference to and sections on reprisals in their annual or biennial reports, as proposed as a good practice in the San José Guidelines.

51. In its report on its sixty-ninth and seventieth sessions, the Committee against Torture included a specific section on reprisals and the actions of the Committee's Rapporteur on reprisals. At its forty-ninth session, the Committee had adopted a mechanism to prevent, monitor and follow up on cases of reprisal against civil society organizations, human rights defenders, victims and witnesses after their engagement with the treaty body system. It subsequently appointed a rapporteur on reprisals under article 19 and a rapporteur on reprisals under articles 20 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. At its fifty-fifth session, the Committee had adopted guidelines on the receipt and handling of allegations of reprisals against individuals and organizations cooperating with the Committee under articles 13, 19, 20 and 22 of the Convention.²³ Those guidelines included a clear recognition of the value of the San José Guidelines. At its sixty-third session, the Committee had designated Ana Racu as the Rapporteur on reprisals under articles 19, 20 and 22 of the Convention. Information on action taken by rapporteurs during the reporting period is available on the Committee's web page.²⁴

52. In its decision 78/VIII, the Committee on the Elimination of Discrimination against Women decided to appoint Dalia Leinarte as Rapporteur on reprisals and Leticia Bonifaz Alfonso as alternate Rapporteur on reprisals, both for a period of two years from 1 January 2021 to 31 December 2022.

53. The Human Rights Committee appointed Tania María Abdo Rochelle as Rapporteur on reprisals.

54. At an intersessional meeting of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, held on 12 November 2020, Pablo César Garcia Saenz and Myriam Poussi accepted their nominations to serve as the Committee's focal points on reprisals.²⁵

55. At its nineteenth session, the Committee on Enforced Disappearances decided to request its Rapporteur on reprisals to prepare draft guidelines on the management of reprisal allegations received by the Committee, to be adopted at its twentieth session. At its twentieth session, the Committee adopted guidelines to prevent and address intimidation and reprisals against individuals and groups cooperating with the Committee.²⁶ The Committee reported that, during the reporting period, it had received two allegations of harassment, surveillance and criminalization by State actors of staff members of an organization and a victim's relative in Mexico, following the submission to the Committee of requests for urgent action. In those cases, the Committee requested the State party to take protection measures, and had followed up on the situation of the alleged victims.²⁷

X. Developments in the General Assembly and the Economic and Social Council

56. In December 2021, under the biennial agenda item addressing the situation of human rights defenders, the General Assembly adopted by consensus resolution 76/174, in which the Assembly condemned all acts of intimidation and reprisal, both online and offline, by State and non-State actors.

²³ CAT/C/55/2.

²⁴ A/76/44, paras. 15–16.

²⁵ See A/76/48.

²⁶ CED/C/8.

²⁷ See A/76/56.

57. On 7 October 2021, a statement was made at a meeting of the Third Committee, on behalf of 60 Member States (see para. 5 above).

58. On 14 October 2021, the United Kingdom of Great Britain and Northern Ireland delivered a cross-regional statement, on behalf of 80 countries, condemning intimidation and reprisals and calling upon States to prioritize and support the meaningful participation of civil society at the United Nations. The joint statement²⁸ is the third such statement in as many years to be delivered by the United Kingdom at a meeting of the Third Committee. In the statement, the United Kingdom noted that Member States had repeatedly recognized the importance of civil society and human rights defenders, which were crucial in supporting the work of the United Nations, by informing and enriching decision-making and ensuring that decisions at the United Nations had an impact on the ground. Member States condemned any act of intimidation or reprisal, whether online or offline, against individuals and groups who cooperated, sought to cooperate or had cooperated with the United Nations. The United Kingdom called upon States to prioritize and support the meaningful participation of civil society at the United Nations, by taking action against intimidation and reprisals, including through robust investigations, to ensure accountability. It underlined that the COVID-19 pandemic had exacerbated existing challenges for civic space and that the pandemic had only brought new challenges and risks, including increased surveillance and hacking, the rise of online violence, in particular against women and girls, and the use of emergency measures to unduly restrict or hinder access and communication with the United Nations or other forums. The United Nations, as a global community, must be an example of best practices and ensure that all civil society actors and human rights defenders can engage with the United Nations without fear of intimidation or reprisals.

59. The Human Rights Council adopted resolution 48/17, its biennial resolution on reprisals, by consensus for the first time since 2009. The resolution reflects global trends and critical challenges, in particular those exacerbated by the COVID-19 pandemic, and includes references to information-gathering and analysis of United Nations data. For the first time, the Council invited the Secretary-General to also submit the annual report on reprisals, which has to date been presented to the Council, also to the General Assembly, from its seventy-seventh session.

XI. Issues for further action by the Chairs and follow up

60. Improvements in awareness-raising and public information on reprisals may include the following: posting references to cases and communications, when public, on a web page dedicated to allegations of reprisals, as some treaty bodies already do; emphasizing, at the opening of each session or at meetings with States parties, that a policy of zero tolerance of reprisals and intimidation is taken; and including a section dedicated to intimidation and reprisals in annual or biennial reports of the treaty bodies. Induction sessions for new experts with specific references to reprisals, and how the treaty bodies can respond to them, are a good practice and should be continued and strengthened in the future. Other improvements could include using press releases or end of session announcements of the concluding observations on the reports of States parties more strategically, and consistently addressing individual cases through formal communications or meetings with the permanent representatives of the States parties concerned.

