

**WORLD REPORT
ON THE SITUATION OF HUMAN RIGHTS DEFENDERS**

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INTRODUCTION

Background

The World Report is the first global survey of the situation of human rights defenders since the landmark Global Survey conducted in 2006 by the then UN Special Representative Hina Jilani. The World Report shares the purpose of its predecessor: “to identify the main areas of progress and the remaining challenges that need to be addressed in relation to the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms.” An additional 12 years have passed since the earlier survey and the World Survey is produced to mark the 20th anniversary of the Declaration.

As outlined in my last report to the General Assembly¹ and in the key findings below, the Declaration continues to be incompletely implemented by almost all States. While this situation may be unsurprising, it is in need of urgent remedy. Twenty years is a relatively short period of time and over the last two decades there has been a productive discussion about the appropriate means of implementing the Declaration and about the needs of particular groups of human rights defenders. There has been an inspiring and diverse development of different mechanisms and programmes of implementation by States. The policy discussions that are occurring today are informed by a deeper understanding of State practice and the Declaration itself. However, few States have systematically and adequately implemented the Declaration.

Beyond the incomplete implementation of the Declaration, a growing number of States have actively taken steps to frustrate the enjoyment of the rights outlined in the Declaration. As noted in each of my recent reports, the ability of the international community to meet its obligations set out in the Universal Declaration on Human Rights – and notably in many of its more recent commitments to sustainable development, migration, and climate change – are under threat because of the restrictions imposed on and attacks directed against human rights defenders.

In this respect, the World Report documents the much discussed closing of civic space and suggests that it has become, in too many locations, a war on human rights defenders. As noted in my General Assembly report, any enthusiasm for the affirmation of the Declaration in 1998 was tempered by the gap between the aspirations and promises of the earlier UDHR and the lived reality of too many people at that time. Twenty years after the affirmation of the Declaration a similar gap exists between it and the situation of too many human rights defenders.

¹ A/73/215

Key findings

In relation to current widespread challenges, the World Report reveals the following three key issues facing human rights defenders globally:

1. the evolution of the use of the term “human rights defenders”;
2. the development of mechanisms and practices to support human rights defenders;
3. and the use of legal and administrative frameworks to both protect and persecute defenders. Each of these are addressed below.

1. Evolution of the use of the term “human rights defenders

First, the discussion of the situation of human rights defenders and the rise in the usage of the term has increased dramatically over the past 20 years. The country entries reveal a much wider set of individuals and groups identifying themselves as human rights defenders, using the term “defenders” and engaged in the challenges of defending human rights. For instance, the adoption by consensus of the landmark General Assembly resolution recognizing the situation of women human rights defenders in 2013 (resolution 68/181) is indicative of the broadening of the community. Despite this evolution, many human rights defenders remain unaware of or are unwilling to use the term (and the Declaration) until a situation of risk requires them to interact with the emerging human rights defender protective regime. The rights are expressed individualistically, with little explicit attention to social or community rights. Difficulties in applying the term to communities, collectives and networks are more than pedantic.

Unfortunately, not all of the discourse about human rights defenders has been positive or even productive. With the rise in the use of the term “human rights defenders” has come a “battle for narratives that generates an environment in which civil society is viewed with distrust and its demands are not seen as universal, but as claims based on privilege and favour”.² Many country entries reveal troubling attacks on human rights defenders, whether the attacks are on all of them or on those engaged in specific issues, by the State, the media and powerful interests. Negative depictions in popular culture, even in such mundane productions as local soap operas or on radio and television call-in shows, have an insidious effect on the safety of defenders in already precarious situations. In otherwise safe and enabling societies, particular types of defenders can be singled out for vilification as evidenced by the anti-media rhetoric in the United States of America. Even children have reported fearing harassment and other more serious mistreatment if they speak up. Beyond countering such negative narratives of human rights defenders, the challenge is to create diverse, positive, role-affirming accounts of the defence of human rights

We must recall that the Declaration not only obligates States to protect the rights of defenders and prevent violations of their rights but also to promote those rights. In addition, the Declaration imposes independent obligations on States to adopt appropriate administrative and legal frameworks to support the defence of human rights and to educate State officials and the public at large about their rights. As has been noted in many of the

² Ana Cernov, “Civil Society is not the Enemy”, *Sur: International Journal on Human Rights*, vol.14, No. 26 (2017), p.55.

country entries, State officials are increasingly critical of human rights defenders. While actions and opinions should be open to free and open debate, too often the discussion of human rights defenders inappropriately questions their legitimacy and seeks to create a hostile, dangerous environment for their work. In such officially sanctioned discourses, defenders are portrayed as disconnected elites, dishonest or uninformed troublemakers, and foreign agents.

Even where State officials do not condemn human rights defenders, they are often silent in the face of criticisms of defenders by powerful social, political and economic interests. This silence can contribute to an environment of impunity for those who violate the rights of defenders. Such vitriol is a key element, both as cause and effect, of the closing civic space that has become widespread over the past two decades. It is necessary that States proactively express support for the defence of human rights and the rights of human rights defenders. Provisions in national legislation on human rights defenders, such as Mexico's Law for the Protection of Human Rights Defenders and Journalists, requiring key agents within the State to publicly support human rights defenders not only provide an important counter to existing dangerous discourses but also a path forward towards the prevention of future violations and the promotion of the right to defend human rights more generally. National and regional guidelines on the defence of human rights defenders must also not only address solidarity with and support for human rights defenders abroad but also strengthen the position of human rights defenders locally.

The World Report makes clear that the situation of human rights defenders is not unique or singular: the situation of human rights defenders is both intertwined with the situation of other groups within society and quite different depending on the type of human rights activism, the identity of the defender, and the particular features of their human rights work. In relation to the former, the situation of human rights defenders frequently overlaps and shares commonalities with the situation of journalists, lawyers, political dissidents, women, indigenous people, youth, and other groups in society. This is both because these groups often are themselves human rights defenders and because the roles of these groups, in advocating change or the adoption of new policies, is often similarly opposed by vested interests.

In relation to the latter point, the secret truth of the World Report is that no two defenders share exactly the same situation. The risks faced by defenders vary according to their identity, with family ties, gender, class, race and other variables of social status affecting the particular situation of individuals. While the report tries to identify particular groups of defenders for explicit attention – such as women human rights defenders and defenders of sexual orientation and gender identity – it is impossible to canvass the (mis)treatment of all possible communities of defenders. As such, the World Report must not be read as an exhaustive list of groups at risk – to do so would further silence and render invisible many defenders. Rather, as noted elsewhere in this introduction, it is part of the opening of a discussion about the situation of defenders which must, in its future development, include the voices of defenders who haven't yet been recognised in its reporting.

2. Development of mechanisms and practices to support human rights defenders

Second, over the past 20 years, a range of innovative practices to support human rights defenders have been developed and have spread. Civil society has led the way in the development of such practices. Country entries report on the creation of regional, national and local networks of support for human rights defenders, the expansion of programmes of protection, such as temporary relocation initiatives, and the development of international civil society organizations, networks and funding mechanisms to support particularly vulnerable human rights defenders. States have introduced national legislative frameworks to protect human rights defenders and created national protective mechanisms to institutionalize those frameworks. States and regional and international organizations have also implemented policy guidelines on the treatment of human rights defenders, helping to realize the premise of the Declaration and the mandate of the Special Rapporteur that we share a collective concern for the situation of human rights defenders everywhere.

A community of practice of human rights defenders has developed. Civil society organisations have been founded since the Declaration to train and otherwise support defenders working in difficult environments. In collaboration with States and other actors, a broad range of policy mechanisms have been developed to implement the obligations of the Declaration ranging from national guidelines to model laws to protective mechanisms to new programmes of activity by national human rights institutions. There has been a broadening of actors involved in the protection of human rights defenders. Regional organisations and national human rights institutions are two key actors now playing key roles in the support of human rights defenders but almost entirely absent from the 2006 Global Survey.

While the emergence of a protection regime for human rights defenders at risk is a positive development, the focus on security can too often sideline the broader well-being of human rights defenders and their families and communities. Reading between the lines of the individual cases and violations mentioned in numerous country entries, a broader and yet more troubling account of the ongoing human rights violations around the world emerges. Tactics such as self-care and deliberate invisibility are necessarily absent from mention in the entries; however, they play an important role in the response to threats and risk.

Regional organizations emerge as key players in the protection of human rights defenders. Despite their important role, many of their initiatives continue to suffer from significant resource constraints. While there are examples of supportive and collaborative relationships between human rights defenders and business, there are also concerns about the negative impact of business interests and practices on human rights defenders. Bad practices have also expanded to the over-regulation of non-governmental organizations, limitations on the advocacy conducted by human rights defenders, reprisals against them and restrictions on the receipt of international funding.

3. Legal and administrative frameworks to support and persecute human rights defenders

The Declaration recognizes the importance of legal and administrative frameworks in the creation of safe and enabling environments for human rights defenders. Despite the obligation on States to introduce such frameworks and the numerous national legislative initiatives, and the law reforms and national policy guidelines reflected in the entries received, law and policy are also being used, unwittingly and deliberately, to frustrate the defence of human rights. Country entries reveal the use of administrative procedures and

local by-laws to close human rights organizations, the prosecution of human rights defenders for fictitious tax and other offences and the criminalization of dissent through prosecution on various grounds, including for “defamation of the nation”. Defenders face decades-long investigations and shifting prosecutions for a range of offences related to their criticism of the State. Other human rights defenders face prosecution through the use of generic boilerplate prosecutions without individualized charges. It is regrettable that the law and legal processes have become both a shield for and a sword used against human rights defenders.

One of the consequences of this “lawfare” over human rights defenders is the position of the legal and judicial professions, both as potential guardians of the right to defend human rights and as persecutors of human rights defenders. Lawyers and members of their families are at particular risk when they take up the cases of human rights defenders or otherwise seek to promote the right to defend human rights. Other professions ranging from educators to health professionals have also faced threats as a result of their pursuit of their professional ideals in support of human rights defenders. Professional regulatory bodies and training schools must adapt their practices to respond to these new threats.

Structure of Country Entries

The structure of the World Report mirrors that of the Global Survey of 2006 authored by Hina Jilani in her capacity as Special Representative to the Secretary General on Human Rights Defenders. Each country entry has four sections: (i) national context and human rights defenders, (ii) legal and policy framework, (iii) implementation of the Declaration, and (iv) issues and trends. Although country entries frequently mention programmes of action by defenders, civil society more generally, and other stakeholders, the main focus of each entry is on the State and the extent to which the situation of human rights defenders within the State (and sometimes abroad) lives up to the commitments made in the Declaration.

The first section provides an overview of the national context. It reflects on the review of the State in the 2006 Global Survey and notes recent developments to allow readers to better understand the historical (dis)continuities of the situation of human rights defenders. The first section also notes membership in relevant regional organisations and any country visits by the mandate.

The second section outlines the operative international and domestic legal frameworks that influence the situation of human rights defenders, including international treaty commitments, domestic constitutional or legislative frameworks for rights, and the presence (or absence) of a national human rights institution.

The second section also flags important recommendations made by human rights treaty bodies and the UPR process on the situation of human rights defenders. The level of accreditation of national human rights institutions is based upon the determination of the Global Alliance of National Human Rights Institutions (GANHRI) and compliance with its Paris Principles, the internationally agreed benchmarks for national human rights institutions.

The third section reviews the implementation of the Declaration in practice, with a consideration of the status of each of the core rights of the Declaration. The 2006 Global Survey based its analysis explicitly on the rights contained within the International Covenant on Civil and Political Rights (ICCPR). The World Report instead uses the rights articulated in

the Declaration as its guide, though many of these are also found in the ICCPR. However, this distinction is not semantic as it allows fuller discussion of the rights to represent victims of human rights violation, to engage in discussion of emerging human rights, to communicate with international processes, and to raise resources for human rights activities that are clearly articulated in the Declaration. As has been noted previously, these additional rights are supported by international law.

Inevitably, there is often overlap between the analysis in this section and the earlier analysis of the relevant legal frameworks as it is often difficult to distinguish between law, policy and practice. The third section also includes a summary of recent communications between the State and the Special Rapporteur's mandate.

Finally, the fourth section provides a summary of key concerns and attempts to suggest a way forward, including by making recommendations to the State and other actors. Although all of the earlier articulated concerns require action by the State, this section attempts to highlight two types of recommendations: those that are particularly urgent because of the severity or scale of the human rights violation and those that seem to be particularly feasible in the current policy context of the State. The fourth section also seeks to identify good practices, by the State and by other stakeholders that can provide a path towards the more complete implementation of the Declaration.

The World Report was unable to review the situation of human rights defenders in all member and non-member States of the United Nations. The more than 140 countries surveyed in the report were selected based upon inclusion in the last Global Survey of 2006, the Special Rapporteur's history of communications with the State, and available information about the situation of human rights defenders in the State.

Methodology

The entries in the World Report cannot be comprehensive about the situation of human rights defenders. Rather, they seek to provide a limited snapshot of some of the issues facing human rights defenders within each State and make recommendations about the way forward. Wherever possible, the entry focuses on recent events with a view to serving as more than as a historical record.

Each entry is intended as a contribution to the ongoing discussion of the situation of human rights defenders in a State and is grounded in specific events and the experiences of individual defenders. As noted by the Special Representative in her introduction to the 2006 Global Survey, the entries are a "work in progress", a first step towards a "thorough revolving analysis of the situation for human rights defenders and the implementation of the Declaration globally." The analysis will necessarily evolve as further information is received and as situations change.

The entries are based upon inputs from international organisations, States, national human rights institutions, human rights organisations and human rights defenders in response to a questionnaire distributed in May and June 2018. The entries are also based on a review of public, documentary material, including documentation produced by the human rights processes and institutions of the United Nations system and other international organisations, institutions of the State, and civil society. The World Report departs from other UN reports in that it includes credible, corroborated human rights reports produced by civil

society and human rights defenders themselves; my understanding of the situation has also been informed by the general and thematic reports of a number of longstanding international human rights organisations, and by conversations with defenders themselves. The country entries of the World Survey were researched, written and compiled between April and October 2018.

The decision to broaden the sources relied upon is not an uncontroversial decision, given that some similar reports within the UN system rely only upon information already collected formally through its processes and in its fora. The decision was made in order to broaden the information available about defenders and to bring in to the discussions within the UN system a variety of information not necessarily previously discussed. This is done in the aforementioned spirit of continuing and deepening the conversation about human rights defenders. I understand that some States will seek to refute some of these accounts, much as they often take issue with civil society submissions within the UN system. I would welcome responses and further contributions by States and others in response to the World Report and I look forward to continuing and strengthening my conversation with States about the implementation of the Declaration.

As noted in my report to the General Assembly, the rapid development of information technology and the expansion of the global community of human rights defenders has both simplified the process of collecting information as well as increased the volume of information processed. To supplement the thousands of pages of material reviewed on each State, we have drawn upon the expertise of external researchers and reviewers, including human rights defenders and independent experts knowledgeable about the situation of human rights defenders within a State.

I was supported in the production of the World report by the Human Rights Defender Hub of the Centre for Applied Human Rights of the University of York. The research team included more than 40 researchers based around the world and more than 100 external reviewers. A team-based approach was adopted both because of the volume of documentation to be reviewed and to bring multiple and new voices and points of view into the research and discussion of the situation of human rights defenders. I wish to thank all those who, in whatever capacity, supported his production of the World Report, especially defenders who did so despite working in challenging situations. All contributors shared the vision of this report and that set forth by the General Assembly twenty years ago: a world in which all people and groups can enjoy the rights articulated in the Declaration.

AFRICA

Central and West Africa

Cameroon

4. National Context and Human Rights Defenders

Cameroon currently faces significant issues of unrest and insecurity, including the ongoing conflict with Boko Haram, which has primarily operated in the Far North region since 2014. Between 2014 and 2017, around 2,500 Cameroonians were killed in attacks by Boko Haram. In recent years, State security forces have responded with increasingly heavy-handed and violent measures against individuals accused of supporting Boko Haram, and increased powers were granted to State authorities under the Anti-Terrorism Law, 2014. Unrest in the North West and South West regions has increased as anglophone separatists have intensified their campaign for independence.

Given the current state of insecurity and violence across Cameroon, human rights defenders are operating in an increasingly hostile environment. Reported threats against defenders have included smear campaigns, harassment, intimidation, physical attacks and torture by State security forces. Peaceful protests have been met with excessive force and arbitrary detention. Particular concerns have been raised concerning journalists, who are increasingly practising self-censorship. Defenders working on anglophone issues, those who speak out against government policy and defenders of sexual orientation and gender identity rights have been noted to face particularly high risk in their work.

Cameroon was included in the 2006 Global Survey, in which the Special Representative reported that civil society organisations operated in a hostile climate.³ Intimidation by security forces, the lack of a clear legal framework and restrictions on freedom of expression were noted among the challenges to defenders' activities. There were also cases of NGOs associated with the government attempting to discredit individual defenders.

5. Legal and Policy Framework

Cameroon is party to all of the major human rights treaties, but has yet to ratify the Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers, the Convention on the Rights of Persons with Disabilities, and the Optional Protocol of the Convention against Torture. It is not party to the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty. Cameroon has accepted individual complaints and inquiry procedures with the exception of those pertaining to the Optional Protocol to the ICESCR, the Optional Protocol to the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of Persons with Disabilities. Cameroon is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights.

³ E/CN.4/2006/95/Add.5

The 1972 Constitution, which was substantially amended in 1996, offers key protections for human rights defenders, including “freedom of communication, of expression, of the press, of assembly, of association, and of trade unionism, as well as the right to strike”. There are also legal protections against arbitrary arrest and detention, and torture. The Constitution asserts that international treaties take precedence over national law.

The National Commission on Human Rights and Freedoms (NCHRF) was established in 1990 as the national human rights institution, and is accredited “A” status, in accordance with the Paris Principles. The NCHRF is considered by civil society to be effective, but it is constrained by lack of resources and is not perceived to be sufficiently independent. The NCHRF has a mandate to “liaise, where necessary, with non-governmental organizations working for the promotion and protection of human rights and freedoms”, however the discretionary nature of this mandate is problematic. Criticism has been levelled at the NCHRF for failing to adequately deal with issues facing sexual orientation and gender identity rights defenders.

Freedom of association is regulated under Law no. 90/053 of 1990, and the registration of NGOs is regulated under Law No.99/014 of 1999. Cases in which organisations working on sexual orientation and gender identity rights have been denied registration have been noted. NGOs denied registration have only 10 days to appeal the decision, following which the court has a further 10 days to respond. This short window for appeal is considered a barrier for some organisations. Under Law 90/053 of 1990, foreign associations must obtain permission from both the Minister of Foreign Affairs and the Minister of Territorial Administration in order to undertake any project in Cameroon. The right to assembly is subject to a notification system however the requirement to receive a permit results in a *de facto* authorisation system. Article 231 of the Penal Code allows for a person to be fined and imprisoned for up to six months for attending or hosting a public meeting without having submitted notice or sufficient information regarding the assembly, for violating a condition imposed on the assembly, or for misleading authorities as to the purpose of the meeting.

Law no. 2014/028 on the suppression of acts of terrorism, introduced in 2014, permits for all cases brought under charges of terrorism to be tried by the military court, and for indefinite detention of suspects held under the law. The law has been criticised for including an overly broad and vague definition of terrorism, as well as for disproportional penalties for offences, including the death penalty. It has been noted that the effects of the law have been particularly stark for journalists, for whom coverage of events related to Boko Haram and the anglophone separatist movement have been equated with the promotion of terrorism and charged as such.

