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### Thirty-sixth meeting of Chairs of the human rights treaty bodies

New York, 24–28 June 2024

Item 7 of the provisional agenda

**Implementation by the treaty bodies of the  
Guidelines against Intimidation or Reprisals  
(San José Guidelines)**

### **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 practices of the human rights treaty bodies regarding intimidation and reprisals due to cooperation with the treaty bodies in the period from 1 February 2023 to 29 February 2024. It contains information on recent developments and good practices, for the Chairs of the human rights treaty bodies, the treaty body experts and the rapporteurs and focal points on reprisals, regarding the prevention of and response to reprisals and reporting on allegations of reprisals when engaging with or submitting information to the treaty bodies.



## 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 report was drafted in preparation for the thirty-sixth meeting of the Chairs of the human rights treaty bodies, to be held in New York from 24 to 28 June 2024, and contains updated information to supplement that contained in the note by the Secretariat on the practices of the treaty bodies on intimidation and reprisals and issues for further action by the Chairs,<sup>1</sup> which was prepared for the thirty-fifth meeting of the Chairs, held in 2023.

## II. Background

2. Everyone, in particular victims of human rights violations and civil society actors, has the right to have unhindered access to, and to communicate with, the human rights treaty bodies, without any fear of intimidation or reprisal. Civil society organizations and victims bring information and testimonies that are indispensable to the work of the treaty bodies and that allow the latter to carry out their work on the basis of an overall view of the situations concerned and what is at stake. The first-hand testimonies and invaluable information provided to treaty body experts inform their work and make it more meaningful and impactful. States have a primary responsibility to prevent, refrain from committing and address acts of intimidation and reprisals. States also have an obligation to protect individuals against reprisals, investigate allegations and provide effective remedies to victims.

3. At the twenty-seventh meeting of the Chairs of the human rights treaty bodies, in 2015, the Chairs endorsed the Guidelines against Intimidation or Reprisals ([San José Guidelines](#)).<sup>2</sup> The Guidelines are aimed at improving the efficiency and effectiveness of treaty body action in relation to reprisals and contain six underlying general principles that provide for a range of possible operational measures to address and prevent reprisals.

4. The San José Guidelines set out preventive measures against acts of intimidation and reprisals, including such specific steps 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 reprisals 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 San José Guidelines.

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

### A. Thirty-fifth meeting of the Chairs of the human rights treaty bodies

6. At the thirty-fifth meeting of the Chairs of the human rights treaty bodies,<sup>3</sup> held in New York from 29 May to 2 June 2023, the Chairs discussed the note by the Secretariat on the practices of the human rights treaty bodies on intimidation and reprisals and issues for

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<sup>1</sup> [HRI/MC/2023/2](#).

<sup>2</sup> [HRI/MC/2015/6](#).

<sup>3</sup> See <https://www.ohchr.org/en/events/meetings/2023/35th-meeting-chairpersons-human-rights-treaty-bodies>.

further action by the Chairs, which included a summary of trends and cases concerning reprisals reported since the thirty-fourth meeting of the Chairs, held in 2022.

7. On 2 June 2023, the Assistant Secretary-General for Human Rights explained that her team was gathering information for the forthcoming report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights. She encouraged the Committee on Economic, Social and Cultural Rights, the only treaty body that had not done so, to adopt or endorse the San José Guidelines. She emphasized that reprisals should always be addressed by the same human rights mechanism that had received information about the case or allegation. She encouraged a more regular exchange among the rapporteurs or focal points on reprisals and between them and the Chairs. She reminded participants that representatives of Indigenous Peoples, environmental activists and women were particularly vulnerable in that context.

8. The New York-based focal point on reprisals for cooperation with the United Nations, in the Assistant Secretary-General's team, shared the global trends identified in the 2022 annual report of the Secretary-General on the issue. She noted an increase in self-censorship and both online and offline surveillance, as well as the use of restrictive legislation aiming at or with the effect of deterring or hindering cooperation with the United Nations.

9. The Geneva-based secretariat made a remote presentation on both the mapping report, prepared for the thirty-fifth meeting of the Chairs, and the meeting of treaty body experts and rapporteurs and focal points held on 26 January 2023. The secretariat referred to cases and allegations of reprisals received by the three treaty bodies covered in the mapping report. The presentation was followed by an intervention by a representative of the International Service for Human Rights.

