

Annual Conference of the GHRP – Connectivity of Human Rights Mechanisms

CONCEPT NOTE - Panel 3 Civil Society Space and Reprisals

Maison de la Paix (Pétale 5), Monday 3 June 2019,
14:00 – 15:30

'At a time when space for civil society is shrinking in various spheres, it is essential that the United Nations encourage engagement with civil society'. (UN Secretary-General)¹

Civil society is facing threats in many places around the world. According to the CIVICUS Monitor, six out of ten countries in the world restrict civic space. Civil society also faces threats from non-State actors, including corporate entities, extremist right-wing and fundamentalist groups. As a consequence of governmental policies and practices that restrict and repress civil society and human rights defenders², safeguarding civil society space has become a priority for the human rights movement.

This panel will consider how international human rights mechanisms contribute to safeguarding civil society space at the national as well as the international level.

On 27 June 2016, at its thirty-second session, the HRC emphasised the importance of civil society engagement with regional and international organisations and recognized that *'that civil society facilitates the achievement of the purposes and principles of the United Nations, and that the restriction of civil society space therefore has a negative impact upon their achievement'*.³ The OHCHR has prepared a set of recommendations for States as well as international and regional organisations on how to strengthen civil society engagement with international and regional organisations.⁴ Among the various recommendations is putting in place policies that are inclusive and provide access to diverse groups, including traditionally underrepresented populations.

On 24 December 2017, the General Assembly adopted resolution 72/247⁵ by consensus to mark the twentieth anniversary of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (commonly referred to as the Declaration on Human Rights Defenders). The resolution focused on the need to implement the Declaration and condemned all acts of intimidation and reprisals by States and non-State actors, including against human rights defenders and their legal representatives, associates and family members. The resolution strongly called upon all States to give effect to the right of everyone, individually and in association with others, to unhindered access to and communication with the United Nations.

On 29 September 2017, at its thirty-sixth session, the Human Rights Council (HRC) adopted resolution 36/21 on 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights,'⁶ in which it reaffirmed *'the right of everyone, individually and in association with others, to unhindered access to and communication with...the United Nations, its representatives and mechanisms'*.

¹ Report of the UN Secretary-General (Cooperation with the United Nations, its representatives and mechanisms in the field of human rights), UN doc. A/HRC/39/41, 13 August 2018, §24.

² Such as restrictions on civic freedoms and on financing operations for civil society groups, increased surveillance and arrests, detention, torture, and other human rights violations.

³ A/HRC/32/L.29

⁴ Procedures and practices in respect of civil society engagement with international and regional organizations - Report of the United Nations High Commissioner for Human Rights

⁵ UN doc. A/RES/72/247, 25 January 2018

⁶ UN doc. A/HRC/RES/36/21, 6 October 2017

The Secretary-General's latest report on reprisals, presented by the Assistant Secretary-General for human rights at the thirty-ninth session of the HRC,⁷ identifies three main trends:⁸

1. States frequently invoke counter-terrorism as a basis for denying access to the UN to an organisation or individual,
2. Reprisals are often disguised in legal, political and/or administrative obstacles,
3. Accreditation and security procedures are being used to hinder people from speaking out at UN headquarters and elsewhere.

Human rights bodies and mechanisms at the UN, including the Office of the High Commissioner for Human Rights, the HRC, special procedures and treaty bodies, are engaged in addressing reprisals.

In June 2015, the treaty body chairpersons adopted the Guidelines against Intimidation or Reprisals, also known as San José Guidelines, which provide 'practical guidance to enhance the efficiency and effectiveness with which protection is provided by treaty bodies to individuals and groups at risk of or facing intimidation or reprisals for seeking to cooperate or cooperating with United Nations human rights treaty bodies.'⁹ The Guidelines set out six general principles and provide treaty bodies with 'a range of means to assist and protect individuals and groups alleging that they have been the object of intimidation or reprisals for seeking to cooperate with them'.¹⁰ Additionally, all treaty bodies have appointed rapporteurs, focal points or working groups on reprisals and intimidation. Reprisals focal points from the treaty bodies met in December 2018 to discuss best practices in the implementation of the San Jose Guidelines and ways to more effectively carry out their functions.¹¹

Special procedures have also adopted a framework for action in order to consolidate and enhance their response to the increasing instances of intimidation and reprisals observed by mandate holders. Grounded on the principle of 'do no harm', special procedures rely on a variety of actions when responding to cases of intimidation and reprisals that are considered on a case-by-case basis. These actions include cooperation with the Coordination Committee of Special Procedures, which, inter alia, keeps a comprehensive record of all cases of intimidation and reprisals against individuals and groups cooperating with special procedures, as well as cooperation with other human rights mechanisms both at the international and regional level.

Furthermore, a number of Special procedure mandate holders, and members of Expert Mechanisms and Commissions of Inquiries have been subjected to fierce on-line and off-line attacks, sometimes reportedly conducted or instigated by States. These attacks appear to be in retaliation against mandate holders for their work of investigating and reporting on allegations of

⁷ Ibid, n. 1

⁸ As highlighted by the Assistant Secretary-General for Human Rights in its oral presentation to the HRC, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23591&LangID=E>

⁹ Guidelines against Intimidation or Reprisals ("San José Guidelines"), UN doc HRI/MC/2015/6, 30 July 2015

¹⁰ Ibid

¹¹

human rights violations and abuses and may deter civil society from engaging with the mechanisms.

In order to strengthen the UN response to reprisals across the system, in October 2016 the Secretary-General designated the Assistant Secretary-General for human rights the 'senior official' to lead UN efforts to put an end to intimidation and reprisals against those cooperating with the UN on human rights. In this role the Assistant Secretary-General is engaged in:

- Developing and implementing a more comprehensive system for preventing and addressing intimidation and reprisals throughout the UN system, including by improving and coordinating response by all UN actors;
- Enhancing high-level engagement on reprisals, including on how to prevent reprisals from occurring and ensuring urgent action on cases when reprisals occur;
- Pursuing constructive dialogue with all stakeholders, in particular with Member States and civil society; and
- Ensuring cooperation with all actors involved. Recognising and welcoming ongoing activities by various actors on reprisals, the work of the Assistant Secretary-General will be integrated into, complement and strengthen efforts already underway.¹²

Given the variety of responses to cases of intimidation and reprisals that are being implemented at the UN level, the aim of this panel is to discuss the role of these human rights mechanisms, and the UN more broadly, in addressing two interlinked but separate issues, safeguarding civil society space at the international and national levels:

- How do (or could) UN human rights mechanisms and bodies (collectively and individually) contribute in a wider sense to ending the restrictions against civil society space at the national level?
- What are UN human rights mechanisms and bodies doing to prevent and address intimidation and reprisals for cooperation with the UN in the field of human rights?
- What more can be done by the UN and other international organisations to strengthen civil society engagement with international organisations and ensure the right to participation at the international level?
- What more can States do to ensure the right to participation at the international level, including unhindered access to and communication with international bodies?

¹² <https://www.ohchr.org/EN/Issues/Reprisals/Pages/ReprisalsIndex.aspx>

SPEAKERS

- **Ambassador Michael Gaffey**, Permanent Representative of Ireland
- **Virginia Bras-Gomez**, Former Chair of the Committee on Economic, Social and Cultural Rights
- **Peggy Hicks**, Director, Thematic Engagement, Special Procedures and Right to Development Division, OHCHR
- **Susan Wilding**, Head of Geneva office, CIVICUS

MODERATOR

- **Michael Ineichen**, Programme Director, ISHR

PARTNERS

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