The Human Rights Committee and the Committee Against Torture have both expressed concern about reported intimidation and ill-treatment of journalists in Cameroon, including the use of torture.⁴ The Committee Against Torture noted that many journalists are tried by military courts for failing to report situations likely to undermine State security.⁵ The Committee on the ICCPR further noted bans on the holding of press conferences, prolonged shutdowns of Internet access and reprisals against human rights defenders.⁶ It is also

⁴ CCPR/C/CMR/CO/5 and CAT/C/CMR/CO/5

⁵ CAT/C/CMR/CO/5

⁶ CCPR/C/CMR/CO/5

expressed concern at reports of infringements of the freedom of assembly, including the excessive use of force by police to disperse demonstrations.

6. Implementation of the Declaration

The Special Rapporteur is pleased to note that Cameroon has initiated discussions concerning the establishment of a formal framework for dialogue between the State and civil society human rights organizations. However, he notes that progress towards the implementation of the Declaration on Human Rights Defenders in Cameroon has come under threat in light of the use of legislative measures to effectively clamp down on freedoms of expression and assembly. The Special Rapporteur is concerned that despite apparent commitments towards upholding the Declaration, in practice, actions are being taken by the State which result in a hostile environment for human rights defenders, most recently in the context of the conflict with Boko Haram, as well as regarding social movements in anglophone regions.

Freedom of expression has been significantly curtailed in Cameroon, limiting the rights of human rights defenders and the broader population. The Special Rapporteur is concerned that the 2014 law on acts of terrorism is being used to silence the media, and justify the arrest and detention of human rights defenders. Particular concerns have been raised regarding journalists, who face clear reprisals in relation to their work; and who increasingly practice self-censorship in response to the ambiguity of the law and the pervasive climate of fear. In July 2015, Ahmed Abba was arrested in the Far North region on suspicion of collaborating with Boko Haram and was detained for three months, during which he was subjected to torture. In April 2017, he was sentenced to ten years imprisonment under the Anti-Terror Law for “non-denunciation of terrorism” and “laundering of the proceeds of terrorist acts”. Elie Smith, a journalist working for a privately owned English language station based in Douala, has said that the conviction of Abba was “a tool to intimidate other journalists”. Four other journalists were facing trial before a military court with a maximum penalty of death in 2017, on accusations relating to terrorism. Three of them were detained for several months following their coverage of unrest in anglophone regions. A presidential decree in August 2017 facilitated their release.

In January 2017, the police ordered the suspension of all activities of Radio Hot Cocoa after the regional governor accused the hosts of inciting tensions by holding a phone-in discussion about the ongoing teachers’ strikes. A day later, Jakiri Community Radio station was temporarily closed when a message regarding a public meeting to discuss the anglophone crisis was broadcast. It has been reported that the internet has also been repeatedly shut down in anglophone regions, including for a period of 136 days. Four members of the Cameroon Anglophone Civil Society Consortium (CACSC) were arrested in January 2017 after publicly voicing concerns which cited the marginalisation of anglophone Cameroonians and called for reforms to the legal and education system. The organisation was banned by ministerial order; among the four arrested and charged was Felix Agbor-Balla Nkongho, a Cameroonian lawyer and human rights defender. Their trial has been repeatedly adjourned.

The Special Rapporteur reiterates his concern regarding cases of reprisals that have been noted to be aimed at silencing human rights defenders and preventing them from exercising their freedom of expression and association. He is gravely concerned by reported physical attacks, death threats and acts of intimidation and harassment against Maximilienne Ngo Mbe and Alice Nkom, two women human rights defenders. These acts appear to have been linked to the activities of the organisation Réseau des défenseurs des droits de l’homme de

l’Afrique Centrale, which filed a complaint against the State of Cameroon to the African Commission on Human and Peoples’ Rights in May 2017, in relation to the situation in anglophone regions. The Special Rapporteur also notes that women human rights defenders, including Tilder Kumichi Ndichia, incur particular threats in their communities when speaking out on socially divisive issues such as domestic violence in rural areas.

Use of excessive force and arbitrary arrest and detention by State authorities has been noted in response to protests in anglophone regions. Mass arrests were reported as protests began in October 2016, and 17 people died in clashes between security forces and protesters. As noted by several sources, at least 100 people, including children, were arrested on a single day in November 2017. During a demonstration the following month, State security forces were reported to have fired live bullets and tear gas into a crowd, resulting in the deaths of four people and leaving several wounded. Other measures aimed at preventing peaceful protests have included curfews and a ban on public meetings.

Homosexuality is illegal in Cameroon and this ban is strictly enforced. In 2018, 25 people were arrested in a raid on a nightclub and a cinema. Civil society organisations have observed that criminalisation and widespread public discrimination results in a hostile environment for defenders working in this area, who face harassment, intimidation and violence which is often ignored by police. Lawyers working to defend those charged have also been targeted. In July 2013, the executive director of the Cameroonian Foundation for AIDS (CAMFAIDS), Eric Ohena Lemembe, was tortured and murdered in his home by unknown assailants. However, State authorities and the judiciary have failed to adequately investigate his case. Since then, CAMFAIDS’ offices have been vandalised and staff have been attacked. In August 2017 the police accused the organisation of promoting homosexuality, detained members and demanded a list of individuals associated with the organisation. The Committee on the Convention against Torture noted concern about violence on the grounds of sexual orientation and gender identity, including ‘corrective rape’, including against defenders.⁷

Numerous communications have been sent by the Special Rapporteur to Cameroon over recent years, including five in 2017. These concerned allegations of torture, excessive use of force by the police, arbitrary arrests and detentions on the occasion of demonstrations; arrest, arbitrary detention and judicial harassment of members of the Esu Youths Development Association, and their lawyer; the arbitrary detention of Felix Agbor-Balla Nkongho, and physical attacks, death threats and acts intimidation and harassment against Maximilienne Ngo Mbe and Alice Nkom. The Special Rapporteur regrets that comprehensive responses have not been provided by the State, and in some instances no response was received at all.

Cameroon participated in a UPR cycle in 2018. While it accepted two recommendations with regard to ensuring the rights to freedom of expression, association and of assembly for all, including journalists, human rights defenders, and to take all necessary measures to enable human rights defenders, to carry out their legitimate activities without fear of reprisal, it did not accept the recommendations of Czechia to adopt legislation to protect human rights defenders and journalists, nor of Switzerland to ensure the protection and security of lesbian, gay, bisexual, transgender and intersex persons and of human rights defenders committed to

⁷ CAT/C/CMR/CO/5

their cause.⁸ The Special Rapporteur notes that a standing invitation is extended by the Government to all thematic special procedures.

7. Issues and Trends

The situation for human rights defenders is significantly worsening in Cameroon; excessive and arbitrary responses by State actors in the context of the unrest in anglophone regions and the ongoing threat posed by Boko Haram in the Far North region have seriously undermined defenders' rights. Freedom of expression, assembly and association have been curtailed and human rights defenders face harassment, intimidation, violent repression of peaceful protests, arbitrary arrest, detention and torture in the course of their work. The broad and vaguely-worded terrorism law of 2014 has been used to justify excessively punitive measures against defenders, including journalists.

The Special Rapporteur calls upon Cameroon to lift restrictions to freedom of assembly, in particular with regard to defenders working in anglophone regions, and to bring a halt to repercussions for journalists and independent media outlets reporting on such issues. He further recommends that Cameroon revise Law no. 2014/028 to clearly define acts of terrorism and acts undermining national security, and refrain from using the law to restrict the rights of defenders, and to stifle free expression. The Special Rapporteur also recommends that Cameroon implement protections for human rights defenders, particularly those who face heightened risk in the course of their work, such as defenders of sexual orientation and gender identity rights. Cameroon must ensure that all violations committed against defenders, including the alleged acts of torture against Ahmed Abba, are investigated thoroughly and impartially, and that perpetrators are brought to justice.

Central African Republic

1. National Context and Human Rights Defenders

The Central African Republic (CAR) has been affected by multiple conflicts since 2003, in relation to which successive peace processes have been initiated. Despite intermittent advancements in the peace and security of the state, localised conflicts have continued to proliferate between armed groups, and the Government has little authority outside of Bangui. Regional instability and internal conflicts in neighbouring countries have further exacerbated the situation in the State, with porous borders facilitating the flow of arms.

Patterns of serious violations of international human rights and humanitarian law by successive Government forces and various local and foreign armed groups, as well as international and foreign defence forces have been documented, many of which may amount to war crimes and crimes against humanity. While institutional reforms have begun to be implemented, including moves to establish a Truth and Reconciliation Commission, the political and security situation in the State has again deteriorated sharply in 2018, severely impacting citizens. Increased attacks on humanitarian workers and peace keepers have also been observed.

⁸ A/HRC/39/15 and A/HRC/39/15/Add.1

The situation of conflict in which civilians have frequently been targeted has severely limited the scope within which human rights defenders can carry out their work. There is an extreme prevalence of human rights abuses, including the razing of entire villages, gang rapes of women and girls, extra-judicial killings, severe torture or ill-treatment in detention centres, leading also to deaths, religious and ethnic violence, the recruitment of thousands of children by armed groups, and attacks on both humanitarian actors and peacekeepers, among other serious violations. In this context, human rights defenders face exceptional levels of risk. Self-censorship among human rights defenders, and in particular among journalists, is observed to be widespread. Civil society organisations primarily focus on peacebuilding efforts, within which women human rights defenders have played a significant role. Environmental human rights defenders are also active in seeking to protect CAR's natural habitats from the impacts of conflict, poaching and resource extraction.

An entry for CAR was included in the 2006 Global Survey, however, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time.⁹

2. Legal and Policy Framework

CAR has made significant progress on the ratification of the core human rights treaties in recent years. It has now ratified most major treaties, with the exception of the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty and the International Convention on the Protection of the Rights of All Migrant Workers. CAR has accepted individual complaints procedures under the Optional Protocol to the ICCPR and the Optional Protocol to the Convention on the Rights of Persons with Disabilities; it has not accepted any inquiry procedures. CAR is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of the Economic Community of Central African States. In 2013, CAR extended a standing invitation to all thematic special procedures.

In 2015, the citizens of CAR voted to approve a new constitution by way of a national referendum. The Constitution reaffirms adherence to the provisions of the UDHR, as well as to ratified international conventions. The Constitution provides for a range of protections for rights of relevance to the work of human rights defenders. These include rights to freedom of expression, freedom of the press, freedom of assembly, peaceful demonstration and association, the right to join a trade union and the right to strike. The constitution also guarantees the right to reparation in cases of violations of fundamental rights. Freedom of the press is constrained by laws which include provisions on criminal defamation, incitement of ethnic or religious hatred, and the publication or broadcast of false information that could "disturb the peace". It has been noted that the wording and interpretation of these laws could be used to muzzle legitimate journalism and suppress criticism of the Government. Efforts to establish a Truth and Reconciliation Commission have been initiated, however the body is not yet operational. Likewise, the National Commission for Human Rights and Fundamental Freedoms was established in 2017 and is operational, but lacks adequate resources to carry out its mandate. In May 2018, a law was passed on the regulation of the Special Criminal Court, a body composed of national and international judges mandated to try serious crimes committed in the State since 2003.

⁹ E/CN.4/2006/95/Add.5

In its 2018 report, the Committee on Economic, Social and Cultural Rights welcomed the promulgation of an act establishing the National Commission on Human Rights and Fundamental Freedoms in April 2017, as well as the preparation of a draft national policy document on human rights and fundamental freedoms in CAR.¹⁰ The State does not have an explicit policy on human rights defenders or on their protection (though this could be incorporated into the developing national policy document on human rights and fundamental freedoms). The Committee expressed concern, however, at information it received regarding barriers to the exercise of freedom of expression for journalists, radio broadcasters and bloggers, obstructing their participation in the cultural life of the country and the dissemination of a culture of peace. It also noted that provisions within the Labour Code discriminate against foreigners and minors in the enjoyment of their trade union rights, and that Order No. 81/028 gives an excessively vague definition of the powers of requisition in the event of strikes.

3. Implementation of the Declaration

The situation of conflict in CAR has significantly impeded any meaningful advancement in the implementation of the Declaration on Human Rights Defenders. Intermittent developments towards peace, aided by robust collaboration between the UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), Government forces, international partners and civil society organisations, as in early 2017, have frequently been swiftly undone. The independent expert on human rights in CAR, Marie-Thérèse Keita Bocoum, has expressed regret that amid escalating levels of violations in mid 2017, perpetrators remained free and investigations were not being conducted. Widespread impunity for human rights violations are a significant cause for concern and can be linked to the successive crises in the State. In August 2018, the Central African Human Rights League and the Central African Human Rights Observatory, together with international human rights organisations, opposed a general amnesty forming part of the political dialogue.

Access to the internet in CAR is among the lowest on the continent; as such radio and mobile communication including SMS messages are a key medium for the dissemination of information. Human rights defenders, including journalists, face a high level of threat from armed groups. It has been reported that, in 2012, during clashes between the Séléka and the Anti-balaka armed groups, attacks were mounted against human rights defenders, journalists and all those who opposed or denounced Séléka violations. In March and April 2013, the offices of several media outlets, including Le Confident, Radio nationale, private Radio Ndéké Luka, Radio Néhémie and Radio Notre Dame were looted and ransacked following the capture of Bangui by the Séléka. Instances of threats and intimidation towards journalists increased, including by Government officials, and the Minister for the Media was reportedly present during one of the office raids. Leaders of human rights organisations received death threats and many were forced into hiding or exile. On 29 April 2013, independent journalists and members of the media observed a general strike in protest of the threats and intimidation by the Séléka.

During the period of the coup d'état in August 2013, Davy Kpenouwen, managing editor of the Le Pays newspaper was threatened with arrest in connection with his coverage of the "Badica affair" which implicated a diamond firm in financing the ousting of former President

¹⁰ E/C.12/CAF/CO/1

Bozizé. Geoffroy Dotte, managing editor of the *Dernières Minutes*, was kidnapped by Séléka members and interrogated before being released the same day. In September and October 2013, Julien Bella, Maka Gbossokotto and Ulrich Landry, the editors of three Bangui daily newspapers, denounced human rights violations by the Extraordinary Committee for the Defense of Democratic Achievements (CEDAD); for this they were interrogated by CEDAD members, threatened with death and forced to publish retractions in their respective newspapers. In 2014, it was reported that the Government, in collaboration with telecommunication companies, banned SMS messages, effectively curtailing the free sharing of information. This particularly affected journalists who rely on the medium. In 2018, shortly after their arrival in CAR, three Russian journalists who were making a documentary about the presence of Russian mercenaries in the State were murdered by unidentified men near Sibut.

Women human rights defenders have played a key role in increasing stability and reducing sectarian tensions. In the town of Boda, in the course of their work providing protective accompaniment bridging the divide between Christians and Muslims, women defenders have been the target of threats, harassment and physical attacks, including by the chief of the town. “Women are the ones who face the crisis,” said Eiwa Djabou, a Muslim woman human rights defender. Zanetta Zoumara, a Christian colleague of Djabou, was attacked with rocks while she accompanied a Muslim woman in a Christian area.

The Central African Republic has participated in three cycles of the UPR, most recently in 2018. During the second cycle of the review in 2013, the State supported all recommendations bar one, including to ensure an enabling environment for the activities of human rights defenders, journalists and other stakeholders of civil society.¹¹ However, in the context of the ongoing conflict, very little progress has been made on the implementation of the recommendations. The Special Rapporteur sent several communications to CAR between 2006 and 2008; no responses to these communications were received from the State.

4. Issues and Trends

The renewed deterioration of the conflict in CAR presents a significant barrier to the realisation of human rights and to the creation of an enabling environment for human rights defenders. This has been further compounded by the climate of impunity which the State has failed to adequately address. In the context of widespread violence and the pervasive targeting of civilians by armed groups, human rights defenders, including journalists, have often resorted to self-censorship while others have been forced into exile. Many organisations also lack the resources to adequately document human rights violations, which will be vital to future efforts in truth and reconciliation.

The Special Rapporteur commends the State’s efforts within the African Initiative for Peace and Reconciliation in the Central African Republic, and welcomes the appointment of the members of the National Commission on Human Rights and Fundamental Freedoms. He recommends that the State ensure the adequate funding of the National Commission, and hasten the formation and operationalisation of the Truth and Reconciliation Commission. He calls upon the State to take all measures possible to ensure freedom of expression is upheld, and to strengthen the voices of human rights defenders in the peace process. He further urges the State to counter the culture of impunity through the prompt and independent

¹¹ A/HRC/25/11

investigation of human rights violations, ensuring that perpetrators are brought to justice. The Special Rapporteur encourages the State to explicitly address the situation of (including the rights of defenders and their protection) in its new policy on human rights and freedoms within the State.

Chad

1. National Context and Human Rights Defenders

Recurrent bouts of regional conflict involving rebel groups and Government forces have plagued Chad for decades, and conflicts in the neighbouring region, including in Darfur, have further exacerbated tensions.

Following the outbreak of civil war in 2005, the 2006 elections took place amid rebel attacks on the capital. A peace agreement was signed in 2010, however regional conflicts and outbreaks of violence continue; Boko Haram is also active in Chad. President Déby was elected to his fifth presidential term in 2016. The election was noted to be marred by restrictions to freedom of expression, excessive use of force by the State authorities, and enforced disappearances.

Human rights defenders face particularly high levels of risk in Chad and are commonly subject to arrest, judicial harassment and threats by State actors. Armed groups pose a further risk to defenders, in particular, to civil society organisations operating outside the capital. Cases of torture continue to be reported. Defenders who face heightened risk include journalists, bloggers and pro-democracy activists. Homosexuality is illegal in Chad, and is a source of discrimination. A 2014 draft amendment to the penal code sought to introduce homosexuality as a felony offence punishable by up to 15 years in prison, however, this was reduced in the final text to a misdemeanour, resulting in a fine or suspended sentence, which was adopted in 2016. Sexual orientation and gender identity rights defenders are not able to work openly in Chad. Women face high levels of inequality and discrimination, and women human rights defenders report indirect threats levelled at their families as efforts to silence them.

An entry for Chad was included in the 2006 Global Survey, however, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time.¹² The Special Representative noted concern regarding the enjoyment of freedom of expression by human rights defenders in Chad, including the role of the High Council of Communication (HCC) in curbing freedom of expression. She also expressed deep concern regarding the ongoing violence, inter-communal violence and the role of paramilitaries. She further noted a culture of impunity resulting from the poor functioning of the judiciary, and the weakness of national structures and human rights institutions.

2. Legal and Policy Framework

¹² E/CN.4/2006/95/Add.5

Chad is party to most major international human rights treaties; it has signed but not ratified the Optional Protocol to the Convention against Torture, the Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers, and the Convention on the Rights of Persons with Disabilities. It is not party to the Second Optional Protocol to the ICCPR, aiming to the abolition of the death penalty. Chad has not accepted individual complaints or inquiry procedures, with the exception of the individual complaints procedure under the Optional Protocol to the ICCPR, and the inquiry procedure under the Convention against Torture. Chad is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. In 2012, Chad extended a standing invitation to all thematic special procedures.

There is no national law or policy on the protection of human rights defenders, however, constitutional rights of relevance to the activities of human rights defenders include freedoms of opinion and of expression, freedom of the press, freedom of association, and freedom of assembly, demonstration and procession. Per the constitution, these rights may be limited to safeguard public order and good morals. The dissolution of associations, political parties and trade unions by judicial means is permitted. The Commission nationale des droits de l'homme is the national human rights institution; it is accredited "B" status, indicating only partial compliance with the Paris Principles. The 2014 report of the Committee of the ICCPR noted that Chad had not taken the necessary measures to ensure the independence of the Commission with respect to strengthening its mandate and to granting it a sufficiently resourced, autonomous budget.¹³

The media regulator is the HCC, which is comprised of nine members; five of which are appointed in turn by the President, the President of the National Assembly and the President of the Supreme Court, the remaining four being appointed by peers within the media. Freedom of assembly is regulated under Ordinance No. 45/62 and Decree No. 193/620, whereby public assembly is permitted to take place on an authorisation, rather than notification basis. As noted by various sources, this has recurrently been used by State authorities, who have banned public demonstrations or withheld authorisation. Freedom of association is regulated under Ordinance No. 27/62, the provisions of which stipulate fines of 500,000 FCFA and up to one year's imprisonment for operating an unregistered association. Applications for registration must be authorised by the Minister of Interior. The newly introduced Ordinance No. 023/PR/2018 further imposes a blanket ban on "regional or community associations".