10. At the online meeting held on 26 January 2023, which had been requested by the Chairs at their thirty-fourth meeting in 2022, the participants discussed the difference between reprisals and intimidation and raised challenges in responding to allegations of reprisals, such as a lack of cooperation by States parties and a culture of denial when treaty bodies addressed allegations or cases with the States parties concerned. Other treaty body experts noted their perception of a shrinking space for human rights activists and a tendency to criminalize the activities of human rights defenders. The experts recommended that the treaty bodies adopt a more coordinated approach by issuing joint public statements by the Chairs, at the proposal of the rapporteurs or focal points, in cases where reprisals had been documented by different treaty bodies and human rights mechanisms, the State party was not cooperating or there were recurrent allegations of reprisals. They agreed that more practical procedures on cases of reprisals should be developed.

11. They encouraged the rapporteurs or focal points on reprisals of the treaty bodies to meet more frequently intersessionally to exchange information on harmonized approaches among the treaty bodies and on good practices in the implementation of the San José Guidelines for replication across the treaty bodies, including referencing reports of reprisals or intimidation in concluding observations on the State party concerned. The experts also recommended awareness-raising and other measures, such as the allocation of funding for ad hoc visits to States and the further sharing of information and experiences to address the underreporting of acts of reprisal and possible remedies, the implementation of protocols of safety and security for individuals, human rights defenders and representatives of civil society organizations interacting with the treaty bodies, and cooperation with journalists and the media to address reprisals.

12. At their thirty-fifth meeting, in their exchange with the experts on reprisals and on the treaty bodies' responses to allegations or cases of reprisals, the Chairs noted their serious concern, in particular for members of Indigenous Peoples who engage with the United Nations. They further noted the practice of designating a focal point on reprisals for the visits by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and connecting with United Nations entities in the country. The Chairs also expressed concern about the capacity of the Chairs to provide protection to human rights defenders and cautioned against limiting work on reprisals to engaging only with States parties. The Chair of the thirty-fifth meeting stressed that the concluding observations of the

treaty bodies highlighted the importance of supporting civil society interlocutors and that it was always important to look at every case and the context in which reprisals occurred.<sup>4</sup>

13. Following the discussions on engagement with stakeholders, during their thirty-fifth annual meeting, the Chairs agreed to develop common guidelines in this regard and to strengthen their cooperation to prevent and address acts of intimidation and reprisals for cooperation with the human rights treaty bodies, in line with the San José Guidelines. They requested Member States to take the measures necessary to prevent any such acts of intimidation or reprisals.<sup>5</sup>

14. On 1 June 2023, the Chairs held a public consultation with States parties attended by more than 80 delegates representing Member States and regional groups. Some delegations underlined the importance of the participation of civil society organizations, human rights defenders and victims in the work of the treaty bodies and of improving safeguards against intimidation and reprisals.

## **B. Procedure when receiving allegations of reprisals when working with or submitting information to the treaty bodies**

15. When the rapporteurs and 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 principle to “do no harm”, once the allegations have been verified, the rapporteur or focal point informs the Chair and the country rapporteur. 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 the following:

(a) Sending a written communication, from the rapporteur or focal point on reprisals to the State party concerned, describing the allegations received and requesting information by 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 the permanent representative in Geneva of the State party concerned in a private meeting, if urgent protection needs arise, in liaison with the relevant units of the Office of the United Nations High Commissioner for Human Rights (OHCHR), informing civil society protection networks or national protection mechanisms 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 reports or, in the case of the Committee on Enforced Disappearances, in the context of the review of additional information requested by the Committee;

(d) If necessary and as appropriate, addressing allegations of reprisals in the context of reviews of State party reports, including in the list of issues prior to reporting, in the list of issues, in concluding observations on reports or additional information or in the context of the procedure for follow-up to concluding observations, in decisions or Views on individual communications, in the context of the urgent action procedure of the Committee on Enforced Disappearances and in reports on visits or 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 treaty body and in liaison with the 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;

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<sup>4</sup> A/78/354, paras. 23–31.

<sup>5</sup> Ibid., para. 80.

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

16. The rapporteur or focal point 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.

### **III. Recent developments and good practices**

#### **A. Cases or allegations reported**

17. During the reporting period, there seemed to be a slight decrease in allegations reported to the focal points, working-level Secretariat focal points and rapporteurs and treaty body experts compared with the previous reporting period. It is difficult to ascertain whether this is reflective of reality, due to self-censorship or due to the preventive actions and responses to allegations that the treaty bodies are taking that are effective in the prevention of cases.