61. The treaty bodies should continue to align their working methods for addressing cases or allegations of reprisals, including with regard to the role of focal points and rapporteurs, specific policies or guidelines on reprisals and the disclosure of allegations of reprisals and responses received from States. The Chairs could introduce more regular exchanges on acts of intimidation or reprisals, including intersessionally, with the focal points and rapporteurs on reprisals, in the form of regular coordination meetings held virtually. The Chairs should be regularly informed of any developments regarding reprisals.

²⁸ See <https://www.gov.uk/government/speeches/we-must-ensure-civil-society-and-human-rights-defenders-can-engage-with-the-un-without-fear-of-reprisal>.

62. More regular communications and annual online meetings of the focal points or rapporteurs on reprisals, together with the focal points at the secretariat, could also be envisaged.

63. Coordination among the treaty body focal points and rapporteurs on reprisals should be strengthened, including when reaching out to the Office of the Assistant Secretary-General for a coordinated and strategic response to individual allegations and cases.

64. Coordination and communication could be strengthened among human rights mechanisms, in particular among rapporteurs and focal points of the treaty bodies and the special procedures of the Human Rights Council, such as the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

65. Other measures could include increased coordination with United Nations field presences on reprisals prevention. The treaty bodies could make further efforts to prevent acts of intimidation or reprisals by coordinating with the field presence in, or desk officers for, States of concern, including before the review of that State's report submitted in the context of the periodic reporting cycle. They could also seek cooperation and assistance with follow-up on individual cases from United Nations human rights field presences, when acts of intimidation or reprisals have been committed and/or are publicly reported, for instance, in the report of the Secretary-General. Protective measures could be strengthened, including by holding confidential meetings with non-governmental organizations and human rights defenders, including outside United Nations premises.

Annex I

Rapporteur or focal point on reprisals, by treaty body

<i>Treaty body</i>	<i>Rapporteur</i>	<i>Email address</i>
Human Rights Committee	Tania María Abdo Rocholl	ohchr-ccpr@un.org
Committee on Economic, Social and Cultural Rights	Bureau of the Committee	ohchr-cescr@un.org
Committee against Torture	Ana Racu	ohchr-cat@un.org
Committee on the Elimination of Racial Discrimination	Silvio Albuquerque	ohchr-cerd@un.org
Committee on Elimination of Discrimination against Women	Dalia Leinarte Leticia Bonifaz Alfonzo (alternate)	ohchr-cedaw@un.org
Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Nora Sveaass	ohchr-opcat@un.org
Committee on the Rights of the Child	Gehad Madi	ohchr-crc@un.org
Committee on the Rights of Migrant Workers and members of their families	Myriam Poussi and Pablo Cesar Garcia Saenz	ohchr-cmw@un.org
Committee on the Rights of Persons with Disabilities	Robert Martin Rosemary Kayess	ohchr-crpd@un.org
Committee on Enforced Disappearances	Milica Kolakovic-Bojovic	ohchr-ced@un.org

Annex II

Policies and practices for addressing cases of reprisals, by treaty body

<i>Treaty body</i>	<i>Policy or guidelines on reprisals</i>	<i>Rapporteur or focal point on reprisals appointed</i>	<i>Functions of the focal point/ rapporteur on reprisals defined in a specific document</i>	<i>Letters of allegation, and responses from States, publicly posted on the Committee's web page</i>	<i>Endorsed /adopted the Guidelines against Intimidation or Reprisals (San José Guidelines)</i>
Committee on the Elimination of Racial Discrimination	Yes	Yes	Yes ^a	Yes ^b	Yes August 2014
Human Rights Committee	No	Yes	No	No	Yes ^c June 2016
Committee on Economic, Social and Cultural Rights	No	Yes ^d	No	No	No ^e
Committee on the Elimination of Discrimination against Women	Yes	Yes	Yes	No	Yes July 2018
Committee against Torture	Yes	Yes	Yes ^f	Yes	Yes ^g September 2015
Committee on the Rights of the Child	No ^h	Yes	No	No	Yes May 2016
Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families	Yes	Yes	Yes ⁱ	Yes	Yes April 2016
Committee on the Rights of Persons with Disabilities	Yes	Yes	Yes	None reported to date	Yes September 2015
Committee on Enforced Disappearances	Yes	Yes	Yes	No Disclosed in annual reports	Yes September 2015
Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Yes ^j	Yes	Yes	Allegations of reprisals disclosed when visit reports are made public	No ^k

^a CERD Guidelines on intimidation against individuals and organizations cooperating with the Committee. Available from https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/.

^b Not systematically, but on a case-by-case basis, keeping the “do no harm” principle in mind.

^c See <https://www.un Geneva.org/en/news-media/press/taxonomy/term/175/47582/human-rights-committee-discusses-methods-work>.

^d The Bureau of the Committee acts as the focal point.

^e See [E/C.12/2016/2](#).

^f [CAT/C/55/2](#).

^g Adopted statement on reprisals in 2013, in which the Committee indicated that, in handling allegations of reprisals, the Committee would follow the San José Guidelines ([CAT/C/55/2](#), para. 2).

^h Endorsed the San José Guidelines.

ⁱ See www.ohchr.org/EN/HRBodies/CMW/Pages/Reprisals.aspx.

^j [CAT/OP/6/Rev.1](#).

^k Policy on reprisals in relation to its visiting mandate.