Civil society organisations have expressed concern at the change of mandate of the Agence Nationale de Sécurité (ANS) under Decree No. 008/PR/2017, permitting agents of the ANS to arrest human rights defenders for reasons related to national security, to "detect, prevent and anticipate any subversive activity and destabilization directed against the vital interests of the State and the Nation".

In its 2014 report, the Committee of the ICCPR expressed concern at reports of widespread threats against, and harassment and intimidation of, human rights defenders and journalists

¹³ CCPR/C/TCD/CO/2

by the police and security forces, and at the numerous obstacles faced by many human rights defenders in exercising the freedom to demonstrate.¹⁴

3. Implementation of the Declaration

There has been an absence of observable progress on the implementation of the Declaration on Human Rights Defenders in Chad, and no commitment on the part of the Government towards the creation of an enabling environment for human rights defenders. During the second cycle of the UPR in 2014, Chad received six recommendations of relevance to the situation of human rights defenders; the State declined to accept any of these recommendations.¹⁵ Human rights defenders in Chad face an exceptionally high level of threat from both State and non-State actors. It has been noted that social movements and civil society organisations have been accused by Government officials of being “mercenaries”, and of trying to overthrow the government. According to several sources, those identified as leaders have been the target of arbitrary arrest and judicial harassment.

Human rights defenders have criticised the Government for not executing the Criminal Court’s decision of March 2015, regarding the reparations due to victims of Habré-era violations by State security forces. Jacqueline Moudeina, the lawyer representing the victims and the president of the Chadian Association for the Promotion and Defense of Human Rights stated: “It has been three years, and the Chadian government hasn’t even begun to execute the court’s decision... This is a slap in the face to the victims and an affront to the rule of law.”

The Special Rapporteur is deeply concerned that State authorities have increasingly clamped down on freedom of assembly. Citizen movements were active in mobilising to protest President Déby standing for a fifth term in office prior to the 2016 elections, however in March 2016 the Government banned all protests not part of the election campaign. In 2017, at least six protests are reported to have been banned, and in the period 2014-16 more than 65 associations were denied permission to organise a protest. Many defenders involved in peaceful public assembly have been arrested and sentenced on spurious charges for their participation. As reported by various sources, the excessive use of force by State security agents has resulted in numerous deaths; in February 2017, two students under the age of 18 were killed in separate incidents while participating in peaceful protests.

In April 2017, the arrests of the leaders of the citizen movement IYINA, Nadjo Kaina and Bertrand Solloh, by agents of the ANS followed their call to citizens to mark the anniversary of Déby’s re-election by wearing red in protest against corruption and impunity. They were held incommunicado before being transferred to the custody of the judicial police and charged with attempted conspiracy and organizing an unauthorized gathering; they each received a suspended sentence of six months. The high presence of security forces prevented protests from taking place in opposition to the revisions to the constitution, which were adopted in April 2018. In August 2018, a march organised by the Syndicat de médecins du Tchad to protest the appointment by the Government of certain individuals to technical positions within the Ministry of Public Health was also banned.

Freedom of expression and freedom of the press are severely restricted, with limited space for independent media outlets to operate. Particular concerns have been raised regarding

¹⁴ CCPR/C/TCD/CO/2

¹⁵ A/HRC/25/14

journalists and bloggers, who face heightened risk for critical reporting of the Government. The State has been reported to block access to the internet at key political moments; in the run up to the 2016 elections, and also at times of public mobilisation by social movements, citizens in Chad recurrently found themselves blocked from certain sites and from the use of SMS and internet messaging applications. Blocks were also implemented during 2018. Nadjo Kaina, spokesperson for IYINA reflected that “the government sees debates on social networks that are not in their favour. This is a way to prevent youth from expressing themselves freely. This reminds us of the 2016 presidential election”. Human rights defenders took legal action against two telecommunications firms regarding the restrictions; the court heard that the firms were acting on the instruction of the regulatory body and rejected the case. Radio stations require a licence to operate, for which the fee is 5 million FCFA, posing a significant barrier. The HCC has also ordered the closure of radio stations and confiscated newspaper print runs.

In July 2015, Djerlar Minkeol, a land and environmental rights activist and director of Association Ngaoubourandi was sentenced to two years imprisonment and a fine, charged with “insulting the judiciary” after giving a radio interview in which he condemned corruption among judicial officers. In February 2016, Eric Kokinague, of the Tribune Infos newspaper, reported to have received more than a dozen anonymous threatening calls from different numbers, following the publication of an article critical of the President. In September 2016, blogger Tadjadine Mahamat Babouri, who is known as Mahadine, was arrested by the ANS after he posted videos criticising the management of public funds. He was detained incommunicado without access to a lawyer. He reported being tortured, and was charged with “undermining constitutional order, territorial integrity and national security, and intelligence with an insurrectional movement”. In August 2018, the High Authority for Media and Broadcasting ordered the closure of the weekly newspaper Al-Chahed after it published an article linking foreign States to the rebel forces active in northern Chad; the ban on grounds of “plagiarism” and “spreading false news” came after the embassies of the implicated States lodged a complaint.

Chad has engaged in three UPR cycles, most recently in 2018. The Special Rapporteur is concerned by the absence of political will on the part of the State to take steps towards the implementation of recommendations. In recent years, the Special Rapporteur has sent communications to Chad regarding the case of Maoundoe Declador, held incommunicado in 2017, and the cases of Mahamat Nour Ahmed Ibedou, Younous Mahadjir, Nadjo Kaina Palmer and Céline Narmadji, arrested in 2016 in connection with their legitimate human rights work. He sent a further communication in 2016 regarding allegations of enforced disappearances, arbitrary arrests and detentions, cruel, inhuman and degrading treatment and violation of the rights to freedom of peaceful assembly and freedom of expression committed by the State security and defence forces. No response to these communications was received from the State.

4. Issues and Trends

The Special Rapporteur is deeply concerned by the situation of human rights defenders in Chad and the deterioration conditions for the exercise of rights and freedoms elaborated in the Declaration. He is troubled by the introduction of new legal restrictions and the excessive powers held by the regulatory bodies. He is also concerned by reports that the repression of freedom of assembly is widespread, and that those who seek to speak out and to hold the

Government to account risk severe reprisals. The Special Rapporteur calls on Chad to reverse this trend and initiate steps to begin implementing the Declaration on Human Rights Defenders.

The Special Rapporteur urges the Government to uphold constitutional protections for human rights and amend national legislation which may intentionally or inadvertently restrict the legitimate activities of human rights defenders, in conformity with its international obligations. He calls upon the State to constructively engage with and seek to implement the recommendations arising from the UPR process. Further, the Special Rapporteur recommends that Chad take steps to further educate State authorities on the rights of human rights defenders, including journalists, and to ensure the proportionate use of force. He urges the State to address impunity through the prompt and independent investigation of human rights violations, ensuring that perpetrators are brought to justice.

Côte d'Ivoire (Ivory Coast)

1. National Context and Human Rights Defenders

From 2000-2011 Côte d'Ivoire suffered a series of crises including civil war, which began in 2002 and was declared over in 2007 following the agreement of a power-sharing peace deal between the Government and New Forces rebels which held the northern states. President Alassane Ouattara took office in 2011; the election result was contested by former President Laurent Gbagbo, leading to further outbreaks of violence. Gbagbo is currently standing trial at the International Criminal Court for crimes against humanity committed during the 2010-2011 post-election crisis; around 200 of his supporters remain in detention awaiting trial on charges related to the post-electoral violence.

Issues for defenders largely arise from the after effects of the prolonged violence, conflict and political unrest from which Côte d'Ivoire is still recovering. Isolated cases of politically motivated violence persist. A Commission on Dialogue, Truth, and Reconciliation was established in 2011 and concluded its mandate in 2014, however no final report was ever made public. UN Peacekeeping Forces left Côte d'Ivoire in 2017. Côte d'Ivoire has made significant commitments to the protection of human rights defenders since regaining stability, including through the implementation of legislation to this effect. Civil society is vibrant and largely free to operate. Defenders, including women, journalists and those working on sexual orientation and gender identity rights are most at risk, as are those who voice political opposition. Some instances of restrictions to freedom of assembly and expression have continued into recent years, despite the positive attitude of the State towards fundamental freedoms.

Côte d'Ivoire was included in the 2006 Global Survey, during which time human rights defenders faced significant challenges relating to the ongoing internal conflict.¹⁶ Issues noted by the Special Representative included lengthy detention without trial, poor prison conditions, the persecution of women and children, weak investigative processes for violations committed against defenders, and lack of accountability, particularly in relation to

¹⁶ E/CN.4/2006/95/Add.5

military officials. Furthermore, concerns were raised around the lack of protection for journalists and bloggers, and discrimination against those defending sexual orientation and gender identity rights.

2. Legal and Policy Framework

Côte d'Ivoire has ratified most major human rights treaties, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and the Convention for the Protection of All Persons from Enforced Disappearance. It is not party to the Optional Protocol to the Convention against Torture or the Second Optional Protocol to the ICCPR, aiming to the abolition of the death penalty. It has accepted individual complaints procedures under the Optional Protocol to the ICCPR, individual complaints and inquiry procedures under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and inquiry procedures under the Convention against Torture. It is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights.

In 2015, the Human Rights Committee expressed concern about reports of assaults on freedom of association and assembly involving prohibitions on demonstrations by certain opposition political parties and non-governmental organizations, as well as reports of threats and acts of harassment and intimidation against human rights defenders.¹⁷ The Committee noted that such infringements were not always followed by investigations, prosecutions, convictions and punishment of the perpetrators.

Côte d'Ivoire is the first African State to have adopted legislation that specifically promotes and protects the rights of human rights defenders. The Ivorian Government adopted a decree in February 2017 to implement the Law on the Promotion and Protection of Human Rights Defenders. Côte d'Ivoire's positive example is believed to have produced a positive impact on several countries in the region where engagement from civil society or government institutions has resulted in reflection on adoption of similar legislation. The 2016 Constitution offers protections for a wide range of human rights including freedoms of assembly and expression. In 2017 the introduction of a new media law which included heavy fines and as much as five years in prison for certain press violations was withdrawn due to the vocal objections of human rights defenders and civil society. In December 2017, the revised law was passed, containing a key provision stating that no grounds are admissible for detaining journalists. However, spreading false news, offending the President and defamation were included as violations.

The Commission nationale des droits de l'homme (CNDHCI), the national human rights institution, is accredited "B" status, in accordance with the Paris Principles, and is noted to lack sufficient resources to fund its activities and operate independently. Several further institutions are linked the protection and promotion of human rights work, including the Ombudsman, the National Media Council (CNP) and the High Audiovisual Communication Authority (HACA), the Constitutional Council, the Supreme Court and the High Authority on Good Governance. Concerns have been raised about the adequacy of the Ivorian judicial system to prosecute past human rights violations, including with regard to the initial acquittal of former First Lady Simone Gbagbo; this decision was appealed and she was subsequently sentenced to 20 years before being pardoned in August 2018 by President Ouattara, among

¹⁷ CCPR/C/CIV/CO/1

800 individuals accused of or convicted of crimes related to the 2010-11 crisis or subsequent attacks against the state.

3. Implementation of the Declaration

Côte d'Ivoire has made significant and positive steps towards implementing the Declaration on Human Rights Defenders in recent years, most clearly in its adoption of legislation to promote and protect the rights of human rights defenders. The Special Rapporteur highly commends the example set by Côte d'Ivoire in this regard. The prevalence of arbitrary arrests, ill-treatment of detainees, and extrajudicial killings has reduced in recent years, yet some challenges regarding the implementation of the Declaration remain. The Special Rapporteur notes with concern the decision in August 2018 to grant amnesty by presidential decree, to 800 individuals accused of or convicted of crimes related to the 2010-11 crisis or subsequent acts of anti-state violence, among whom may be individuals responsible for serious human rights violations, including war crimes and crimes against humanity. This decision undoes the efforts of the State and the judiciary over the past seven years to bring perpetrators to justice.

Freedom of assembly is guaranteed under the constitution. However, as noted by various sources, permits may be required and State authorities have applied restrictions and forcibly dispersed peaceful gatherings. In 2017, three opposition politicians received disproportionate sentences of 30 months imprisonment in relation to their participation in a banned opposition rally in May 2015. In 2017, three peaceful protests led respectively by cocoa planters, former soldiers and students were met with repression by police, including violence by State authorities towards protestors, the use of tear gas and rubber bullets. Participants of the soldiers' protest held in July 2017 were charged for disruption of public order for participating in an unauthorised protest. 40 students involved in a protest were also arrested in September 2017 and charged with disruption of public order before being provisionally released after 20 days detention. Further, members of a teachers' union were demoted and relocated to remote areas following their participation in a series of strikes which took place in January 2017.

Homosexuality is legal in Côte d'Ivoire, making it one of a minority of African countries which does not criminalise homosexuality. Attitudes vary depending on region and tolerance is greater in large cities such as Abidjan, however sexual orientation and gender identity remain a source of discrimination and defenders report periodic harassment, including from State authorities. In 2014 the Abidjan headquarters of Alternative Côte d'Ivoire, an organisation working to defend the rights of sexual minorities, was ransacked by a mob of 200 people. Police were slow to respond and in such cases, high levels of impunity for crimes against sexual orientation and gender identity rights defenders have been cited with no legal protections in place. A member of the organisation, Claver Touré, also had his home attacked during the same week.

Women defenders are generally free to operate, but face a heightened risk of gender-based violence, and can be limited by strong cultural beliefs that women's place is in the home. Some have reported that male human rights defenders do not accept their work and place within the field of human rights. Positively, however, the legislation adopted on the protection of human rights defenders includes explicit provisions regarding women human rights defenders, which can be regarded as a good practice.

Freedom of expression is somewhat constrained. As reported by various sources, on 12 February 2017, six journalists were arrested and detained in Abidjan for their coverage of mutinies. They were charged with “publishing false news” and “inciting soldiers to mutiny” and detained for two days without access to a lawyer. Several pro-opposition newspapers were also temporarily suspended.

Côte d’Ivoire has been reviewed twice under the UPR process. In 2014, civil society submissions recommended that an invitation to visit be extended to the Special Rapporteur.¹⁸ They also noted intimidation, harassment and attacks on defenders at the hands of the Ivorian military, as well as arbitrary arrests and detention. Czechia recommended that the State swiftly adopt the law on the protection of human rights defenders, which was supported and has since been implemented.¹⁹ There have been no recent communications by the Special Rapporteur to Côte d’Ivoire.

4. Issues and Trends

Since the previous Global Survey, Côte d’Ivoire has emerged from a sustained period of political unrest and violence, culminating around the 2010-11 elections. Efforts since then to establish and maintain stability have significantly improved the situation of human rights defenders in Côte d’Ivoire, as has the implementation of legislation to promote and protect the rights of human rights defenders. Some issues persist and military factions continue to carry out mutinies in allegiance with the current and former Presidents. Crimes carried out during the 2010-11 period, especially against defenders, have often been left unresolved and treated with impunity; this situation has become more concerning in light of the amnesty issued by President Ouattara, which has significantly set back efforts to bring perpetrators of gross human rights violations to justice.

The Special Rapporteur commends the actions taken by Côte d’Ivoire towards the creation of an enabling environment in which human rights defenders can freely carry out their legitimate activities in the defence and promotion of human rights. The Special Rapporteur recommends Côte d’Ivoire take action to ensure that violations against defenders are investigated thoroughly and impartially so that perpetrators can be brought to justice. He calls upon the Government of Côte d’Ivoire to strengthen protections for defenders who face heightened risk, including women and defenders of sexual orientation and gender identity rights. Further, he advises that the State uphold its commitments to freedom of expression by amending legislation on press regulations in line with international standards and revising excessive penalties for press violations.

Democratic Republic of the Congo

1. National Context and Human Rights Defenders

The Democratic Republic of the Congo (DRC) has experienced significant conflict, including long spates of civil war (1996-2003) also involving neighbouring States, and political and ethnic conflict regionally which continues today. The ongoing conflict has led to the mass

¹⁸ A/HRC/WG.6/19/CIV/3

¹⁹ A/HRC/27/6

internal displacement of over 4.5 million people, predominantly from the Kasai, Tanganyika and Kivu regions, with over 735,000 Congolese having fled to neighbouring countries. State infrastructure, including the healthcare system, is severely diminished following decades of conflict. Human rights violations linked to the conflict are widespread, including physical mutilation, killings, sexual violence, arbitrary arrest and detention in inhumane conditions. The conflict has been exacerbated by ethnic tensions, competition for access to the State's wealth of natural resources and foreign involvement. Political violence is perpetrated by both State and non-State actors; these include the army, with a number of regiments particularly notorious, resistance movements, paramilitaries, State-sponsored organisations, corporations and individuals.

Human rights defenders in the DRC work under extremely hostile conditions, and many defenders number among those who have been displaced or forced to flee. Some Congolese defenders have noted that they seek to continue their work in exile, but face new and additional challenges in doing so. Democracy activists, journalists and those who speak out against the government are particularly at risk. Women human rights defenders are at heightened risk of gender-based and sexual violence, which is commonly used in the context of the conflict. As detailed below, environmental human rights defenders working as rangers in the Virunga National Park face extreme violence and many have lost their lives at the hands of paramilitaries and smugglers. The Special Rapporteur is concerned by reports that State actors, including the police, intelligence services and judiciary continue to crack down on defenders and restrict their rights to freedom of expression, association and peaceful assembly. In recent years, defenders including journalists have suffered harassment and intimidation, arbitrary arrest and killings.

An entry for the DRC was included in the 2006 Global Survey.²⁰ The Special Representative noted the presence of a large number of CSOs and the positive contribution of the Comité national des droits de l'homme (CONADHO) as a focal point for their organising. She commended the human rights provisions set out in the Interim Constitution (2003), but raised grave concerns regarding ongoing human rights violations in the State, including cases of summary execution, torture, violence, sexual abuse and the use of child soldiers. In this context, she noted the high level of risk faced by defenders in the DRC and the limited protections available to them.

2. Legal and Policy Framework

The DRC has ratified most major human rights treaties, with the exception of the Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers, and the Second Optional Protocol to the ICCPR, aiming to the abolition of the death penalty. The DRC has accepted individual complaints procedures under the Optional Protocol to the ICCPR, inquiry procedures under the Convention against Torture, and individual complaints and inquiry procedures under the Convention on the Rights of Persons with Disabilities. The DRC is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of the Southern African Development Community. The National Human Rights Commission is the national human rights institution, which is accredited "A" status in accordance with the Paris Principles.

²⁰ E/CN.4/2006/95/Add.5

Human rights in the DRC are enshrined in the Bill of Rights which is contained in the 2006 Constitution and is modelled on the African Charter on Human and Peoples' Rights. Within it, key provisions necessary to the work of human rights defenders include the right to freedom of opinion and expression, the right to freedom of the press, the right to freedom of association, and the right to freedom of assembly. In particular, the new Constitution revises the principle of pre-required authorisation to hold public demonstrations, replacing it with the principle of pre-required notification. Further, Article 215 provides that duly ratified or approved international instruments, once published, take precedence over national legislation. The 2001 Decree-law No. 004 governs the exercise of the right to freedom of association for NGOs, including those working for the promotion and protection of human rights.

There are no existing constitutional provisions or national laws on human rights defenders or the State's obligation to protect them, and in its submission to the 2018 World Survey, the National Human Rights Commission noted that present legal provisions are insufficient to guarantee the rights of human rights defenders and to create an enabling environment in which they can carry out their work. The submission also notes the creation in law of two bodies to further the protection of human rights defenders: l'Entité de Liaison des droits de l'homme in 2009, and la Cellule de protection des défenseurs des droits de l'homme in 2011. However, as noted by the National Human Rights Commission, regrettably these institutions exist in name only and have not been supported to become functional.