18. The treaty bodies received a total of 1,281 substantive submissions in 2023 from national human rights institutions, civil society organizations, United Nations entities and individuals, of which 791 were confidential submissions. Most United Nations country team submissions are sent on a confidential basis. As noted elsewhere, such as in the Secretary-General's report and at the thirty-fifth meeting of the Chairs, it is important to note the occurrence of self-censorship,<sup>6</sup> whereby certain non-governmental organizations (NGOs) do not submit information to, work with or appear at the sessions of the treaty bodies, due to the risk of reprisals, threats, harassment or intimidation.

#### **B. Web page and list of rapporteurs and focal points on intimidation and reprisals**

19. The OHCHR web page on preventing and addressing acts of intimidation and reprisals for cooperation with the treaty bodies and the list of the rapporteurs and focal points of the treaty bodies was updated throughout the reporting period.<sup>7</sup> The web page contains information on what constitutes an act of reprisal, the name and contact information of the rapporteur or focal point on reprisals for each treaty body, how to report allegations of reprisals or submit information on reprisals and the overall procedure on reporting and addressing such allegations.

20. New rapporteurs and focal points were appointed by several treaty bodies during the reporting period. Other focal points may be nominated in the months leading up to the thirty-sixth meeting of the Chairs (see annex I).

#### **C. Induction sessions**

21. An induction session for new members of the human rights treaty bodies was held in February 2024. The session covered, among many other topics, the San José Guidelines and included an interactive session and three presentations by the Secretariat.

#### **D. Briefings for stakeholders and the treaty bodies**

22. The Secretariat met with treaty body experts and representatives of NGOs and academia during the reporting period to brief them about the actions that the treaty bodies take to prevent and address reprisals. The Secretariat also met with the Committee on

<sup>6</sup> A/HRC/54/61, para. 128; and A/78/354, para. 24.

<sup>7</sup> See <https://www.ohchr.org/en/treaty-bodies/preventing-and-addressing-acts-intimidation-and-reprisal-cooperation-treaty-bodies>.

Economic, Social and Cultural Rights and with the Subcommittee on Prevention of Torture to discuss reprisals and actions that can be taken to address and prevent reprisals.

## IV. Updates on allegations or cases of reprisals

### A. Committee against Torture

23. During the reporting period, the Committee against Torture continued to examine carefully all allegations of intimidation and reprisals received in the context of the proceedings foreseen by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, namely, under articles 19, 20 and 22, in line with its 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.<sup>8</sup> The Committee has not received any sufficiently substantiated allegations of reprisals in the context of the reporting process or reviews of States parties' compliance with their obligations under articles 19 and 20 of the Convention.<sup>9</sup> However, the Committee had to adopt the precautionary measures necessary to protect all persons cooperating with it in the context of State party reviews under article 19 of the Convention from reprisals or any other acts of intimidation during the reporting period.

24. With regard to the preventive or protection measures requested of States parties, the Committee expressed deep concern about allegations of threats of reprisals against human rights defenders who had engaged with the Committee during its consideration of one State party's periodic report.<sup>10</sup> The Committee considered that the penalties imposed by another State party on lawyers who had cooperated with the Committee in its consideration of that State party's special report could constitute reprisals.<sup>11</sup> In the wider context of preventing reprisals and acts of intimidation in the future, the Committee expressed concern about the harassment of and threats against human rights defenders, lawyers and journalists, among others, because of their activities in protecting human rights or documenting cases of torture and ill-treatment, and it made recommendations on several occasions.<sup>12</sup>

25. A specific reference to the Committee's guidelines and procedure on addressing allegations of intimidation and reprisals against individuals and organizations that cooperate, seek to cooperate or have cooperated with it in the context of its monitoring procedures was added to a dedicated web page.<sup>13</sup> The web page contains information for civil society, NGOs and national human rights institutions, including information on stakeholder participation in reviews of reports of States parties. The Committee refers to that web page in all its correspondence with stakeholders.

### B. Subcommittee on Prevention of Torture

26. Following a 2023 visit, the Subcommittee on Prevention of Torture received an allegation of reprisal, specifically, an allegation concerning the negative consequences faced by a person deprived of liberty who had spoken to a delegation of the Subcommittee during a visit. The Subcommittee raised the allegation with the State party through formal correspondence and a meeting with its Permanent Mission in Geneva. It requested the State party to provide further information, in particular concerning investigative actions, the status of and health care provided to the individual and measures taken to prevent further reprisals.

<sup>8</sup> [CAT/C/55/2](#).

<sup>9</sup> Allegations received by the Committee against Torture under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are referenced in section V of the present report.

<sup>10</sup> [CAT/C/ETH/CO/2](#), paras. 50 and 51.