Three draft bills with implications for human rights defenders are currently in progress: a bill on the protection of human rights defenders, a bill on the regulation of NGOs, and a counter terrorism bill. Each contains worrying and restrictive measures; it has been noted that, taken together, the proposed legislation could significantly impede the role of human rights defenders and wider civil society. In particular, the Special Rapporteur is concerned that certain provisions in the NGO Bill, some of them overly vaguely worded, impose burdensome and discretionary administrative requirements for registration of associations, and do not incorporate judicial control over the procedure. Furthermore, the Bill includes restrictions on access to domestic and foreign funding and on the possibility for foreign organisations to engage in "political activities". In its submission to the 2018 World Survey, the National Human Rights Commission expressed concern that this draft bill aims at controlling the activities of human rights defenders, including their sources of funding and the content of their reports.

While the Special Rapporteur welcomes measures that seek to incorporate the protection of human rights defenders into national law, he is deeply troubled that the current draft bill on the protection of defenders significantly narrows the definition of a human rights defender according to discriminatory criteria, including age, qualifications and professional training. It seeks to restrict provisions to those defenders working in formal and organised structures, thereby excluding the many defenders working informally in the defence and promotion of human rights. Furthermore, it applies restrictions and burdensome administrative requirements on such organisations. The Special Rapporteur calls on the DRC to revise these draft laws in line with the Declaration on Human Rights Defenders, incorporating legal recognition and protection for all those who engage in the promotion and defence of human rights.

The Human Rights Committee noted concern in its 2017 report that the National Human Rights Commission received only 30 percent of the budget allocated to it by law and that no funds had been provided to it since March 2017.²¹ It also noted that the Commission does not have any regional offices outside of Kinshasa and that it is not perceived as a fully independent body. The Committee also expressed concern regarding the closing down of public space through suspensions of social media and of television programmes and the jamming of radio broadcasts. It noted allegations of the detention of journalists in order to prevent them from covering specific events, including in September 2016 when excessive force was used to disperse demonstrations resulting in deaths and injuries, as well as judicial harassment, threats and abuses against media professionals, human rights defenders and political opponents.

3. Implementation of the Declaration

There are concerns over the steps taken by the DRC towards implementing the Declaration on Human Rights Defenders, as well as the grave violations faced by defenders who exercise their right to freedom of expression and assembly. The Special Rapporteur is troubled by the terms of the proposed legal instruments, which purport to be for the protection of human rights defenders, but if passed into law will pose a significant threat to the ability of defenders to carry out their work and have a chilling effect on civil society more broadly. Concerns have been raised that the proposed laws represent an effort to stifle dissenting voices in the DRC, and have emerged as part of a wider crackdown by authorities on those who speak out in the defence of human rights.

Since the beginning of 2015, the situation of defenders in the DRC has seriously deteriorated. Proposed changes to the electoral law, which indicated that President Kabila might attempt to stay in office beyond the end of his second term, sparked a wave of protests beginning in January 2015. These protests were brutally suppressed by security forces and more than 35 protestors were killed. Largely peaceful protests have been repeatedly met with excessive and disproportionate use of force by State authorities, including lethal force.

It has been reported that, during four days of protests in December 2016, security forces killed at least 62 people and arrested hundreds more. Between 2015 and 2016 a total of at least 171 people were killed during protests, with a further 47 people being killed between 1 January 2017 and 31 January 2018. Present indications suggest that State security services have attempted to cover up these serious human rights violations by removing the bodies of victims and obstructing the work of national and international observers. The former High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, expressed concern about the atmosphere of impunity in which this violence towards human rights defenders has been carried out and the "quashing of dissent at all costs".

Increasing restrictions to fundamental rights and freedoms coupled with inflammatory speeches and threats against demonstrators are cause for deep concern. It has been reported that, in 2017, over 300 human rights defenders, including members of the opposition, pro-democracy activists and around 40 journalists were arrested or detained. While most were later released, many had been detained in secret locations without being charged and with no access to family or lawyers. Adequate recourse to justice with the DRC is rare. It has been observed that, during the same year, the government intermittently blocked social media

²¹ CCPR/C/COD/CO/4

access and shut down Congolese media outlets. The international radio broadcaster, Radio France Internationale, had its signal blocked for ten months until August 2017, after being accused of showing sympathies with opposition rallies.

The death of the democracy activist and leader of the group Lutte pour le Changement (LUCHA), Luc Nkulula, in a house fire on 10 June 2018 has sparked allegations of State involvement. Many members of LUCHA and Filimbi, both youth-led pro-democracy movements, have been targeted with judicial harassment and criminalisation, including arrest, spurious charges and detention, which have been the subject of a communication by the Special Rapporteur in 2016. In 2015, LUCHA had its operations suspended by the city mayor on administrative grounds following anti-government protests. Reflecting on Nkulula's death, Juvin Kombi, a member of LUCHA commented: "Does that mean we've lost hope to continue the battle? Not at all, because the water Luc gave us is the same water we'll use to carry on the struggle".

Particular concerns have also been raised regarding environmental rights defenders, who face exceptional risks in their work. It has been noted that, in the space of ten months in 2017-18, twelve rangers in the Virunga National Park were killed by paramilitaries and smugglers. In one incident, Rachel Makissa Baraka, a park ranger, was killed and the driver wounded after their vehicle was attacked by members of the Mai Mai militia. In September 2013, Rodrigue Mugaruka Katembo, a ranger who has been responsible for documenting widespread corruption by a British-owned oil company in the park was arrested and detained illegally for 17 days where he was subjected to torture and mock executions.

In March 2017, Michael Sharp and Zaida Catalan, members of the UN Group of Experts on the Democratic Republic of the Congo, were found to have been summarily executed. Their bodies were recovered outside of the city of Kananga in the Kasai-Central province where they were conducting investigations into human rights abuses. The Security Council has reiterated the need for the Government of the DRC to fully investigate the killing of the two members of the Group of Experts and bring the perpetrators to justice.

In its submission to the 2018 World Survey, the National Human Rights Commission also pointed out the current stigmatisation of human rights defenders in the DRC and the lack of value attached to their work, including by politicians.

The DRC has participated in two UPR cycles, in 2009 and 2014. The Special Rapporteur also conducted a country visit to the DRC in 2009. During the most recent cycle of the UPR, the State supported, or noted as already in implementation, nine of 13 recommendations relating to human rights defenders, including in relation to implementing a law on the protection of human rights defenders and extending an invitation to the Special Rapporteur for a second country visit.²² In 2018, the Special Rapporteur was pleased to receive an invitation from the State in this regard, and he hopes that the visit will take place in 2019. The Special Rapporteur has sent numerous communications to the DRC, including in relation to cases of extrajudicial killing, arbitrary arrest and detention, torture, restrictions to the right of peaceful assembly and excessive use of force, and the prohibition of demonstrations. Many communications have received no response from the State; the Special Rapporteur reiterates the importance

²² A/HRC/27/5

of State responses to his communications and urges the DRC to increase its engagement with the mandate in this regard.

4. Issues and Trends

Human rights defenders in the DRC, in particular pro-democracy and opposition activists, as well as journalists and environmental rights defenders, conduct their work in an extremely hostile environment. As noted by numerous sources, those who seek to peacefully exercise the rights to freedom of assembly and expression are frequently met with brutal crackdowns by the State; large numbers of defenders have been arrested and arbitrarily detained, and a great many have been killed when State security forces have used lethal force against demonstrators. NGOs have been targeted with administrative and judicial harassment and proposed laws threaten to place serious constraints on the functioning of civil society. The Special Rapporteur expresses his concern at the continuing deteriorating situation of human rights defenders in the DRC and urges the government to take swift action to ensure that freedoms are upheld, in particular with regard to the upcoming elections.

The Special Rapporteur recommends that the DRC urgently revise proposed domestic legislation, including the bill on the protection of human rights defenders, the bill on the regulation of NGOs, and the counter terrorism bill in line with its obligations under international law, in particular the Declaration on Human Rights Defenders. The Special Rapporteur calls upon the DRC to bring an immediate end to the excessive use of force, including lethal force, by State security agents to suppress the legitimate actions of human rights defenders in the context of public demonstrations. Further, the DRC must investigate and bring to justice the perpetrators of violations against human rights defenders, including with regard to the deaths of Luc Nkulula, Michael Sharp and Zaida Catalan.

Equatorial Guinea

1. National Context and Human Rights Defenders

Civil society space is extremely limited in Equatorial Guinea, and reports show that human rights defenders are threatened, stigmatized, harassed, and subject to arbitrary arrest and detention. It has been noted that media outlets are strictly controlled by the government, and that criticism of the President and ruling party is practically impossible. Civil society organisations face strict and cumbersome registration procedures. The government has also been observed to conduct surveillance both online and offline. There are concerns about corruption amongst the police, military and judiciary and about impunity for violations.

Equatorial Guinea was included in the 2006 Global Survey.²³ The Special Representative noted the lack of local NGOs monitoring the human rights situation in the State, as well as the concerns by local NGOs of the lack of financial support from their government, corruption amongst officials, and strict regulation of their activities. She also noted restrictions on the freedom of movement allegedly caused by numerous military barriers, the imposition of visas to leave the country, and the practice of political confinement.

²³ E/CN.4/2006/95/Add.5

2. Legal and Policy Framework

Equatorial Guinea is party to most of the major international human rights treaties, with the exception of the Optional Protocol to the Convention against Torture, the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) aiming to the abolition of the death penalty, the Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and the Convention on the Rights of Persons with Disabilities. It has accepted two individual complaints procedures – under the Optional Protocol to the ICCPR and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It has also accepted one inquiry procedure, under the Optional Protocol to CEDAW. Equatorial Guinea is a member of the African Union and has ratified the African Charter on Human and Peoples’ Rights.

The Constitution of Equatorial Guinea guarantees the right to freedom of association and assembly and the right to strike. Law No. 1/1999 on the Regime of NGOs governs the registration of civil society organisations, imposing cumbersome registration requirements. In particular, civil society organisations are required to inform the Ministry of Interior if they receive donations of more than 50,000 FCFA (approximately USD 100). The Law on Trade Unions, 1992, recognizes the right to form and belong to trade unions. However, it has been noted that its restrictive provisions in practice impede trade unions from registering and representing members. For example, it requires trade unions to have at least 50 members from the same workplace and geographical region, but few companies employ such large numbers of staff. The Press, Printing and Audiovisual Law (Law No. 6/1997) recognizes the right of the media to receive and publish information, but in practice, these rights are restricted, for example, if the information published is considered “defamatory”. The Criminal Code contains provisions for libel and defamation. The National Human Rights Commission is the national human rights institution in Equatorial Guinea, however it is not accredited as compliant with the Paris Principles.

In 2012, the Committee on Economic, Social and Cultural Rights expressed concern regarding reports that human rights activists were subjected to intimidation and harassment.²⁴ Also in 2012, the Committee on the Elimination of Discrimination against Women noted the recent establishment of the Ombudsman (Defensor del Pueblo) in the Constitution and expressed concern regarding his independence, as the Constitution states that the Ombudsman forms part of the State party’s apparatus.²⁵ It also noted concern at the lack of information on the human and financial resources allocated to his office.

3. Implementation of the Declaration

Equatorial Guinea has not passed any laws, policies or practices that recognize and protect the rights of human rights defenders. During the review of Equatorial Guinea through the Universal Periodic Review process in 2014, the inability of human rights defenders to act freely and independently was raised along with the systematic reprisals against them.²⁶

²⁴ E/C.12/GNQ/CO/1

²⁵ CEDAW/C/GNQ/CO/6

²⁶ A/HRC/WG.6/19/GNQ/3

Stakeholders also highlighted that human rights defenders were routinely harassed, risked losing their jobs or professional licenses, and were subject to arrest and conviction for spurious charges. They noted that civil society organisations were subject to legal restrictions that impeded their activities and freedom of association. States recommended that Equatorial Guinea adopt measures to allow journalists, human rights defenders, and other civil society actors to carry out their operations unhindered and to facilitate the legal recognition of NGOs and human rights defenders.²⁷ The prosecution of those subjecting human rights defenders to threats and intimidation was also recommended.

The Special Rapporteur is concerned by reports that human rights defenders are targeted for their actions. In October 2018, Alfredo Okenve, one of the Vice Presidents of the Center for Development Studies and Initiatives (CEID) was brutally attacked by unknown men and abandoned in a lonely area outside the city of Bata. He and a fellow defender, Enrique Asumu, had been previously detained unlawfully in Malabo for objecting when Enrique Asumu was prevented from boarding a plane. They were both released after paying fines. In March 2016, the Ministry of Interior ordered CEID to suspend its activities, threatening to impose a fine on Okenve and Asumu for violating this order.

A number of instances of defenders being subject to arrest, arbitrary detention, judicial harassment and criminalization have also been reported. In September 2017, cartoonist Ramón Esono Ebalé was arrested and detained along with two others and questioned by the Office against Terrorism and Dangerous Activities for his cartoons. He was publicly accused on national television of leading an organization that engaged in money laundering and counterfeiting money. In November, after 82 days, he was charged with counterfeiting money and kept in detention for five months. In May 2017, rapper Benjamín Ndong (also known as Jamin Dogg) was arrested for releasing a song that supported striking taxi drivers and was critical of government intimidation. He was released without charge on the same day. In January 2017, activists Anselmo Santos Eko Anvom and Urbano Elo Ntutum, members of CPDS, were arrested in Bata as they distributed flyers for an event on the electoral census. They were interrogated, detained at a police station, and accused of attempting to disrupt public activities.

In February 2012, doctor and human rights defender Wenceslao Mansogo was arrested and subsequently convicted in May for professional negligence in a trial that was suspected to be politically motivated. He was sentenced to three years of imprisonment, had his medical license revoked, had his health clinic closed, and was required to pay money to the family of the patient to which the case referred, as well as a fine to the government. Arrested along with him was a nurse working with him, Asuncion Asumu Mangue. Both were pardoned by the President in June 2012 after international pressure. The Working Group on Arbitrary Detention opined in August 2012 that his detention was arbitrary and that he should be compensated for the harm caused by the detention.²⁸

Concerns have also been raised regarding the freedom of assembly and association, which is severely restricted in Equatorial Guinea. It has been noted that people are denied the right to organize into groups and associations to assert their rights, and that civil society organisations are targeted by State authorities, creating a climate of fear. Some organisations are refused

²⁷ A/HRC/27/13

²⁸ A/HRC/WGAD/2012/31

legal recognition, thus making them open to government harassment. In May 2017, taxi drivers called for a three-day strike in Malabo to protest against the high prices of permits and papers. It has been reported that at least 17 people were arbitrarily arrested; some were subject to beating and left in need of medical assistance. They were released around one week later without charges. In March 2017, the police arrested 47 women, 12 men and four children at a training session for International Women's Day at the office of the opposition party, Convergencia para la Democracia Social (CPDS), in Mbini. Some were beaten at the police station; all were released on the same day.

Journalists have also been harassed and arbitrarily arrested for their work. In June 2017, Justo Enzema, Samuel Obiang Mbana and nine other journalists were arrested at a press conference organized by a coalition of opposition parties at the CPDS headquarters. As one of the few citizens working for foreign-based media agencies, Samuel Obiang Mbana is viewed with suspicion by the authorities, and had been previously arrested on several occasions.

Equatorial Guinea has engaged in two cycles of the UPR process; most recently in 2014, the State received six recommendations relevant to the situation of human rights defenders.²⁹ Of these, five were accepted by the State, however little progress has been observed in their implementation. In 2012, the Special Rapporteur sent a communication to Equatorial Guinea, regarding the alleged arbitrary detention of a lawyer and human rights defender, Fabián Nsue Nguema, a member of the opposition party Unión Popular. The Special Rapporteur expressed concern that Nguema's detention was linked to his legitimate human rights work representing political prisoners. No response was received from the State.

4. Issues and Trends

Equatorial Guinea has largely failed to improve the situation for human rights defenders since the 2006 Global Survey. Human rights defenders are subject to intimidation, threats, and attacks. Civil society organisations are not free to operate independently. The Special Rapporteur urges Equatorial Guinea to enact laws, policies and practices that recognize and protect the rights of human rights defenders, and to cease from harassing and criminalizing them. He calls on Equatorial Guinea to ensure that crimes committed against human rights defenders are investigated promptly and impartially, and that perpetrators brought to justice. The Special Rapporteur recommends the State review, amend, and repeal laws that restrict the right to freedom of opinion, expression, association and assembly and take measures to ensure that human rights defenders can exercise these rights without interference.

Gambia

1. National Context and Human Rights Defenders

In December 2016, Adama Barrow defeated the incumbent of 22 years, Yahya Jammeh in the State's first democratic transition of power. A severe crackdown on civil society, including political opposition and human rights defenders preceded the election. International

²⁹ A/HRC/27/13 and A/HRC/27/13/Add.1

observers and post-election demonstrations were banned, and the internet was blocked. Jammeh initially conceded, but later contested the result of the election and refused to step down. A military intervention by members of the Economic Community of West African States (ECOWAS) averted further escalation and negotiated Jammeh's departure; during this time more than 45,000 people fled to neighbouring States, primarily Senegal, fearing the outbreak of violence. President Barrow was sworn in on 20 January 2017.

During Jammeh's 22 years in power, human rights defenders faced significant threats including arbitrary arrest, detention without charge, enforced disappearances, extrajudicial killings, and legal interferences that limited freedom of expression, freedom of the press, and freedom of assembly. In the face of severe threats, many defenders were forced into exile. Human rights defenders at heightened risk included journalists, political activists, women human rights defenders, academics and students, religious leaders, environmental rights defenders and union members.

Homosexuality is criminalised and a source of public discrimination; there are no civil society organisations or public support networks visibly working on sexual orientation and gender identity rights. Disproportionately low literacy rate among women and girls and patriarchal cultural norms impede the work of women human rights defenders and adversely affect their enjoyment of rights. Since the transition of power, defenders have experienced some opening of civic space, including in their ability to exercise basic freedoms with reduced fear of reprisals. However, tangible efforts to strengthen protections for defenders and civil society more broadly have not yet materialised. Many fear that little has changed under the new Government, and officials who instigated violations against defenders under Jammeh remain in post.

An entry for the Gambia was included in the 2006 Global Survey, however, detailed information on the situation of human rights defenders was not available to the Special Representative at that time.³⁰ Broad concerns were identified relating to limitations on the right of freedom of assembly and freedom of expression. In addition, numerous members of the political opposition and defenders, including independent journalists, were noted to have been arbitrarily arrested and detained without charge for periods of varying length. In many instances these actions were carried out by the National Intelligence Agency (NIA) under decrees issued by the Armed Forces Provisional Ruling Council (AFPRC) that legitimised the practice of detention without charge or trial.

2. Legal and Policy Framework

The Gambia has ratified all of the major international human rights treaties. Under President Barrow, the Gambia has ratified the Convention against Torture, and become party to the Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers, and the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty. The Gambia has accepted individual complaints procedures under the Optional Protocol to the ICCPR, and individual complaints and inquiry procedures under the Optional Protocol to the Convention on the Rights of Persons with Disabilities. The Gambia is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of ECOWAS and the Community of Sahel-Saharan States. In February 2018 under President Barrow, the

³⁰ E/CN.4/2006/95/Add.5

Gambia reversed a previous order to withdraw from the Rome Statute of the International Criminal Court; it has also renewed membership of the Commonwealth Charter, following withdrawal in 2013, which reaffirms commitments to the UDHR and other relevant human rights covenants and international instruments.

The Constitution includes protections for freedom of expression, freedom of assembly, freedom of the press, and freedom from arbitrary arrest or detention, as well as provisions for an independent judiciary. However, Article 35 (2) of the Constitution, provides for derogation of certain rights during states of emergency, including the right to freedom of thought, conscience and religion and the right to equal recognition before the law, which is not fully compliant with international obligations.

The Gambia does not have a law or national guideline on human rights defenders. Certain provisions of the law limit constitutional protections for freedom of speech and freedom of the press, with implications for the activities of human rights defenders. For example, Section 59 of the Criminal Code regarding the crime of incitement of violence allows for arrest without a warrant. Further, Decree No. 81 of 1996, provides for cumbersome registration procedures for NGOs and the Public Order Act requires police permission for peaceful assembly; this was recently upheld as constitutional by a decision of the Supreme Court. The Anti-Terrorism Act, 2002, is overly broad and fails to differentiate between terrorist crimes and ordinary crimes; it also lacks information on the application of the Act.

President Barrow has promised constitutional reforms to restore protection of fundamental freedoms. Since the transition of power, the Gambia has taken steps to deal with the abuses of the past and to reinstate democratic institutions in the State. These include the release of political prisoners; the establishment of the Constitutional Review Commission as well as the progress made with regard to the establishment of the Truth, Reconciliation and Reparation Commission and the National Human Rights Commission; and various legislative and sectoral reform processes, including in the judicial, law enforcement and security sectors. However, progress has not yet been made on appointing members of the Truth, Reconciliation and Reparation Commission, nor on establishing its secretariat.

The National Human Rights Commission Act, 2017, provides for the establishment of a national human rights institution, however the establishment of a secretariat and the appointment of members has not yet been effected. The Office of the Ombudsman operates a National Human Rights Unit mandated to promote and protect human rights and support vulnerable groups. The United Democratic Party, the ruling party in the Gambia, has expressed support to repeal the 2014 law which criminalises “aggravated homosexuality”, however this has not yet materialised.

The Human Rights Committee has expressed concern regarding the lack of investigation and prosecution of violations against journalists and human rights defenders exercising their right to freedom of expression, including intimidation, harassment, torture and murder.³¹ It also noted the presence of overly restrictive legislation relating to freedom of expression, particularly laws criminalising libel, sedition and false news and providing for sentences of imprisonment, which have been used to intimidate journalists and restrict the freedom of expression.

³¹ CCPR/C/GMB/CO/2

3. Implementation of the Declaration

Following the transition of power in the Gambia, positive advances have been noted in the implementation of the Declaration on Human Rights Defenders in particular with regard to the ratification of key human rights treaties. However, the Special Rapporteur is concerned by continued reports of persecution of defenders under the present Government, with women human rights defenders, journalists, youth activists and political opponents being particularly vulnerable. He also notes that adequate steps towards the establishment of the National Human Rights Commission and the Truth, Reconciliation and Reparation Commission have not yet been taken. The long history of harsh tactics used against human rights defenders under the previous Government also remain to be addressed.

Under the previous administration, a pattern of judicial harassment and spurious charges against human rights defenders was observed and defenders suffered significant threats and abuses, including arbitrary detentions, torture and extrajudicial killings. In 2012, Isatou Touray and Amie Bojang-Sissoho were convicted of embezzlement, and the Special Rapporteur expressed concern that their convictions may have been related to their work in support of sexual and reproductive health and rights of women and children. Likewise, Abubacarr Saïdykhan and Baboucarr Ceesay, both journalists, were arrested in September 2012 after applying for permits to protest against executions. They were charged with incitement of violence and conspiracy to commit a felony. In 2015, Minah Manneh, a women human rights defender, was arrested for publishing photos online of police brutality against school children.

In the run up to the 2016 elections, the murder of Solo Sandeng, a prominent opposition activist, who died in police custody sparked nationwide protests. It has been noted that more than 90 protestors were arrested, many of whom were subjected to torture; 30 opposition politicians were sentenced to three years imprisonment. Since the change in Government, around 20 NIA staff now face sentences in connection with Sandeng's murder.

Despite positive advances under President Barrow since 2017, defenders continue to have their activities limited. Concerns have been raised regarding heavy handed responses by State security forces to public demonstrations. It has been reported that, in June 2017, a protest led by supporters of former President Jammeh in his birthplace Kanilai, objecting to the presence of ECOWAS troops in the region led to violent clashes. Shots fired by State security forces resulted in the death of one person and five others were injured. 22 people were arrested in connection with the protest and were later released on bail charged with unlawful assembly and incitement of violence. Following the incident, President Barrow stated that he "will not accept...lack of respect for authorities and rule of law"; sentiment which some defenders believe echoes the rhetoric heard during the early stages of former President Jammeh's rule.

In February 2018, 16 civil society organisations participated in a conference to denounce the detention of political science lecturer Ismaila Ceesy. He was arrested following a publication of a report critical of the government in contravention of an explicit clause in the Constitution which guarantees academic freedom. Various sources also reported that, in May 2018, youth environmental rights defenders were detained in Gunjur for protesting the dumping of waste products in the sea by Golden Lead, a Chinese-owned factory. In June 2018, during a demonstration in Faraba Banta, in which defenders voiced their objection to sand mining in

the area, security forces fired live ammunition into the crowds, resulting in two deaths and eight injuries.

The Gambia has participated in two UPR cycles, most recently in 2014 when it received seven recommendations regarding the situation of human rights defenders.³² Of these, four were supported and three were noted. The Special Rapporteur sent a communication to the Gambia in 2017, relating to the shutdown of media outlets and Internet, and arrests and threats on the lives of journalists, public officials and civilians expressing divergent views, in connection with the post-election crisis; no response was received from the State.

4. Issues and Trends

The Gambia is emerging from a long period of severe repression under the previous administration, in which defenders faced widespread persecution, including arbitrary arrest and detention, imprisonment on spurious charges, torture and extrajudicial killings. The Special Rapporteur is pleased to note positive steps taken by the new administration to improve the situation of human rights defenders, including the ratification of several key human rights instruments and the releasing political prisoners. However, progress on creating a well-functioning Truth, Reconciliation and Reparation Commission has been slow, as has the establishment of a national human rights institution.

The Special Rapporteur urges the Gambia to respect its international commitments and constitutional obligations to protect and uphold fundamental freedoms, in particular with regard to ensuring freedom of expression and assembly so that human rights defenders may engage in their legitimate activities. Further, he calls on the State to strengthen efforts to end impunity and bring perpetrators of human rights violations to justice, by facilitating the full functioning of the Truth, Reconciliation and Reparation Commission and the National Human Rights Commission. The Special Rapporteur calls upon the State to implement proposed legislative reforms, including by amending criminal laws impacting freedom of assembly, freedom expression and freedom of the press, as well as by repealing the 2014 legislation criminalising “aggravated homosexuality”.

Guinea

1. National Context and Human Rights Defenders

Around 1,300 NGOs operate in Guinea, however, civil society faces restrictions, particularly to freedom of assembly. Key rights issues include, freedom of expression and assembly, defending the rights of people with albinism, social and economic rights, in particular with respect to housing and living standards, land rights, conditions in schools, gender-based violence and forced early marriage, and freedom of the press. Homosexuality is illegal in Guinea and sexual orientation and gender identity are a source of discrimination; there are no civil society organisations or public support networks visibly working on sexual orientation and gender identity rights. Gender-based sexual violence is widespread in Guinea, affecting

³² A/HRC/28/6

90 percent of women and girls, and laws against such violence are largely ineffective and unenforced. Particular concerns have been raised regarding women human rights defenders, many working to defend sexual and reproductive health and rights, who face threats and sexual assault. In addition, human rights defenders, particularly journalists and political activists, face harassment, arbitrary arrest and detention, beatings, and censorship. Guinea was not included in the 2006 Global Survey.

2. Legal and Policy Framework

Guinea has ratified all of the major human rights treaties, with the exception of the Convention for the Protection of All Persons from Enforced Disappearance. Guinea has not ratified the Optional Protocol to the Convention against Torture and is not party to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty. Guinea has accepted individual complaints procedures under the Optional Protocol to the ICCPR, and individual complaints and inquiry procedures under the Optional Protocol to the Convention on the Rights of Persons with Disabilities; it has also accepted inquiry procedures under the Convention against Torture. Guinea is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of the Economic Community of West African States and the Community of Sahel-Saharan States.

In the 2010 Constitution, Article 23 asserts that "the State shall promote the well-being of its citizens and protect and defend human rights and human rights defenders." Freedom of association, peaceful assembly, and expression, including freedom of the press, are also all protected by law in Guinea. In addition, Guinea passed two laws in 2010 to better guarantee freedom of the press and freedom of expression, including through the decriminalisation of press offences. However, Guinea's Criminal Code, under articles 321 and 322, continues to identify rape and sexual abuse as "immoral acts" and "indecent assault", respectively, and not as crimes against the person. During the 2015 UPR, it was reported that Guinea plans reforms to the Penal Code, the Code of Criminal Procedure, and the Military Code of Justice.

The Provisional Commission for National Reconciliation, was established in 2011 to promote reconciliation with regard to human rights abuses committed since independence; in its final report, presented in June 2016, it recommended the establishment of an independent truth and reconciliation commission. In 2012, the State established the Ministry of Human Rights and Civil Liberties which took an active role in promoting respect for human rights; however, following the most recent presidential election in 2015, it was disbanded. In 2014, Guinea implemented Title XVI of the 2010 Constitution to establish the National Institution for Human Rights. Concerns remain regarding the body's independence and abidance of the constitution; some commissioners quit in 2016 over a lack of fiscal transparency. The National Institution for Human Rights has not been accredited for compliance with the Paris Principles.

3. Implementation of the Declaration

Guinea has taken steps to implement the Declaration on human rights defenders, however, some gaps remain. As noted above, the Constitution of 2010 confirms the State responsibility to protect human rights defenders and citizens defending their human rights. The Constitution and other laws also further protect human rights defenders by ensuring freedom of expression, assembly, and association. Despite these legal protections, human rights defenders continue to face challenges in carrying out their work. In addition, the process to

establish an NGO is cumbersome, costly and requires regular reauthorization, which places an undue administrative burden on civil society organisations.

On 28 September 2009 over 50,000 individuals took part in a protest to object to military rule under Captain Moussa Dadis Camara, who came to power in a military coup in December 2008. It has been reported that more than 150 protesters were killed by Guinean security forces during a rally held at a large stadium in Conakry, that security forces used rape and sexual violence against over 100 women and girls, and that some victims died of their injuries. Civil society groups have urged the Government to meaningfully address issues of impunity and have formed associations to demand justice, such as the Voice of the People Movement and the Association of Victims. Asmaou Diallo, a woman human rights defender and founder of the founder of l'Association des Parents et Amis des Victimes du 28 septembre 2009 has been central in civil society efforts to bring perpetrators of the violence to justice. Speaking on her reaction to the massacre, Diallo said, "I thought, this time we must fight together. I identify with all those who disappeared at the stadium, because I am Guinean. And I will fight to the end to know what happened." In 2016, Guinea appointed a panel of judges to investigate crimes committed during the stadium protest and the ICC has conducted its own preliminary investigation. The domestic investigation was declared complete in December 2017 and 13 defendants have been charged. However, the Special Rapporteur is concerned that no date has yet been set for the trial, and three defendants have already been detained beyond the legal limits.

Since the transition from military to civilian rule in the State, Guinea has made efforts to "professionalize security forces" and address past violations committed against human rights defenders. However, as noted by a number of sources, human rights defenders continue to face violence during public demonstrations, as well as a lack of governmental support in carrying out their work. It has been reported that, in 2012, at least five labour rights defenders were killed while protesting hiring practices at an iron-mining company. In February and March 2013, more than 50 opposition protesters were killed during demonstrations against the government. In April 2016, law enforcement agencies in the commune of Kaloum prevented a march by female members of the opposition who were demanding the release of UFGD party members who had been placed in pre-trial detention following the fatal shooting of a journalist at the party headquarters. In February 2017, seven individuals were killed in the capital during a teacher strike. The Special Rapporteur is concerned that these acts of violence and repression are emblematic of an ongoing crackdown against public demonstrations.

Journalists in Guinea endure harsh conditions and face detention for publishing pieces deemed critical of the government. Furthermore, laws meant to protect the press have not been effectively implemented. Several sources have noted that Guinea has engaged in censoring the media, by dictating what to publish or broadcast. In 2018, journalists have reported having received death threats and attacks by individuals linked to the ruling RPG party. Civil society organisations have raised concerns of scapegoating following the guilty verdict against Souleyman Bah, former Director of Communication of the opposition party UFDG, in the murder of journalist El Hadj Mohamed Diallo, stating, "like many journalists and press freedom groups in Guinea, we are concerned about the judgement. It is curious, for instance, that the court waited to deliver judgement before issuing an arrest warrant against Souleyman Bah who did not attend any court proceedings, although it (the court) knew that he was important to the case."

Guinea has participated in two UPR cycles; in 2015, Guinea accepted a recommendation from Uruguay to guarantee and ensure full freedom of expression, association and peaceful assembly of journalists, activists, human rights defenders and participants in demonstrations.³³ This has not been adequately met. The Special Rapporteur sent two communications to Guinea in 2015, regarding the arrest and arbitrary detention of Jean Dougou Guilavogui, a human rights defender and union leader in Conakry, Guinea, and regarding beatings, insults and threats against a lawyer and human rights defender by a member of the Presidential Guard. No responses were received from the State.

4. Issues and Trends

Over recent years Guinea has made progress on the implementation of the Declaration on Human Rights Defenders. This has significantly improved the situation of defenders, and the Special Rapporteur commends the inclusion of constitutional protections for human rights defenders. However he is concerned by continued restrictions to freedom of assembly, and the limited progress made by Guinea on ensuring that perpetrators of human rights violations, including against human rights defenders, are brought to justice.

The Special Rapporteur recommends that Guinea establish a truth and reconciliation commission as stipulated in the recommendations of the final report of the Provisional Commission for National Reconciliation. In particular, the Special Rapporteur urges the timely trial of those charged with perpetrating the violence of the September 2009 stadium protest. Guinea must bring an end to impunity for abuses carried out by security forces during public demonstrations and uphold its constitutional commitment and international obligation to ensuring freedom of assembly. The Special Rapporteur calls on the Government to halt interference and censorship of media outlets, and to enforce all laws protecting freedom of expression and freedom of the press. He also calls for the state to strengthen the functioning and independence of the National Institution for Human Rights, and ensure greater protections for human rights defenders, in particular those who face heightened risk, such as women and defenders of sexual orientation and gender identity rights.

Guinea-Bissau

1. National Context and Human Rights Defenders

Guinea-Bissau has an active civil society. Key areas of focus for human rights defenders are gender-based violence, including female genital mutilation and forced marriage, freedom of the press and expression, civil and political rights, workers' rights, health care, and religious freedom. With an adult literacy rate of 55.3 percent, human rights defenders in Guinea-Bissau face challenges in disseminating information and educating people on human rights. In particular, high illiteracy among women and girls (76.2 percent), especially in rural areas, creates an additional barrier to their involvement in defending human rights and political representation. Only 3.5 percent of the population has access to the internet, which further impedes human rights defenders' ability to communicate to the public. Homosexuality is legal

³³ A/HRC/29/6 ad A/HRC/29/6/Add.1

in Guinea-Bissau and although some discrimination persists, defenders of sexual orientation and gender identity rights have noted increasing public tolerance.

Concerns remain regarding Guinea-Bissau's ongoing interference with the work of human rights defenders, including violence at public demonstrations, attacks against political activists, targeting of journalists when reporting on government corruption and human rights violations, religious discrimination, impunity for perpetrators of violence, and weakness of the judiciary. Defenders facing heightened risk in their work include women human rights defenders, journalists and those who criticise the government.

An entry for Guinea-Bissau was included in the 2006 Global Survey, however, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time.³⁴ The Special Representative reported that despite the limited literacy among the population in Guinea-Bissau, journalists and media outlets had successfully joined with civil society organisations to amplify the work of human rights defenders.

2. Legal and Policy Framework

Guinea-Bissau is party to all of the major human rights treaties, however it is yet to ratify the Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Guinea-Bissau has signed but not ratified the Optional Protocol to the Convention against Torture. It has accepted individual complaints and inquiry procedures under the Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and inquiry procedures under the Convention against Torture. Guinea-Bissau is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. Guinea-Bissau is also a member of the Economic Community of West African States and the Community of Sahel-Saharan States. Upon invitation by the State, the African Commission on Human and Peoples' Rights sent a delegation of the Commission to undertake a human rights promotion mission in July 2018.

Guinea does not have a specific law on human rights defenders. The Constitution provides some protections for human rights defenders, including freedom of expression and information, freedom of association, freedom of assembly, and equality before the law. Further, the Constitution stipulates that all laws must be interpreted in accordance with the UDHR. However, domestic legislation has not yet been revised to meet international standards in the field of human rights, and State authorities are limited in their capacity to uphold constitutional freedoms. The Constitution also places restrictions on public assembly, requiring prior approval and limitations on days and times for demonstrations. Defamation is a criminal offence under the Penal Code, and human rights defenders and journalists publishing or broadcasting information critical of the government have faced charges. Decree 23/92 governs the formation and regulation of NGOs. Guinea-Bissau does not have an independent national human rights institution; the National Human Rights Commission has not been established in accordance with the Paris Principles.

3. Implementation of the Declaration

³⁴ E/CN.4/2006/95/Add.5

Some limited progress has been made on the implementation of the Declaration on Human Rights Defenders in Guinea-Bissau, with the 2014 election of Jose Mario Vaz to the presidency marking an important turn to democracy and subsequent improvements in the situation of human rights defenders. Nevertheless, political instability persists and defenders continue to face interference in their work, as well as violent reprisals from State actors. Augusto Mario of the Ligue Guinéenne des Droits Humains (LGDH) summarized the key issues affecting the work of human rights defenders: "We have a great vulnerability in our rights and freedoms protection system, lack of guarantee of the rights to demonstrate and limitations and restrictions on the exercise of other certain freedoms." Extreme poverty and a lack of access to employment undermine the enjoyment of human rights in Guinea-Bissau and impact upon the situation of human rights defenders.

Since 2014, civil and political rights activists have reported improvements in the right to association and assembly, however, violent dispersals of demonstrations and impunity for perpetrators have been noted. Following an anti-government protest in April 2017, the LGDH reported, "There was excessive use of tear gas to intimidate peaceful demonstrators... this is a way of limiting the fundamental rights of citizens provided for in the Constitution."

Media freedom has also improved since 2014, with independent media outlets now able to operate freely. Nevertheless, it has been observed that the State continues to wield significant influence in this arena. In July 2017, two Portuguese broadcasters, RDP, a radio station, and RTP, a State television and radio station, had their licences suspended on grounds of lapsed agreements between the Governments of Portugal and Guinea-Bissau. However, critics were concerned that the decision came in response to the channels providing airtime to political opposition members.

During the past decade, women human rights defenders have played an increasingly significant role in bringing to light gender-based issues, although representation of women within all branches of government remains limited. Several women-led civil society organisations focused on defending human rights have been established. However, it has been noted that women defenders have encountered violent reprisals from community members when carrying out their work. Guinea-Bissau has taken steps to establish a legislative and policy framework to address gender-based violence and to combat violence against women and girls, including a National Plan to End Gender Based Violence (2014-2016) following consultation with women's organisations, human rights defenders, civil society organisations, and UN partners. In 2014, Guinea-Bissau also adopted a law that prohibited female circumcision, a reproductive health law, and a law prohibiting domestic violence. On Human Rights Day 2017, civil society members launched the National Network of Human Rights Defenders (RNDDH), which included a debate on the rights of women and girls in the State. During the event, human rights defenders applauded government efforts to enact legislation on the rights of women and girls but expressed concern regarding the proper application of the laws and ongoing impunity of perpetrators of violence.