<sup>11</sup> [CAT/C/BDI/CO/3](#), paras. 20 and 21.

<sup>12</sup> For example, [CAT/C/BRA/CO/2](#), paras. 45 and 46; [CAT/C/COL/CO/6](#), paras. 36 and 37; [CAT/C/CRI/CO/3](#), paras. 38 and 39; and [CAT/C/EGY/CO/5](#), paras. 33 and 34.

<sup>13</sup> See <https://www.ohchr.org/en/treaty-bodies/cat/information-civil-society-ngos-and-nhris>.

Recalling the absolute prohibition under article 15 of the Optional Protocol to the Convention against Torture of any sanction or reprisal, from all sources, the Subcommittee treats such allegations seriously and requests all States parties to do the same. The dialogue with the State party regarding the case will continue.

### **C. Committee on Enforced Disappearances**

27. Since March 2023, the rapporteur on reprisals of the Committee on Enforced Disappearances has not received any allegations related to cooperation or attempted cooperation with the Committee in the context of its reviews of State party reports or additional information. However, the Committee is concerned about allegations of reprisals received from the authors of requests for urgent action, usually involving threats and retaliation against the relatives of disappeared persons or their representatives, aimed at dissuading them from participating in or promoting search and investigation processes.

28. In the cases currently open, the Committee requested the States parties concerned to take measures to protect the family, relatives or representatives of 268 disappeared persons, who represent around 16 per cent of all open cases, to allow them to pursue their search activities without being subjected to violence, intimidation or harassment, in conformity with the obligations of States parties under article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance and in the light of principle 14 of the Guiding Principles for the Search for Disappeared Persons. In eight of those cases, it was alleged that the reprisals were linked to the submission of a request for urgent action to the Committee. In all of those cases, the Committee requested the States parties concerned to ensure that such measures were taken in consultation with the persons requiring protection and were subject to review at their request. When the disappeared person is located, the urgent action case is closed in compliance with article 30 (4) of the Convention, but it is then transmitted to the Committee's rapporteur on reprisals for follow-up to the adopted interim measures, whenever they remain necessary.

### **D. Committee on the Elimination of Racial Discrimination**

29. In July 2023, the Committee on the Elimination of Racial Discrimination received allegations of reprisals linked to a case considered by the Committee in 2022 concerning France, namely, the case of Assa Traoré. The Committee sent a letter to France in November 2022 and received a reply in January 2023. Both the Committee's letter and the reply have been made [public](#). The case was included in the 2023 report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights.<sup>14</sup>

30. The new allegations concern the ongoing intimidation and harassment of Ms. Traoré as a human rights defender seeking justice in the case of her brother, Adama Traoré, and the restrictions on the right to freedom of peaceful assembly in France. In December 2023, after careful consideration, the Committee informed the submitting organization that no action would be taken at the current stage. The Committee considered that the incidents reported did not appear to be directly linked to Ms. Traoré's cooperation with the Committee.

### **E. Committee on Economic, Social and Cultural Rights**

31. In the Secretary-General's 2023 report on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, a number of references are made to the Committee on Economic, Social and Cultural Rights. One concerns alleged intimidation and reprisals against a civil society representative for engaging with the Committee, in relation to its consideration of the third periodic report of China in February 2023.

<sup>14</sup> [A/HRC/54/61](#), paras. 68 and 69.



32. On 15 February 2023, during the review of the third periodic report of China, the Committee on Economic, Social and Cultural Rights noted that human rights defenders, NGOs and civil society organizations had reportedly faced difficulties when trying to attend the Committee's meetings with the State party, as they had feared reprisals. The Committee sought assurances from the State party that no persons or organizations would face reprisals for providing it with information.<sup>15</sup> In response, a representative of the delegation of China noted that there would be no retaliation against NGOs for providing information to the Committee or attending meetings to express their views, which was welcomed by the Committee.<sup>16</sup> According to information received by OHCHR, a civil society representative was allegedly subjected to intimidation and reprisals for engaging with the Committee. The names and details of those concerned have been withheld for fear of reprisals. The case was included in the 2023 report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights.<sup>17</sup>

## F. Committee on the Elimination of Discrimination against Women

33. Since 2020, the case of Vanessa Mendoza Cortés, of the NGO Stop Violències in Andorra, has been included in the reports of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights.<sup>18</sup> The case concerns allegations that Ms. Mendoza Cortés was put under criminal investigation in relation to her engagement with the Committee on the Elimination of Discrimination against Women in October 2019, during its review of Andorra. The Government stated that Ms. Mendoza Cortés had used her participation in the review to accuse government entities of practices that could constitute criminal offences. The case of Ms. Mendoza Cortés was addressed by the Committee and special procedure mandate holders,<sup>19</sup> as well as during the review of Andorra as part of the universal periodic review in 2020.<sup>20</sup>