Guinea-Bissau has participated in two UPR cycles; in 2015, the State accepted the vast majority of recommendations, however progress on implementation has been limited.³⁵ The Special Rapporteur sent a communication to Guinea-Bissau in 2017 regarding allegations concerning the excessive use of force against demonstrators, the arrests of several

³⁵ A/HRC/29/12 and A/HRC/29/12/Add.1

individuals, including defenders of human rights, in the context of peaceful gatherings and the existence of restrictive legislation on the right to freedom of association, including Ministerial Decree 2/GMAT/2016 supplementing Law No. 3/92 prohibiting public demonstrations, which represents a serious infringement of the rights to freedom of peaceful assembly and association and the right to freedom of expression.

4. Issues and Trends

The situation of human rights defenders in Guinea-Bissau has improved over recent years, however, continued political instability has posed a challenge to advancing the implementation of the Declaration on Human Rights Defenders. Specific improvements have been noted in the situation of women human rights defenders, as well as in freedom of the press. Furthermore, the growing tolerance for sexual orientation and gender identity rights in Guinea-Bissau is to be welcomed. However, some concerns remain, and more must be done to uphold constitutional protections and international obligations regarding the rights of human rights defenders.

The Special Rapporteur recommends that Guinea-Bissau strengthen the independence and functioning of the National Human Rights Commission in accordance with the Paris Principles. He calls upon the State to revise defamation laws and prevent their use in the silencing of human rights defenders' voices. Greater efforts must be made to support freedom of expression, including freedom of the press. The right to protest is vital to the protection and promotion of human rights; limitations to this right, including time-related restrictions and the requirement of permits must be lifted. Further, the Special Rapporteur recommends that all laws to end gender-based violence be effectively and consistently applied, and that perpetrators of violence be brought to justice.

Liberia

1. National Context and Human Rights Defenders

The civil war which affected Liberia from 1989 to 2003 led to widespread displacement and the deaths of over 350,000 people. Following a transitional Government, Ellen Johnson Sirleaf was elected to the presidency in 2005, leading Liberia until the end of her second term in 2018. She has received multiple accolades for her work in peacebuilding and women's rights, notably the Nobel Peace Prize in 2013. The election of President George Weah in 2017 marks the first democratic transition of power in Liberia in the State's recent history. However, despite positive advances, human rights defenders in Liberia continue to face a hostile environment and severe threats related to their work.

Civil society in Liberia is vibrant, and includes around 20 human rights organizations and over 100 front line advocates who are working in coalition. However, defenders face challenges in terms of training, legal support, and access to resources and funding. Vulnerable groups in Liberia include defenders of sexual orientation and gender identity rights, land and environmental rights defenders, and journalists. In recent years defenders have been subjected to spurious criminal charges, repeated arrest, lengthy imprisonment and torture. Homosexuality is punishable as a misdemeanour under Liberian law, and steps have been

taken to enact further laws against homosexuality; sexual orientation and gender identity are a source of widespread discrimination.

Liberia was included in the 2006 Global Survey, which brought to light the devastating effects of the civil war on human rights in Liberia.³⁶ However, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time. The Special Representative stated that the war “resulted in massive denial of the right to life on a large scale, torture, enforcement and involuntary disappearances, violence against women, forced recruitment of child soldiers, displacement and denial of humanitarian access.” Nevertheless, she commended the presence of a wide array of local civil society groups and human rights NGOs in Liberia, but observed that their dependence on external sources for funding resulted in difficulty for NGOs to carry out their work.

2. Legal and Policy Framework

Liberia is party to all of the major human rights treaties, with the exception of the Convention for the Protection of All Persons from Enforced Disappearance. It has signed but not ratified the International Convention on the Protection of the Rights of All Migrant Workers, the optional protocols to the Convention on the Rights of the Child, regarding the involvement of children in armed conflict, and the sale of children, child prostitution and child pornography. It has not accepted individual complaints or inquiry procedures with the exception of the inquiry procedure under the Convention against Torture. Liberia is a member of the African Union and has ratified the African Charter on Human and Peoples’ Rights.

The Constitution provides key protections relevant for human rights defenders, including freedom of expression, freedom of association, freedom of assembly. Freedom of association is regulated under the 2008 National Policy on Non-Governmental Organisations, however, organisations are free to operate without formal registration. The Independent National Commission on Human Rights (INHCR), is the Liberian national human rights institution, it is accredited “A” status, in accordance with the Paris Principles. Liberia has not established a protective legal or policy framework at the national level for human rights defenders and there are no specific laws, policies or measures in place to recognise and protect human rights defenders and their work.

3. Implementation of the Declaration

The implementation of the Declaration on Human Rights Defenders in Liberia is limited. In particular, defenders face severe restrictions in exercising their rights to freedom of opinion and freedom of expression, including threats from state and non-state actors. Although established in 2003, the INCHR only became fully functional in 2010, however, concerns have been raised over its effectiveness as a monitoring institution and its investigative capacity. With no specific law to protect them and few measures taken to reinforce civil society, the impact of civil society organisations has remained relatively weak. It has been observed that, in the absence of a protective legal or policy framework, human rights defenders are vulnerable and frequently subject to judicial harassment, arrest, detention and torture.

Particular concerns have been raised regarding defenders working on sexual orientation and gender identity rights, who have been subjected to violent public reactions that have

³⁶ E/CN.4/2006/95/Add.5

restricted their rights to freedom of expression. The Special Rapporteur is concerned by the atmosphere of intimidation and reports of violent attacks against sexual and gender identity rights activists in Liberia. Archie Ponpon, the head of the Movement for the Defense of Gays and Lesbians in Liberia (MODEGAL), has faced violence in response to his activism, including an arson attack on his mother's home in 2012. Abraham Kamara, also a member of MODEGAL, was stoned and attacked by angry students at the University of Liberia because of his work.

It has also been pointed out that land rights defenders have increasingly faced surveillance, threats and reprisals from government actors in response to their activism. It has notably been reported that, in 2016, Green Advocates, an environmental law organisation, was targeted as a result of its involvement in a complaint against an oil palm project run by Golden Veroleum that poses serious threats to affected communities in Sinoe County. Numerous attempts were made to arrest Alfred Brownell, the President and founder of Green Advocates, and his colleagues, on spurious charges of contempt of court and failure to respond to a subpoena, despite the fact that Brownell never received one. Brownell commented that "Liberia's laws and constitution ensure that rural communities have a right to be consulted on development initiatives that affect their lands and livelihoods. Yet, that is not happening on a large scale. And when people stand up for their rights, all too often they face threats and violence."

Journalists, especially those who criticize the government or express political opinions, are also vulnerable in Liberia and many have been harassed, detained, fined, and called terrorists. It has been reported that, in April 2018, two days before the Press Union of Liberia addressed an open letter to the UN secretary-general voicing alarm at the "pace at which official intolerance for independent journalism and dissent is escalating in Liberia", the entire staff of a Monrovia-based newspaper, Front Page Africa, were arrested and questioned by court officials in connection with a story about associates of the ruling party. Later the same month, Tyrone Brown, a TV and radio reporter was found dead and was reported by police to have been 'thrown from a car after being stabbed twice.' As noted by several sources, his murder is emblematic of growing hostility towards journalists, despite assurances by President Weah to defend press freedom. Some international journalists have fled after questions were raised regarding sincerity of Weah's defence of human rights during Liberia's civil war. In the previous year, 14 student leaders of a rally calling for the release of detained journalists critical of the government fled the country after receiving threats from Liberia's security forces. The Special Rapporteur is gravely concerned about the deteriorating situation for journalists in Liberia and the impact this has on freedom of expression for human rights defenders more broadly.

The Special Rapporteur is also concerned by reports that, in recent years, the State has made various comments concerning human rights defenders that have had detrimental effects on support for defenders and civil society groups. During her annual address in January 2014, then President Sirleaf accused civil society groups of "seeking to become supranational bodies challenging national sovereignty", as well as accusing community activists working on land and environmental rights of stifling economic growth and investment, labelling their resistance to land grabbing "harassment and extortion of investors".

Some good practices have been noted. Clear advancements in Liberia's stability have strengthened the human rights situation generally. In 2012, former President Sirleaf signed the Declaration of Table Mountain, seeking to advance free press and free speech across the

African continent by calling for the repeal of insult, libel and criminal defamation laws. A bill originally submitted by former President Sirleaf to decriminalize press offences, in particular, those related to libel, has been reintroduced by President Weah in 2018 and represents a positive step for freedom of expression. Nevertheless, the crackdown experienced by journalists under the new presidency remains of serious concern.

Liberia has participated in two UPR cycles, most recently in 2015. Two recommendations relating to human rights defenders were made regarding laws and policies that discriminate against defenders and restrict the rights and activities; these were not accepted by the State.³⁷ No communications have been made by the Special Rapporteur to Liberia in recent years.

4. Issues and Trends

Key concerns regarding the situation of human rights defenders in Liberia persist, and the Special Rapporteur is deeply troubled by the worsening situation of freedom of expression in the State. Defenders' rights to protection are being increasingly violated through targeted violence as well as criticism and threats towards civil society by the Government. Freedom of association is limited and defenders, especially journalists and land rights defenders, remain vulnerable to threats of arbitrary imprisonment and violence by State authorities.

The Special Rapporteur calls on Liberia to bring an immediate halt to the use of judicial measures to silence free expression and to restrict the freedom of the press. He recommends that Liberia revise all laws and policies that impeded the legitimate work of human rights defenders, in particular with regard to the decriminalisation of press offences as put forward under the current Government. The Special Rapporteur calls on Liberia to strengthen protections for human rights defenders, including by promoting the enhanced independence and functioning of the Independent National Commission on Human Rights. Further, Liberia must enable the thorough and impartial investigation of violations committed against defenders and ensure that perpetrators are brought to justice.

Mali

1. National Context and Human Rights Defenders

In 2012, a military coup d'état combined with a rebellion by ethnic Tuareg groups seeking independence deepened instability in Mali. The resulting chaos enabled Islamic militants to set up strongholds. Subsequently, the National Movement for the Liberation of Azawad (MNLA) occupied the northern and central regions of the State. An international military intervention led by France enabled the Malian government to re-establish control in certain regions.

In April 2013, the UN Security Council established the UN Multidimensional Integrated Stabilization Mission in Mali to support political processes and the stabilisation of Mali. In June 2013, a Preliminary Agreement to the Presidential Election and the Inclusive Peace Talks in Mali was signed between the Transitional Government of National Unity of the Republic of

³⁷ A/HRC/30/4 and A/HRC/30/4/Add.1

Mali, the MNLA, and the High Council for the Unity of the Azawad (HCUA). In August 2013, Ibrahim Boubacar Keïta was elected President; he was re-elected in 2018. In May 2015, the Malian government and two coalitions of armed groups signed the Algiers Accord for Peace and Reconciliation. The Truth, Justice and Reconciliation Commission, established in 2014, started its operational phase in January 2017. In his report to the Human Rights Council in February 2018, the Independent Expert on the situation of human rights in Mali observed that “the defence and security forces themselves play a considerable role in the destabilisation of the region and the radicalisation of the local population... owing to the human rights violations they allegedly commit during their operations and to the impunity they enjoy”.³⁸

As noted by a number of sources, human rights defenders are affected by insecurity, violence, and impunity for human rights violations and abuses. In certain regions of Mali, violent extremist groups have significant power and influence. Humanitarian workers have been subject to attacks and armed robberies. Defenders working on women’s rights and sexual orientation and gender identity rights are at greater risk, as are journalists and media workers who are targeted for their work.

In the 2006 Global Survey, the Special Representative noted efforts by Mali to ensure greater respect for human rights through vast legislative reform programmes, the settlement of conflict in the North, and the creation of the post of a mediator.³⁹ Nevertheless, she expressed concern that human rights violations persisted, including violence and discrimination against women and impunity for torture. The Special Representative noted the presence of around 100 associations defending human rights in Mali at that time.

2. Legal and Policy Framework

Mali is party to all of the major human rights treaties with the exception of the Second Optional Protocol to the ICCPR, aiming to the abolition of the death penalty. Mali has accepted the individual complaints procedure under the Optional Protocol to the ICCPR, and individual complaints and inquiry procedures under the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and the Optional Protocol to the Convention on the Rights of Persons with Disabilities; it has accepted inquiry procedures under the Convention against Torture. Mali is a member of the African Union and is party to the African Charter on Human and Peoples’ Rights. It is also a member of the Economic Community of West African States.

In January 2018, the Government enacted the Law on Human Rights Defenders, as the third African State to do so. The law defines the rights and responsibilities of human rights defenders and State protection measures for those at risk. It recognises that the homes and offices of human rights defenders are inviolable (Article 6), that defenders can engage with international bodies for the protection of human rights without restriction (Article 7) and have the right to receive funding for their activities (Article 8). It recognises the principle of *non-refoulement* of defenders who might risk torture or inhuman and degrading treatment if

³⁸ A/HRC/37/78

³⁹ E/CN.4/2006/95/Add.5

returned (Article 16). The law also includes specific protections for women defenders and defenders with disabilities.

The 1992 Constitution guarantees the freedom of opinion, expression, association and peaceful assembly. The registration and activities of civil society organisations are governed under the 2004 law and the Government does not have the power to deregister an organisation. The Government generally permits domestic and international human rights NGOs and civil society actors to operate without restriction. Public gatherings were, however, restricted during the declaration of a state of emergency from November 2015 to March 2017.

The Commission nationale des droits de l'homme was established by law in July 2016 as the national human rights institution. It has powers to receive individual and collective complaints of alleged human rights violations, conduct investigations, and take measures to end the violations. The Commission has been accredited "B" status, noting only partial compliance with the Paris Principles.

In its 2018 report, the Committee on Economic, Social and Cultural Rights welcomed the adoption of Act No. 2018-003 concerning human rights defenders but regretted that its implementing decree had not yet been adopted and that the protection mechanism envisaged therein had not yet been put in place.⁴⁰ While acknowledging the security, climatic and poverty-related challenges facing the State, it expressed concern regarding the limited mobilisation of domestic resources by the State to finance programmes aimed at realizing economic, social and cultural rights.

3. Implementation of the Declaration

The Special Rapporteur commends Mali on enacting a law on the protection of human rights defenders, which he considers to be a significant step forward in the implementation of the Declaration. He also recognises the continued positive contribution of the annual Mali Democratic Inquiry Space (l'Espace d'Interpellation Démocratique, EID), which enables aggrieved citizens to raise human rights concerns to the Prime Minister and other Ministers. In the 22nd session of the EID in 2017, 290 files were received, of which 39 were read publicly, 149 designated for further action, and 102 classified as unsuccessful files. However, despite clear progress through the introduction of legislation, the situation of human rights defenders in Mali remains difficult, and many defenders experience high levels of risk in their work.

As observed by various sources, freedom of expression and opinion has been under threat. During the presidential elections in August 2018, technical restrictions were used to block social networks and restrict access to VPNs used to circumvent the block. The radio station *Renouveau FM* was closed on 2 August by the governor of the Bamako district in the interest of "public order and tranquility" after opposition activist Youssouf Mohamed Bathily (also known as *Ras Bath*) made comments about the elections on one of its programmes. *Renouveau FM* was permitted to broadcast again on 11 August by the High Authority for Communication but without the same programme running. In July 2017, *Ras Bath*, a radio columnist for *Radio Maliba FM*, was sentenced in absentia to 12-months imprisonment and a fine for the "incitement of disobedience of troops" under the 2000 law on press regulation.

⁴⁰ E/C.12/MLI/CO/1

The President Secretary General of Radio Maliba FM was also found complicit and sentenced to a six-month suspended sentence and a fine.

Concerns have been raised regarding journalists, who have been subject to judicial harassment and criminalisation. In February 2018, three journalists from the news website Maliactu, Salif Diarra, Aliou Hasseye and Issa Coulibaly, were arrested for allegedly blackmailing the mayor of Koumaniana. While Hasseye and Coulibaly were released without charge two days later, Diarra, the Publication Director of the website, was not permitted to leave Bamako and has been required to report to the investigating judge every Friday for months until the investigation is concluded. Maliactu's computers, cameras and mobile phones were confiscated and its activities have been greatly hampered as a result.

As reported by various sources, journalists have also been subject to physical attacks, abduction and killing. In July 2017, blogger and online activist Madou Kanté (also known as Marshall Madou) was shot and wounded by unidentified assailants in what is considered to be an assassination attempt. This has been linked to his activism on corruption and nepotism in Mali. Salif Diarra of the news website Maliactu also received death threats that same night. In November 2013, journalists Ghislaine Dupont and Claude Verlon, working for the French news service RFI were abducted and killed in Kidal, in northern Mali, after interviewing a local political leader of the MNLA. Al-Qaeda in the Islamic Maghreb (AQIM) claimed responsibility for these murders, stating it was done in protest of France's intervention in Mali.

Peaceful assemblies have been violently dispersed. In June 2018, security forces used tear gas and batons against protesters calling for transparent elections and equal access to the public broadcaster, the Office of Radio and Television of Mali (*Office de radiodiffusion et de télévision du Mali*, ORTM). Journalists from a range of media outlets were also subject to attacks, and attempts were made to confiscate cameras and other equipment. In September 2018, on the eve of the 58th anniversary of independence and the inauguration of the re-elected President Keïta, security forces used tear gas to disperse a protest in Bamako that had been banned by the authorities. 11 people were arrested, including members of the opposition. In January 2015, UN peacekeepers fired on demonstrators who were protesting their presence, killing three people.

Mali has participated in three cycles of the UPR process, most recently in 2018. In this cycle it received two recommendations regarding finalising and passing the draft law on human rights defenders which the State has since fulfilled.⁴¹ The Special Rapporteur has not sent any communications to Mali during the reporting period.

4. Issues and Trends

Insecurity, violence and impunity affect the rights and freedoms of human rights defenders in Mali. While the Special Rapporteur recognizes positive developments in Mali, including the enactment of the Law on Human Rights Defenders in January 2018, he remains concerned that human rights defenders, in particular journalists, have been subject to judicial harassment and criminalisation, and that limits on the freedom of expression, opinion and

⁴¹ A/HRC/38/7

assembly have been imposed on them. Concrete steps must be taken to curtail impunity for human rights violations conducted by State and non-State actors.

The Special Rapporteur recommends that Mali ensure prompt and impartial investigations of all forms of threats and attacks against human rights defenders, and bring perpetrators to justice. He calls upon the State to strengthen the operation and functioning of the Commission nationale des droits de l'homme and to take steps to ensure that it is fully compliant with the Paris Principles. He further urges the timely implementation of the Law on Human Rights Defenders and recommends that the State develop tailored protection practices for human rights defenders in accordance with the seven principles he put forward in his 2016 report on good practices (A/HRC/31/55).

Niger

1. National Context and Human Rights Defenders

As noted by various sources, human rights defenders exercising their freedom of expression and association have been targeted in recent years in Niger, with the Government justifying arbitrary arrests against defenders on grounds of national security. Among human rights defenders, journalists are particularly vulnerable, as are environmental rights defenders and those critical of government policy.

In February 2015, the region of Diffa was placed under a state of emergency due to the threat posed by Boko Haram. The state of emergency remains in place and in March 2017 it was extended to also cover the regions of Tillabéry and Tahoua. The conditions under the state of emergency, including extensive military powers and a curfew, have been noted to facilitate increased harassment of human rights defenders.

Niger was included in the 2006 Global Survey, in which the Special Representative noted that civil society organisations had organised themselves into collectives in order to be more effective in their human rights protection initiatives.⁴² The Special Representative expressed concern regarding the procedure for appointing members of the national human rights institution. She noted that actions and speeches by human rights organisations were reported negatively and defenders were portrayed as stateless and criminals. She also observed a lack of recognition of some human rights movements.

2. Legal and Policy Framework

Niger has ratified all of the major international human rights treaties. It is not party to the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty. Niger has accepted most individual complaints and inquiry procedures, with the exception of those under the Optional Protocol to the ICCPR, and the Optional Protocol to the Convention on the Rights of the Child. Niger is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights.

There is no explicit law on the protection of human rights defenders, however the Nigerien Constitution, 2010, provides guarantees for many of the rights and freedoms central to

⁴² E/CN.4/2006/95/Add.5

defenders' activities, including freedom of expression, freedom of association and freedom of assembly. The Constitution asserts that international treaties take precedence over national law. The Press Law, 2010, decriminalises defamation and bans pre-trial detention of journalists for offences relating to their work. Further, Niger is a signatory to the Declaration of Table Mountain, 2011, and has established a World Press Freedom Day in recognition of press freedom. However, the continued criminalisation of journalists raises questions over the effective implementation of these measures.

The National Commission for Human Rights (CNDH) is the national human rights institution and is accredited "A" status, in accordance with the Paris Principles. In 2017, the CNDH investigated and monitored prisons and detention centre conditions and followed up on allegations of inhumane conditions. The CNDH operates without government interference but has been noted to lack resources necessary to carry out its work effectively. In 2018, the Committee on the CESCR reported concern that Niger had not taken any steps to address the concerns and recommendations on the functioning of the CNDH conveyed in the previous year by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions.⁴³ The Office of the Ombudsman is constitutionally enshrined and operates without government interference, but similarly lacks the resources necessary to carry out its work effectively.

3. Implementation of the Declaration

Despite the existence of key constitutional and legal protections relevant to human rights defenders, clear progress on the implementation of the Declaration on Human Rights Defenders has yet to be made in Niger. The exercise of freedom of association, freedom of assembly and freedom of expression remain problematic and defenders face judicial harassment and criminalisation in connection with their work, including arrest, arbitrary detention and spurious charges.

Particular concerns have been raised regarding defenders working on environmental rights, transparency and corporate accountability, who have faced threats in connection to their work. In 2014, ten defenders opposing a deal on the extraction of uranium were arrested at their homes following a press conference in which they called for a peaceful protest to coincide with the visit of the French President François Hollande. Among those arrested was Ali Idrissa, who has faced repeated judicial harassment and detention in connection with his work. Civil society organisations had called on the terms of the deal to be published, as required by law, and for royalty rates of 12 percent to be levied in line with the terms of the 2006 mining code.

Despite legal protections, journalists have faced significant threats and restrictions to their work and concerns have been raised that the police lack adequate knowledge of the Press Law, 2010, decriminalising press offences. In January 2014, several journalists critical of the Government were arrested and charged with threatening national security. In January 2015, the Ténéré media group was targeted by police who entered their premises without a permit and forced the radio to briefly stop broadcasting. Police officers physically attacked and threatened journalists; on the same day a team of reporters from the Ténéré and Labari media groups were also physically attacked.

⁴³ E/C.12/NER/CO/1

In June 2015, two newspapers, L'Actualité and L'Opinion were banned from publishing for one month, charged with “violating the journalists’ charter”. As noted by various sources, this took place amid a sharp decline in freedom of information beginning in early 2015. In the run up to the February 2016 presidential election several journalists were arrested and independent media outlets faced obstructions including restrictions to social networks and the blocking of SMS messages. In the 2016 UPR cycle, the State report asserted that no journalists had been imprisoned since 2011 despite widespread reports to the contrary.⁴⁴ In July 2017, Baba Alpha, a television journalist and the general secretary of the National Union of Information and Communication Workers, was charged with the use of false documents and sentenced to two years in prison. His nationality has been withdrawn, effectively rendering him stateless. Alpha has been vocal in his opposition to the Government, in particular with regard to the clampdown on press freedoms. The Special Rapporteur is concerned that his sentence is linked to his peaceful work in the defence of human rights.

Cases of detention and criminalisation have increased in the past year in connection with the newly introduced Finance Law, 2018, which has come under criticism for levying taxes on housing and electricity affecting poorer citizens, while granting exemptions which will largely benefit foreign firms. In March 2018, 26 people were arrested and detained following a peaceful demonstration. The Special Rapporteur is concerned to note that among those charged were four prominent human rights defenders (who did not participate in the protest): Moussa Tchangari, a journalist and General Secretary of Alternative Espace Citoyens (AEC), an organisation dedicated to promoting social, economic and cultural rights, Nouhou Arzika, President of Mouvement patriotique pour une citoyenneté responsable (MPCR), Lirwana Abdourahmane, an MPCR member and lawyer, and Ali Idrissa, coordinator of Réseau des organisations pour la transparence et l'analyse budgétaire (ROTAB) and Publish What You Pay Niger. The defenders were detained for four months preceding the trial, in which each received three-month suspended sentences for the “provocation of an unarmed gathering through posters and writings”. Abdourahmane was further found guilty of contempt of court by speaking during the 10 July 2018 hearing and sentenced to two years imprisonment, of which one year is suspended. Three other defenders were arrested in April 2018 in connection with the planning of another protest against the Finance Law; Maikoul Zodi, Ibrahim Diori and Karim Tanko have repeatedly had their trial postponed and have already spent six months in pre-trial detention.

The Special Rapporteur sent a communication to Niger in 2014 regarding the arrest and arbitrary detention of the coordinator of the organisation Volontaires pour l'Intégration Educative Kande Ni Bayra, Ali Abdoulaye. The Special Rapporteur thanks the Government of Niger for their letter of response, but maintains concern that the arrest and judicial harassment of Mr. Abdoulaye are connected to his peaceful work in the defence and promotion of human rights. Niger has participated in two UPR cycles, most recently in 2016, in which it received and supported four recommendations regarding human rights defenders.⁴⁵ These included commitments to refrain from criminalising the legitimate activities of human rights defenders and to take steps to halt all intimidations and harassment by law enforcement officials against them. In 2012, Niger extended a standing invitation to all UN Special Procedures.

⁴⁴ A/HRC/WG.6/24/NER/1

⁴⁵ A/HRC/32/5 and A/HRC/32/5/Add.1

4. Issues and Trends

Human rights defenders in Niger continue to experience a range of threats in connection to their work, in particular arbitrary arrest, extensive periods of detention without trial, and criminalisation for their peaceful activities in the defence of human rights. While the Special Rapporteur commends Niger for enacting legal measures to decriminalise press offences, he is concerned that the judicial harassment of human rights defenders continues despite legal and constitutional protections, and that journalists continue to be targeted under criminal law rather than under the media law.

The Special Rapporteur calls on Niger to strengthen constitutional and legal protections for human rights defenders and to refrain from criminalising their legitimate and peaceful activities in the defence of human rights. He urges Niger to repeal or amend all laws and policies which restrict the rights of human rights defenders, as enshrined in the Declaration, as well as to ensure that counter-terrorism measures, including those implemented in regions under the state of emergency, are not used to justify violations of the rights of human rights defenders. Further, the Special Rapporteur recommends that Niger conducts prompt, thorough and impartial investigations into violations perpetrated against human rights defenders.

Nigeria

1. National Context and Human Rights Defenders

Nigeria has experienced significant insecurity due to violent extremism led by Boko Haram, which mainly operates in the northern states. The conflict has resulted in a severe humanitarian crisis in and has led to large-scale displacement. In the Niger Delta, recurrent episodes of militancy and violence linked to oil extraction have resulted in ongoing instability in the region.

Nigeria has a vibrant civil society. Groups which experience heightened levels of threat in their work include women human rights defenders who face a hostile environment and are at risk of gender-based violence; in particular, those working in the northern region where states have adopted Sharia law, as well as in the south where traditional, patriarchal customs are more deep-rooted. Environmental right defenders operating in the Niger Delta are subject to reprisals and intimidation, as are journalists, whistleblowers, and defenders working on issues of corruption. In some regions, such as the north east, defenders face the additional risk of kidnapping by armed groups. The situation of defenders working on sexual orientation and gender identity rights has worsened following the introduction of the Same-Sex Marriage (Prohibition) Bill, 2014, which not only criminalises same-sex relations but also includes criminal penalties of 10 years imprisonment for public advocacy and prohibits the formation of associations in support of sexual orientation and gender identity rights.

An entry for Nigeria was included in the 2006 Global Survey.⁴⁶ The Special Representative noted that oppressive military rule during the 1990s had created an environment in which human rights defenders were systematically targeted, and in which civil society

⁴⁶ E/CN.4/2006/95/Add.5

representatives, pro-democracy activists, journalists and lawyers experienced threat of extrajudicial killings, arbitrary detention, ill-treatment and torture. She expressed concern that Nigerian authorities had failed to conduct independent investigations into human rights abuses and cited the persistent practice of harassment by security forces against defenders.

2. Legal and Policy Framework

Nigeria has ratified all of the major human rights treaties with the exception of the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty. Nigeria has also accepted several independent inquiry and complaints procedures, with the exception of procedures under the Optional Protocol to the ICCPR, the Optional Protocol to the ICESCR, and the Optional Protocol to the Convention on the Rights of the Child. Nigeria is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of the Organization of Islamic Cooperation and the Economic Community of West African States. In 2013, Nigeria extended a standing invitation to all UN special procedures mandate holders.

There is no national law or policy on human rights defenders, however the Nigerian Constitution guarantees several rights of relevance to the work of defenders, including the right to freedom of expression, freedom of assembly, and freedom of the press. Freedom of assembly is regulated under the Public Order Act (POA), which requires that individuals apply for a license to conduct assemblies, meetings or public processions 48 hours before holding the event. It also grants police commissioners and officers discretionary powers to temporarily ban public meetings. Further, the Cybercrime Act, 2015, contains overly broad and vaguely worded provisions, including on "cyberstalking" which, as observed by various sources, have been used to limit freedom of expression and target bloggers critical of the Government and powerful business owners. Operators of internet cafes are also required to maintain a register of users which must be made available to law enforcement on request. Penalties for cyberstalking include high fines and ten years' imprisonment. The Government has threatened to charge individuals with spreading hate speech under the Terrorism Prevention Act.

A draft Bill to Provide for the Establishment of Non-Governmental Organizations (NGOs) was introduced in July 2014 and has been heavily criticised by civil society organisations and defenders as excessive and intrusive, potentially restricting the work of NGOs. If passed, it will establish an NGO Regulatory Commission to keep a register of all NGOs, coordinate their activities, and monitor their budget and funding. In particular, it has been noted that the Bill threatens those NGOs working on sensitive issues such as corruption and the monitoring of human rights violations, and could infringe rights to freedom of association and assembly as guaranteed under the Nigerian Constitution. The Special Rapporteur welcomed the withdrawal, in 2016, of the draft Act to Prohibit Frivolous Petitions; and Other Matters Connected Therewith. If enacted, this legislation would have imposed undue restrictions on the legitimate exercise of the right to freedom of expression and had serious negative implications for defenders, including journalists and whistleblowers, who could have been prosecuted for expressing and publishing legitimate criticism of the Government.

The State national human rights institution, the National Human Rights Commission, is accredited "A" status in accordance with the Paris Principles. In 2007 it was downgraded to "B" following the dismissal of the Executive Director, Bukhari Bello. Communications were sent by the Special Representative in 2006 and 2007, regarding Bello's case, highlighting

concerns that the threats against him represented reprisal for his legitimate human rights work and a means to obstruct the work of the National Human Rights Commission. The Commission has since regained full accreditation.

3. Implementation of the Declaration

The implementation of the Declaration on Human Rights Defenders in Nigeria has been severely limited by the introduction of several new pieces of legislation which restrict and in some instances criminalise defenders' legitimate activities. Human rights defenders face increased hostility by State and non-State actors, with scant access to effective remedy. Instances of public vilification and intimidation of defenders are observed to be commonplace, as is arrest, detention and judicial harassment in connection with defenders' legitimate activities. The level of risk experienced by defenders varies in nature and intensity depending on the geographical area in which they operate, as well as the human rights issues they work on, with defenders focussing on issues of corruption and good governance being exposed to heightened risk, including at the hands of State actors.

The introduction of the Same-Sex Marriage (Prohibition) Act, 2014, which extends to the prohibition of public advocacy on sexual orientation and gender identity rights and bans the formation of associations, has criminalised defenders working on these issues, as well as those engaged in the promotion and protection of the right to health, for example through the provision of access to HIV/AIDS services. Since its enactment, an increase in crimes and human rights violations against LGBT persons and defenders has been witnessed. Omolara Oriye, a women human rights defender and director at the Initiative for Equal Rights, said that while violent crimes have decreased in recent years, "what has risen significantly is extortion, blackmail, infringement of rights to assembly, and police malpractice". In January 2014, 12 defenders were arrested on suspicion of "promoting homosexuality" after police raided an HIV/AIDS awareness meeting in Abuja; after three weeks of detention without charge they were released. In July 2017, over 40 men attending a HIV/AIDS awareness event were arrested at a Lagos hotel, following a raid by police.

Insecurity in north east Nigeria and the Niger Delta has created a hostile environment for defenders, in which they have been targeted by both State authorities and armed groups. Government responses to the conflict with Boko Haram have resulted in serious human rights violations, and those defenders involved in exposing such rights abuses and corruption are the most acutely vulnerable. Submissions received during the second cycle of the UPR indicated prevailing hostility experienced by defenders, who remain at risk of torture, intimidation and abuse by State forces acting with impunity.⁴⁷ Environmental rights defenders working in the Niger Delta also face heightened risk.

Freedom of the press has also suffered. In June 2014, reported attacks on media freedom included the seizure of publications including *The Punch*, *The Nation*, *Daily Trust*, *Leadership* and *Vanguard* newspapers, the arrest of journalists, the detention of vehicles belonging to media organisations, and an accusation by a senior military figure of publishing and selling falsehoods. Over 70 cases of violence and harassment against journalists and media outlets were reported during 2016-17. In May 2017, the premises of Breeze FM, a radio broadcaster in Lafia, Nasarawa State, was demolished on grounds of violating land approval laws, however members of the station reported that the move was linked to their broadcasting of the strike

⁴⁷ A/HRC/WG.6/17/NGA/3

in the state. It has been noted that journalists critical of the Government are facing heightened risk, and media outlets and reporters are being pressures to give up their sources. In 2018, Charles Otu, the publisher of a local newspaper, was abducted and asked to sign a document stating that he would no longer write critical articles. Concerns have also been raised regarding independent bloggers critical of the Government, who have also been targeted under the provisions on “cyber stalking” of the Cybercrime Act, which carries a fine of up to 7 million naira and a maximum three-year prison sentence for the communication of information “[known] to be false, for the purpose of causing annoyance, inconvenience danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another”.

Nigeria has participated in three UPR cycles, most recently in 2018. During the third cycle, civil society submissions asserted that Nigeria had not effectively implemented eight supported recommendations from the previous review relating inter alia to the protection of human rights defenders, journalists and civil society representatives and noted that the working environment for human rights defenders had deteriorated since the previous review.⁴⁸ The Special Rapporteur has sent a number of communications to Nigeria, including with regard to the Same Sex Marriage (Prohibition) Bill, and restrictions on the right to freedom of assembly for defenders of sexual orientation and gender identity rights; he regrets that several communications have not received a State response.

4. Issues and Trends

Human rights defenders in Nigeria face high levels of risk in their work, including violent attacks, arbitrary arrest and detention, judicial harassment and criminalisation. Defenders operating in conflict zones, as well as journalists, those working on sexual orientation and gender identity rights, and those critical of the Government experience heightened risk from State and non-State actors. The Special Rapporteur is deeply concerned by the repressive nature of both draft and already implemented legislation, limiting the ability of defenders to engage in their legitimate human rights activities.

The Special Rapporteur urges Nigeria to bring an end to intimidation and reprisals against defenders, in particular by State actors, and to ensure the prompt and impartial investigation of violations. He recommends Nigeria amend or repeal legislation which criminalises or puts undue restrictions on the freedoms outlined in the Declaration on Human Rights Defenders, including the draft Bill to Provide for the Establishment of Non-Governmental Organizations (NGOs), the Cybercrime Act, 2015, and the Same-Sex Marriage (Prohibition) Act, 2014. The Special Rapporteur further calls on Nigeria to uphold freedom of the press and implement measures to protect defenders at risk, with particular regard for defenders working on sensitive issues such as governance and corruption, sexual orientation and gender identity rights, and environmental rights.

Senegal

1. National Context and Human Rights Defenders

Senegal has an active civil society. Le Réseau Ouest Africain des Défenseurs des Droits Humains is the West African seat of the Pan-African Human Rights Defenders Network and

⁴⁸ A/HRC/WG.6/31/NGA/3

numerous NGOs possess observer status at the African Commission on Human and Peoples' Rights and consultative status with ECOSOC. Nevertheless, human rights defenders experience restrictions in their work, including to freedom of expression and assembly. Certain groups of defenders face heightened risk in Senegal, including journalists and environmental rights defenders. Women human rights defenders operate in a hostile environment with high levels of sexual harassment and violence against women. Same-sex relations are illegal in Senegal and homosexuality is a source of discrimination; defenders working on sexual orientation and gender identity rights commonly experience harassment and abuse, as well as legislative restrictions. The national human rights institution also noted a lack of knowledge and ownership of the Declaration by civil society.

Senegal was not included in the 2006 Global Survey on the Situation of Human Rights Defenders.

2. Legal and Policy Framework

Senegal has ratified all of the major human rights treaties with the exception of the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty. It has accepted most individual complaints and inquiry procedures, with the exception of those under the Optional Protocol to the ICESCR, the Optional Protocol to the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of Persons with Disabilities. Senegal is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of the Organization of Islamic Cooperation and the Economic Community of West African States.

There is no national law or policy on human rights defenders; this was identified in the submission of the national human rights institution as a key challenge facing the State in the protection of defenders. The Senegalese Constitution contains several provisions of relevance to the work of human rights defenders, including protections on the right to freely express and disseminate opinions and to freely constitute associations and economic, social and cultural groups as well as societies. In 2017, Senegal adopted a new Press Code, key elements of which have been met with criticism. Of particular concern are the increased criminal penalties for press offences, as well as provisions that allow for media outlets to have their equipment confiscated, and to be banned, suspended or shut down on grounds of national security by a district chief executive, deputy district chief executive or governor without judicial oversight. Further, the Electronic Communications Bill adopted by the Government in June 2018, contains a provision under which a regulatory body may authorize or impose traffic management measures on internet usage, and could enable telecommunications actors to slow down or block access to content from specific websites and apps, posing a key threat to the exercise of fundamental freedoms. Insulting the President is banned under the Criminal Code, punishable with a fine and up to two years imprisonment.

The Comité sénégalais des droits de l'homme is the national human rights institution in Senegal; in October 2011 it was downgraded to "B" status, demonstrating only partial compliance with the Paris Principles. The Comité has not been active on the situation of human rights defenders and has faced criticism from major national and international human rights organisations such as Rencontre Africaine pour la défense des droits de l'homme, which suspended its participation in the activities of the Comité in protest of its current president, Me Pape Sene, who has been noted to be closely connected to the ruling political party.

3. Implementation of the Declaration

Securing certain aspects of the Declaration on Human Rights Defenders has proved problematic in Senegal. Instances of public vilification of defenders and civil society organisations by State and non-State actors has been raised as a particular concern. In February 2018, Prime Minister Mahammad Boune Abdallah Dionne publicly criticised civil society, denouncing Amnesty International in response to a recent report. He stated that, “We have a hooded civil society. People in the shadows who try, by all means, to defend incredible things in this country. No NGO can impose homosexuality. We will not accept it. There are politicians hiding behind NGOs”.

Freedom of assembly is restricted and demonstrations are only permitted with advanced notification of at least 72 hours. State authorities maintain broad powers to ban demonstrations; individuals who take part in banned or non-notified public gatherings can receive a fine and a prison sentence of up to three years while organisers can be sentenced to up to five years imprisonment and higher fines. As reported by various sources, in February 2018, a protest planned by youth groups in opposition to a visit by French President Emmanuel Macron was banned on grounds of risks of disturbance of public order and the risk of infiltration by ill-intentioned individuals. In September 2015, 12 defenders were sentenced to 21 days in prison for participation in banned protest regarding electricity shortages.