34. On 29 November 2022, the Committee sent a letter to the Government, noting concerns over the ongoing criminal proceedings against Ms. Mendoza Cortés, including the fact that, on 20 October 2022, the investigative judge had informed Ms. Mendoza Cortés that she had been indicted for a "crime against the reputation of institutions" (Criminal Code, art. 325). The evidence referred to by the judge in the indictment included the shadow report presented to the Committee by Stop Violències in 2019. The judge granted Ms. Mendoza Cortés conditional release with the obligation to appear before the judge when considered appropriate. On 25 November 2022, Ms. Mendoza Cortés's lawyers filed a motion to dismiss the case.

35. On 28 February 2023, the Government replied to the Committee, noting that Ms. Mendoza Cortés had not been subjected to intimidation by the Andorran authorities and that the Government collaborated with Stop Violències. The Government noted that its reply to the Committee of 22 November 2019 included a copy of the original indictment and explained that the General Prosecutor's Office had pursued charges against Ms. Mendoza Cortés on the basis that, in various forums and media, she had accused government officials of committing serious criminal acts against girls and women without submitting any proof or evidence and not on the basis that she had denounced the country's abortion policy.

36. On 24 March 2023, Ms. Mendoza Cortés made a statement<sup>21</sup> during the general debate held under item 5 of the agenda of the fifty-second regular session of the Human Rights Council, in which she referred to the allegations of reprisals against her and Stop Violències

<sup>15</sup> E/C.12/2023/SR.5, para. 15.

<sup>16</sup> Ibid., paras. 23 and 25; and E/C.12/2023/SR.7, para. 78.

<sup>17</sup> A/HRC/54/61, annex I, para. 25.

<sup>18</sup> A/HRC/45/36, annex I, paras. 5–7; A/HRC/48/28, annex II, paras. 1–4; A/HRC/51/47, annex II, paras. 1–3; and A/HRC/54/61, annex II, paras. 1–5.

<sup>19</sup> See communication AND 1/2020, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25833>, and the Government's reply, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36025>.

<sup>20</sup> A/HRC/46/11, paras. 20 and 60.

<sup>21</sup> See <https://webtv.un.org/en/asset/k1m/k1mlvfhg2a>.



for engagement with the Committee. According to information received by OHCHR, as at 30 April 2023, the legal case against Ms. Mendoza Cortés was still open, and she was awaiting trial.

37. On 17 July 2023, the Government responded to the note verbale sent in connection with the report of the Secretary-General, recalling that the General Prosecutor's Office had decided that there was sufficient evidence to pursue the case against Ms. Mendoza Cortés on grounds of infringement of article 325 of the Criminal Code (crimes against the reputation of institutions), which does not carry a prison sentence. The Government explained that it had waived its right to be a party to the proceedings and that the sentence was pending. With reference to its letter to the Committee of 28 February 2023, the Government stated that neither Ms. Mendoza Cortés nor Stop Violències had been subjected to any intimidation or reprisals.

38. Ms. Mendoza Cortés's trial was held on 4 December 2023. The Government of Andorra indeed waived its right to be a party to the proceedings. On 17 January 2024, the Tribunal de Corts of Andorra acquitted Ms. Mendoza Cortés of all charges. The prosecutor decided not to appeal the judgment.

39. The Committee, several special procedure mandate holders and NGOs such as Amnesty International, the Center for Reproductive Rights, Women's Link Worldwide and Front Line Defenders welcomed Ms. Mendoza Cortés's acquittal, while lamenting that she had had to undergo four years of unwarranted judicial proceedings for her legitimate human rights work.

## **G. Committee on the Rights of Persons with Disabilities**

40. The Committee on the Rights of Persons with Disabilities and focal point for reprisals in the secretariat did not have any information to include in the present report.

41. In its concluding observations on the combined second and third periodic reports of China, the Committee expressed concern about reports of reprisals against human rights defenders and civil society organizations for their work on disability rights, in particular for their cooperation with the United Nations. The Committee urged the State party to ensure that persons with disabilities were able to enjoy the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas, including in their cooperation with the United Nations.<sup>22</sup>

## **H. Human Rights Committee**

42. Aside from the information below concerning petitions, there was no information on reprisals to share with the Chairs of the treaty bodies in respect of the current reporting period at the time of writing.

## **I. Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families**

43. Aside from the information below concerning petitions, there was no information on reprisals to share with the Chairs of the treaty bodies in respect of the current reporting period at the time of writing.

## **V. Petitions and individual communications**

44. Allegations of reprisals were also addressed in the context of the registration of new communications, the granting of interim measures, the processing of requests for urgent action, the adoption of decisions on individual communications and procedures for follow-up

<sup>22</sup> CRPD/C/CHN/CO/2-3, paras. 44 and 45; and A/HRC/54/61, annex I, para. 24.

to final decisions.<sup>23</sup> In several cases recently registered by the Committee against Torture, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities and the Committee on Enforced Disappearances in which the counsel for the author or complainant had alleged a potential risk of reprisals, the treaty body concerned had granted interim measures seeking protection following the registration of the communication, reiterating a request for interim measures granted previously or requesting protection measures for the author's counsel or family members.

45. The Committee on Enforced Disappearances received the highest number of allegations of intimidation or reprisals from the authors of requests for urgent action, usually involving threats and retaliation against the relatives of disappeared persons, aimed at dissuading them from participating in or promoting search and investigation processes. The Committee requested the States parties concerned to take measures to protect the lives and integrity of the individuals concerned and to allow them to pursue their search activities without being subjected to violence, intimidation or harassment.

46. The Secretariat has also taken stock of the responses provided to allegations of intimidation and reprisals received by the treaty bodies. It has done so in the context of the preparation of the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, presented annually to the Human Rights Council and the General Assembly, and of the report on the annual meeting of the Chairs of the treaty bodies and in the context of the induction of new treaty body members.

47. While requests by the treaty bodies for the protection of those who cooperate with them have become more regular, the responses and protection measures by States parties have often been lacking. Another challenge is to ensure consistency among the treaty bodies when responding to allegations of reprisals and to achieve transparency regarding the protection requests made and allegations or cases reported.

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

48. On 28 and 29 September 2023, the Human Rights Council held an interactive dialogue with the Assistant Secretary-General for Human Rights on the annual [report](#) of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights.<sup>24</sup> In addition, the Council adopted resolution 54/24 on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, thereby renewing and strengthening its commitment to preventing and addressing the issue.

49. During the dialogue, the Assistant Secretary-General underlined that, despite ongoing efforts, the number of reported acts of intimidation and reprisals by State and non-State actors remained high and that their severity was very concerning. While the global trends documented in the 2023 report were similar to those identified in previous reports, she noted new, emerging trends.

50. First, evidence of self-censorship had increased, with more anonymous reporting than in previous years and individuals declining or limiting cooperation with the United Nations for fear of reprisals. Second, there had been an increase in online and offline surveillance, which was reported to have occurred in half of the States included in the 2023 report. Third, almost 45 per cent of the States included in the 2023 report had continued to apply or enact new laws and regulations concerning, in particular, civil society, counter-terrorism and national security that punished, deterred or hindered cooperation with the United Nations and its human rights mechanisms.

<sup>23</sup> See, for example, *Tholal and Mahmood v. Maldives* (CCPR/C/130/D/3248/2018).

<sup>24</sup> See <https://webtv.un.org/en/asset/k11/k11735e5yv> and <https://webtv.un.org/en/asset/k1i/k1iixq1mw.x>.

51. In his conclusions and recommendations, the Secretary-General noted that the United Nations had a collective responsibility to prevent and address intimidation and reprisals, guided by the principle of “do no harm” and a victim- and survivor-oriented approach.<sup>25</sup> He emphasized the commitment of the Organization to strengthening the prevention of reprisals, including through zero-tolerance messages and awareness-raising. The United Nations would continue to review and adapt working methods and adopt dedicated protocols or guidelines to prevent and address the issue.

## **VII. Annual or biennial reports of the treaty bodies**

52. In 2023, the Committee on the Elimination of Racial Discrimination, the Human Rights Committee, the Committee against Torture, the Subcommittee on Prevention of Torture and the Committee on Enforced Disappearances included sections in their annual or biennial reports on reprisals and the appointment of rapporteurs or focal points, as recommended in the San José Guidelines. Such reports mostly covered the previous year, with some covering part of 2023, and reflected actions taken to prevent and address reprisals. A summary is provided below.

### **A. Annual report of the Committee on the Elimination of Racial Discrimination<sup>26</sup>**

53. The Committee sent a letter dated 29 August 2022 to the Government of Colombia concerning the failure of the State party to comply with a decision of the Constitutional Court of Colombia of September 2016, which ordered the titling of the collective territories and the suspension of mining activity authorizations in the Cañamomo Lomaprieta Indigenous Reservation. In addition, the Committee expressed concern about the continual acts of violence, threats, intimidation and reprisals against human rights defenders and leaders of Indigenous Peoples.

54. The Committee sent a letter dated 28 April 2023 to the Government of Peru regarding the situation of the Kichwa Indigenous Peoples affected by the Cordillera Azul National Park and the project to reduce emissions from deforestation and forest degradation through carbon offset in their territories and referring to allegations of a failure to undertake prior consultations with the affected communities, with a view to obtaining their free, prior and informed consent, and the slow recognition of the Indigenous communities as “native communities”, which has inhibited the adequate and timely protection of their territories and natural resources. The Committee requested further information on measures taken to assess the social and environmental impact of the projects on the communities, measures to protect the physical and cultural survival of the Kakataibo people in voluntary isolation, mechanisms to ensure consultations with communities, with a view to obtaining their free, prior and informed consent, and measures to prevent and investigate acts of harassment, intimidation, reprisal and violence against leaders and defenders of the rights of the Kichwa Indigenous Peoples.

55. Lastly, the Committee provided an update on the action that it had taken in a case of reprisal in January 2023, regarding its review of France.

### **B. Annual report of the Human Rights Committee<sup>27</sup>**

56. At the Committee’s 137th session, Hernán Quezada Cabrera was appointed rapporteur for reprisals.

<sup>25</sup> [A/HRC/54/61](#), paras. 134–136.

<sup>26</sup> [A/78/18](#).

<sup>27</sup> [A/78/40](#).

### C. Annual report of the Committee against Torture<sup>28</sup>

57. At its forty-ninth session, the Committee decided to adopt 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 of the Convention against Torture and a rapporteur on reprisals under articles 20 and 22 of the Convention. At its fifty-fifth session, the Committee 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.<sup>29</sup> In those guidelines, the Committee specifically refers to the San José Guidelines, which it follows when handling allegations of reprisals.

58. At its sixty-third session, the Committee designated Ana Racu as the rapporteur on reprisals under articles 19, 20 and 22. Information on action taken by the rapporteur during the reporting period is available on a dedicated web page.<sup>30</sup>

### D. Annual report of the Subcommittee on Prevention of Torture<sup>31</sup>

59. The report referred to the nomination of the focal point on reprisals.<sup>32</sup>

### E. Annual report of the Committee on Enforced Disappearances<sup>33</sup>

60. The annual report contains a section on reprisals and action taken regarding two countries.

## VIII. Issues for further action by the Chairs and follow-up

61. As recommended in previous reports, the treaty bodies could further improve awareness-raising and the provision of public information on reprisals, including by posting references to cases and communications, when public, on a web page dedicated to allegations of reprisals, as some treaty bodies already do; by emphasizing, at the opening of each session or at meetings with States parties, that treaty bodies have an approach of zero tolerance towards reprisals and intimidation; and by including a section dedicated to intimidation and reprisals in their annual or biennial reports, in cases where one does not yet exist.

62. There is room for improvement, and there are inconsistencies, regarding the provision of public information on reprisals by the treaty bodies in relation to their cooperation with victims of violations (as in the context of individual petitions) or civil society (NGOs, civil society organizations and national human rights institutions). Treaty bodies could ensure that guidance and information are readily available on their websites, in order to facilitate the submission of individual complaints or the participation of civil society organizations and national human rights institutions, and are updated to include reference to: (a) the San José Guidelines; (b) a zero-tolerance approach to reprisals; and (c) clear reporting channels, such as a public email address, to raise concerns. The guidelines of the Committee on the Elimination of Racial Discrimination on cooperation with NGOs and the paper of the Committee on the Elimination of Discrimination against Women on cooperation with national human rights institutions are good examples.<sup>34</sup> The Committee against Torture also

<sup>28</sup> [A/78/44](#).

<sup>29</sup> [CAT/C/55/2](#).

<sup>30</sup> See <https://www.ohchr.org/en/treaty-bodies/cat/reprisals>.

<sup>31</sup> [CAT/C/76/2](#).

<sup>32</sup> *Ibid.*, para. 8.

<sup>33</sup> [A/78/56](#).

<sup>34</sup> See [CERD/C/506](#) and [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/BAP/8997&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/BAP/8997&Lang=en).

provides information on how to interact with the [Committee](#) for NGOs, civil society and national human rights institutions.

63. Holding induction sessions for new experts with specific discussions about reprisals, and how the treaty bodies can respond to them, is a good practice and should be continued and strengthened in the future. Other improvements could include making more strategic and consistent use of press releases or end-of-session media advisories on concluding observations adopted on the reports of States parties and addressing individual cases through formal communications or meetings with the permanent representatives of the States parties concerned.

64. The treaty bodies should continue to align their working methods to prevent and address intimidation and 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 with the consent of those concerned. The Chairs could introduce a practice of regular exchanges on good practices regarding intimidation and reprisals, including intersessionally, with the focal points and rapporteurs on reprisals, in the form of coordination meetings held virtually. The Chairs should be regularly informed of any developments regarding reprisals.

65. More regular communication among the focal points or rapporteurs on reprisals and the holding of annual meetings of such focal points or rapporteurs, together with the focal points in the Secretariat, held virtually, could also be envisaged.

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

67. Coordination and communication could be strengthened among human rights mechanisms, in particular between the 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.

68. Other measures could include increased coordination with United Nations field presences on addressing reprisals. The treaty bodies could undertake further efforts to prevent acts of intimidation or reprisals by coordinating with the United Nations field presences in, or desk officers for, States of concern, including before the review of reports submitted by those States in the context of the periodic reporting cycle. They could also seek cooperation and assistance in connection with follow-up to individual cases from United Nations field presences, when acts of intimidation or reprisals have been committed and/or are publicly reported, such as in the report of the Secretary-General. Protective measures could be strengthened, including by holding confidential meetings with NGOs and human rights defenders and by providing secure online and offline channels for receiving information.

**Annex I****Rapporteur or focal point on reprisals, by treaty body**

<i>Treaty body</i>	<i>Rapporteur or focal point</i>	<i>Email address</i>
Human Rights Committee	Hernán Quezada Cabrera	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	Eduardo Ernesto Vega Luna	ohchr-cerd@un.org
Committee on the Elimination of Discrimination against Women	Dalia Leinarte Leticia Bonifaz Alfonso (alternate)	ohchr-cescr@un.org
Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Jakub Julian Czepek	ohchr-opcat@un.org
Committee on the Rights of the Child	Luis Ernesto Pedernera Reyna	ohchr-crc@un.org
Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families	Myriam Poussi Pablo César García Sáenz	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 Kolaković-Bojović	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 rapporteur or focal point on reprisals defined in a specific document</i>	<i>Letters of allegation and responses from States publicly posted on the treaty body's web page</i>	<i>Endorsed or adopted the Guidelines against Intimidation or Reprisals (San José Guidelines)</i>
Committee on the Elimination of Racial Discrimination	Yes	Yes	Yes <sup>a</sup>	Yes <sup>b</sup>	Yes August 2014
Human Rights Committee	No	Yes	No	No	Yes <sup>c</sup> June 2016
Committee on Economic, Social and Cultural Rights	No	Yes <sup>d</sup>	No	No	No <sup>e</sup>
Committee on the Elimination of Discrimination against Women	Yes	Yes	Yes	No	Yes July 2018
Committee against Torture	Yes	Yes	Yes <sup>f</sup>	Yes	Yes <sup>g</sup> September 2015
Committee on the Rights of the Child	No <sup>h</sup>	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 <sup>i</sup>	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 <sup>j</sup>	Yes	Yes	Allegations of reprisals disclosed when visit reports are made public	Yes <sup>k</sup> November 2015

<sup>a</sup> See [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FRLE%2F9029&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FRLE%2F9029&Lang=en).

<sup>b</sup> Not systematically, but on a case-by-case basis, keeping in mind the principle to “do no harm”.

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

<sup>d</sup> The Bureau of the Committee acts as the focal point.

<sup>e</sup> See [E/C.12/2016/2](#).

<sup>f</sup> See [CAT/C/55/2](#).

<sup>g</sup> The Committee adopted a statement on reprisals in 2013, in which it indicated that, in handling allegations of reprisals, it would follow the San José Guidelines ([CAT/C/55/2](#), para. 2).

<sup>h</sup> Endorsed the San José Guidelines.



- <sup>i</sup> See [www.ohchr.org/EN/HRBodies/CMW/Pages/Reprisals.aspx](http://www.ohchr.org/EN/HRBodies/CMW/Pages/Reprisals.aspx).
  - <sup>j</sup> See CAT/OP/6/Rev.1.
  - <sup>k</sup> Endorsed the San José Guidelines at its twenty-seventh session.
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