During the period leading up to the 2012 presidential elections, restrictions on the right to assembly escalated. The maintenance of public order was frequently cited as grounds and during this period the Minister of the Interior passed an order to temporarily prohibit all public demonstrations. Protests continued despite this order and were met with violent repression by State security forces. Unrest resulted in casualties and the deaths of several protesters after security forces fired live bullets at protesters in Dakar and other cities.

The Special Rapporteur is concerned by reports that freedom of expression, and in particular, freedom of the press has come under threat in Senegal. The Coordination des Associations de Presse has noted a number of incidents of violence experienced by journalists which took place in connection to the 2017 legislative elections. In 2015, Alioune Badara Fall and Mamadou Seck of L’Observateur, were arrested and charged with violating defense secrecy for an earlier article on the deployment of Senegalese troops to Yemen. On the same day, Mamadou Wane of L’Enquête was briefly detained and questioned regarding an article on military appointments and Mouhamad Guèye, of Le Quotidien was arrested for publishing classified information related to an investigation.

Concerns have also been raised surrounding environmental rights defenders, who suffer heightened risk in Senegal. In April 2018, Mustapha Gueye, a forest warden, was murdered by loggers, apparently in connection to his opposition towards logging. Mining for minerals and precious metals is also a source of concern for environmental defenders. It has been noted that, in 2013, 21 defenders were arrested in Niayes for opposing the visit of State officials tasked with assessing the compensation to be received by farmers whose land has been annexed for mining purposes without consultation. Three of those arrested, Ibra Fall, Gora Wade and Djibril Bèye, were sentenced to three months in prison for illegal assembly and plunder of machinery; 13 others received a three month suspended prison sentence.

Senegal has participated in three cycles of the UPR, most recently in 2018. During the second cycle, Senegal supported a recommendation by Slovenia to “undertake the necessary

measures to protect the rights of human rights defenders as well as journalists”.⁴⁹ The Special Rapporteur sent communications to Senegal in 2011, concerning acts of violence, as well as defamatory remarks against civil society, and in 2012, concerning the excessive use of force and illegitimate restrictions on the right to peaceful assembly in the context of the presidential election; no responses from the State were received.

4. Issues and Trends

While Senegalese civil society remains vibrant, the Special Rapporteur is concerned by increased limits to civic space, demonstrated by the decline in the protection of civil liberties and the use of legislative measures to limit freedoms and impose heavy penalties. The use of rhetoric criticising the legitimate work of human rights defenders by leading politicians is particularly troubling and serves to create a hostile environment for those engaged in human rights work.

The Special Rapporteur calls upon Senegal to renew its commitment to the protection of human rights defenders and the creation of an enabling environment for their work through the implementation of a national policy on human rights defenders. The Special Rapporteur urges Senegal to strengthen the functioning of the Comité sénégalais des droits de l’homme, and to facilitate its full compliance with the Paris Principles. He further recommends that Senegal revise key provisions within legislation, in particular the Press Code and the Electronic Communications Bill, which limit or threaten the exercise of the rights defined in the Declaration of Human Rights Defenders, including by decriminalising press offences.

Sierra Leone

1. National Context and Human Rights Defenders

Sierra Leone has been commended for its much improved human rights record and environment for defenders since the civil war ended in 2002. The press is free, with most people receiving information from community radio, which operates without censorship.

However, concerns remain regarding sexual orientation and gender identity rights: sexual relations between men are illegal and those charged may face up to a life sentence if prosecuted; sexual orientation and gender identity are a source of widespread discrimination. Mining and associated land grabbing have led to significant human rights abuses and dangerous situations for defenders. Defenders who experience heightened risk on account of their work include land and environmental rights activists, defenders of sexual orientation and gender identity rights, and women human rights defenders.

2. Legal and Policy Framework

Sierra Leone is party to all of the major human rights treaties with the exception of the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty. It has signed but not ratified the Optional Protocol of the Convention against Torture, the Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers. It has accepted individual complaints

⁴⁹ A/HRC/25/4

procedures under the Optional Protocol to the ICCPR, and the inquiry procedure under the Convention against Torture. Sierra Leone is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of the Organization of Islamic Cooperation and the Economic Community of West African States.

There is no law to protect defenders specifically, however, a number of provisions in the Constitution of Sierra Leone offer relevant protections for the work of human rights defenders, including freedom of conscience, freedom of expression and the press, and freedom of assembly and association. The Freedom of Information Act was passed in 2013. Defenders also receive protections under the Human Rights Commission Act, 2004. However, while freedom of assembly is guaranteed, Public Order Act, 1965, requires written permission be obtained for public gatherings, which, as noted by various sources, in practice can take many months and no exceptions are made for spontaneous peaceful protests. An Independent Police Complaints Board (IPCB) was recently established in Sierra Leone, to help in dealing with cases of excessive force by police against protesters.

In 2017, the Government adopted the Non-Governmental Organizations (NGO) Policy Regulations, provisions of which impede the rights to freedom of expression and assembly. Positive elements of the proposed legislation include national capacity building and accountability, however, it also introduces limiting measures such as restrictive eligibility criteria, burdensome registration processes and new rules on taxation and fees. Under the new measures, 70 percent of all donations must go directly to the target population, NGOs may lose autonomy, and restrictions affect people's right to join or form trade unions. Under the new Government, elected in March 2018, efforts to hold consultations with civil society on the legislation have been made, however, the consultative process was met with some criticism from prominent human rights defenders.

The Human Rights Commission of Sierra Leone (HRCSL) was established in December 2006, and is accredited "A" status in accordance with the Paris Principles. The HRCSL works closely with the Human Rights Defenders Network (HRDN), which monitors and documents human rights violations and abuses in Sierra Leone to ensure compliance with international and regional human rights standards. HRCSL recognises the need to enshrine protection of human rights defenders in law, and there is a designated role for a commissioner focused on human rights defenders, however this remains vacant as of March 2016. In its most recent reports, the HRCSL recommended that the President appoint a main contact for defenders, and support the process of enacting a law that protects defenders. The Human Rights Committee of the ICCPR noted in its 2014 report that HRCSL was insufficiently resourced to fully execute its mandate; the Committee was concerned by reports that HRCSL lacked independence and that its recommendations were not adequately taken into account by State authorities.⁵⁰

3. Implementation of the Declaration

Implementation of the Declaration on Human Rights Defenders has notably improved in Sierra Leone. The national human rights institution, which works closely with civil society, and the creation of the IPCB to assess incidents of excessive force from police, indicate progress in this area. However, the Special Rapporteur is concerned by restrictions placed on defenders, including through the implementation of new legal mechanisms, and recurring

⁵⁰ E/C.12/NER/CO/1

instances of violence towards human rights defenders participating in peaceful demonstrations.

In June 2014 the Government enacted a state of emergency due to the Ebola outbreak, which remained in place until August 2015. This affected the work of defenders due to restrictions on freedom of assembly and an effective gagging of press criticism of the Government, particularly their handling of the epidemic. It has been observed that emergency laws were used to curtail, intimidate and harass defenders speaking out against corruption and abuses of power by government officials, including through arbitrary detention. Defenders seeking transparency around the influx of international aid linked to the outbreak have faced threats, and defamation laws have made it difficult to openly question the Government. In 2014, Mary Conteh of the Women's Centre for Good Governance and Human Rights (WOCEGAR) visited a local politician's office asking about a grant which had been donated to help fight the Ebola outbreak. She was insulted and threatened with disappearance; thereafter, she received anonymous phone calls threatening to accuse her of contracting and spreading Ebola. The Special Rapporteur highlighted Conteh's case in a communication to Sierra Leone in 2014; no response was received from the State. Previously, in 2011, Conteh's office was broken into, forming part of a pattern of attacks and harassment against her.

It has been noted that women defenders can face discrimination when accessing justice, and those who challenge traditional gender norms experience high levels of harassment, especially in rural areas. The absence of laws specifically protecting defenders and gender equality exacerbates this problem. Sierra Leone has one of the highest rates of FGM in the world; defenders Ibrahim Kallie Bangura and Rugiatu Turay have received death threats for campaigning against FGM, and Bangura was been forced to flee the country.

The criminalisation of male homosexuality creates a hostile environment for defenders of sexual orientation and gender identity rights, who have reported being unwelcome at human rights marches and have experienced threats, violence and harassment, including from within the human rights community. Mohamed S. Kamara, a gay rights advocate, has come under attack for his human rights work; "We were constantly abused, spat on, and sometimes assaulted by people who thought we were filthy, not normal, and immoral. We ...had to go into hiding to save ourselves from homophobic physical and verbal attacks." Kamara has since fled Sierra Leone and is living in exile. Defenders also experience discrimination by police and believe that the State does not properly investigate violence against defenders of sexual orientation and gender identity rights.

In recent years, land rights defenders have come under attack and Sierra Leone is among the most dangerous countries in Africa for land rights defenders. Defenders face violent repression and judicial harassment as foreign-owned companies grab land for mining and crop cultivation. Six members of Malen Land Owners and Users Association (MALOA) were released in 2016 after two years of trials based on spurious charges, following their peaceful attempts to halt land grabbing by a Belgian company in the region. In December 2015, the harassment and persecution of MALOA members was the subject of a communication to Sierra Leone by the Special Rapporteur, who expressed his concern at the systematic persecution of the association's members in relation to their legitimate land rights advocacy; no response was received from the State.

It has been reported that, in 2012, police opened fire on villagers near to Bumbuna in northern Sierra Leone, who were protesting the encroachment by a UK registered mining company on their land. The defenders were shot at, beaten and raped; one man was killed in the incident. In 2010, Kadiatu Koroma, a women human rights defender, was beaten and raped in a violent attack after villagers set up a roadblock to protest the same company trespassing on their land; Koroma was two months pregnant at the time of the attack and miscarried as a result. Reflecting on the incident, she said, “We had already planted our produce and we gathered as a community and started grumbling. We were saying, how can these people come and work in our farms without saying something to us”.

A worrying trend of police violence against protestors persists. In 2017, 16 year old Peter Tiffa was shot and killed by police during student protest in response to a strike at a university in the city of Bo. The HRCSL and newly formed IPCB are investigating whether police used excessive force.

Sierra Leone has participated in two UPR cycles, in 2011 and 2016. In the second cycle, Sierra Leone received and supported five recommendations on the situation of human rights defenders, including to combat impunity by ensuring prompt, thorough and transparent investigations of all violations, to take prompt action to prevent harassment by police officers, to strengthen protection of journalists and human rights defenders, and to refrain from criminalizing the legitimate activities of human rights defenders.⁵¹ The Special Rapporteur has sent a number of communications to Sierra Leone, none of which have received a response from the State. The Special Rapporteur reiterates the importance of State responses to his communications and urges Sierra Leone to increase its engagement with the mandate as part of the State’s broader efforts on the implementation of the Declaration.

4. Issues and Trends

Civil society in Sierra Leone is vibrant and defenders are largely able to carry out their work with limited interference, however those working on issues such as land and environmental rights, sexual orientation and gender identity rights, and women working on culturally sensitive topics such as FGM experience heightened risk in their work. The State has made significant steps towards improving protections for human rights defenders, including through the establishment of the Independent Police Complaints Board and by creating a role within the Human Rights Commission dedicated to the situation of human rights defenders. However, this role in the Commission remains unfilled and further efforts should be made to ensure the full staffing and functioning of the Commission. During the Ebola epidemic in 2014, heavy restrictions were placed on the press, and sedition provisions in the Public Order Act, 1965, pose a further constraint. Newly adopted legislation on NGOs further threatens to restrict defenders’ activities and their independence.

The Special Rapporteur recommends that Sierra Leone consolidate its progress on the creation of an enabling environment through the implementation of specific legislation on the protection of human rights defenders. Further measures must be put in place to ensure the protection of defenders who face heightened risk and criminalisation for their legitimate human rights work, including sexual orientation and gender identity rights defenders, land and environmental rights defenders and women human rights defenders. The Special Rapporteur urges Sierra Leone to revise legislation which unduly restricts the rights of

⁵¹ A/HRC/32/16 and A/HRC/32/16/Add.1

defenders, including the NGO Policy Regulations, and the Public Order Act. He calls on the State to uphold freedom of expression, to reduce bureaucratic hurdles to freedom of assembly, and to work with the police to eliminate occurrences of excessive use of force against human rights defenders.

Togo

1. National Context and Human Rights Defenders

Current President Faure Gnassingbé was first installed to the presidency by the military in 2005 following the death of his father, Gnassingbé Eyadéma, who held power from 1967. In 2015 he was elected to his third five-year term. Following high levels of election violence in 2005, in which as many as 500 people were killed, OHCHR established a Country Office in Togo to help build national capacities to protect human rights; it was operational between November 2006 and June 2015. Over the course of its mandate, it provided assistance to the Government in designing policies to comply with international obligations and to ensure accountability for past abuses. This included supporting the Truth, Justice and Reconciliation Commission.

Human rights defenders in Togo are largely free to carry out their activities. However, the Special Rapporteur is concerned by reports of limitations to freedom of expression and assembly, particularly in light of recent crackdowns against pro-democracy and opposition activists. During the recent wave of demonstrations beginning in September 2017, the Government's decision to periodically block internet access and impose bans on public protest suggests a lack of tolerance and a deterioration in the treatment of human rights defenders. Same sex relations are illegal in Togo and homosexuality is a source of discrimination; revisions to the penal code in 2015 increased the penalty for same-sex relations to three years and included a crime of "incitement to gross indecency". Nevertheless, a nascent community of defenders working openly on sexual orientation and gender identity rights has emerged during the reporting period. It has been noted that pro-democracy activists, those who are critical of the Government, and journalists face heightened risk on account of their human rights activities.

An entry for Togo was included in the 2006 Global Survey.⁵² At that time, the Special Representative expressed concern about the deterioration of the situation of defenders, coinciding with the context of violence that preceded and followed the elections. She further noted reports of various obstructions by the authorities aimed at preventing human rights defenders from carrying out their activities in the electoral process, the prevalence of threats, insults, physical assaults, police surveillance of premises and staff and acts of intimidation against human rights defenders leading some to hide or go into exile. The Special Representative was concerned by restrictions on the rights to freedom of assembly, in particular the prohibition of demonstrations to denounce the constitutional coup d'état and the apparent violent crackdown on these peaceful demonstrations by the police. She noted

⁵² E/CN.4/2006/95/Add.5

that hostility towards defenders by State authorities was resulting in defenders resorting to self-censorship.

2. Legal and Policy Framework

Togo has ratified all of the major human rights treaties, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers, to which it is a signatory. It has accepted most individual complaints procedures, with the exception of those for the Optional Protocol to the ICESCR, and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Togo is a member of the Human Rights Council for the period 2016 to 2018. It is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of the Economic Community of West African States.

There is no dedicated national protection mechanism for human rights defenders. However, the 1992 Togolese Constitution affirms the promotion, respect and protection of human rights, and includes key protections of relevance to the work of human rights defenders, including freedom of expression, freedom of the press, and freedom of association, assembly and peaceful demonstration. New legislation on freedom of association was adopted in April 2016, under which mandatory pre-authorisation is required for foreign or international associations. Further, associations are bound to respect national laws and morals which, as noted by various sources, could be used to target sexual orientation and gender identity rights groups, as homosexuality is illegal in Togo.

In May 2011, legislation introducing a prior notification system for public demonstrations was adopted, replacing a system of authorisation. The new law significantly improved and clarified the framework governing public assembly, however, some elements lack definition, including by establishing that it should only apply to large assemblies, or defining a clear notice period. Instances of State authorities banning protests without due process, and dispersing protests which had been correctly notified have been reported.

A new penal code was passed into law in 2015 which contains some positive advancements for human rights. However, it also introduces a number of restrictions. Participation in public assemblies which have not been correctly notified can, regardless of size, incur a fine and a maximum five-year prison sentence. Organisers can be held liable for any outbreaks of violence, criminality, or material damage caused during a demonstration. A 2013 decree on maintaining and restoring public order introduced a new legal framework for the use of force. While this provides improved regulation, this decree does not meet international standards, and the use of force is not clearly restricted to use only when strictly necessary.

While prison sentences for press offences were abolished in 2004 under an amendment to the Press and Communications Code, they have been reinstated under the new penal code; those found guilty of defamation can also face high fines. The revised law further introduced a broadly worded charge of publishing, broadcasting or reproducing "false news" which, according to several sources, could be used to target critical voices. The 2012 Family Code strengthened protections for women's rights. In February 2013, the law governing the High Audio-visual and Communications Authority (HAAC) was amended to extend its regulatory and disciplinary powers. The changes afforded further disciplinary powers without judicial oversight.

The Commission nationale des droits de l'homme is the Togolese national human rights institution; it is accredited "A" status in accordance with the Paris Principles. In March 2016, Togo introduced a national preventative mechanism against torture, situated within the Commission. However, the President is permitted to appoint some members to the mechanism without parliamentary oversight, which poses a significant limitation on its independence. During her 2014 country visit to Togo, the previous Special Rapporteur met with the members of the Commission.⁵³ She considered that the framework for engagement with defenders was not well established, however, a focal point for defenders had been set up and was operational. She expressed concern that defenders were sceptical about the role of the focal point and was discouraged to learn that they do not always report issues to the Commission owing to a lack of trust in the institution and the State apparatus. In 2012, the Commission published a report on allegations of torture and ill-treatment on the premises of the National Security Agency. The report was commissioned by the Minister for Justice to investigate the allegations concerning persons involved in the coup d'état attempt in 2009. However, according to the information received during the follow-up visit, the findings of the report were partially contested by the Government and the President of the Commission, Koffi Kounté, fled the country after the publication of the report, fearing for his life; he has since remained in exile in France.

In 2011, the Human Rights Committee noted with concern the unjustified restrictions on freedom of expression, in particular the censorship of certain media by the HAAC.⁵⁴ It further noted restrictions imposed on the freedom to demonstrate peacefully and the varying degree of such freedom depending on whether the demonstrations are planned in Lomé or elsewhere in the country. The Committee expressed concern about the threats made against journalists and human rights defenders. In its 2012 report, the Committee on the Rights of the Child expressed concern regarding the stigmatization of human rights defenders in the State, the reluctance of public authorities to give legitimacy to their work and the absence of measures to investigate and prosecute authors of threats and other acts of intimidation against them.⁵⁵ It was also concerned that women human rights defenders are particularly vulnerable to ostracism within their own families and communities, and are frequently labelled as, inter alia, "bad mothers" and "family breakers".

3. Implementation of the Declaration

A number of legislative and institutional developments within Togo over recent years have contributed to strengthening the implementation of the Declaration on Human Rights Defenders, however, some key obstacles remain or have indeed been reinforced through legislative changes. Further, the Special Rapporteur is deeply concerned by the clear deterioration that can be seen in the situation of human rights defenders exercising their right to peaceful assembly. Restrictions to freedom of expression further undermine the advances made by Togo in other areas.

During the visit of the previous Special Rapporteur to Togo in 2014, she was disappointed to discover that the national plan of action had not been implemented owing to lack of funding,

⁵³ A/HRC/25/55/Add.2

⁵⁴ CCPR/C/TGO/CO/4

⁵⁵ CRC/C/TGO/CO/3-4

although some activities had been carried out with the support of the United Nations Development Programme and OHCHR.⁵⁶ With regard to civil society, she observed greater collaboration with civil society actors, an extension on what began in 2002 when human rights defenders in Togo formed the Togolese Coalition of Human Rights Defenders (CTDHR), whose main objective is promoting the Declaration on Human Rights Defenders.

Freedom of assembly has come under repeated threat in Togo. It has been reported that protests are commonly met with excessive use of force, including the use of live ammunition, which has resulted in numerous deaths. In November 2015, seven people were killed and over a hundred were injured when police used live ammunition to disperse an unauthorised protest. The land rights defenders were opposing a government plan to designate the land as a nature reserve, displacing many residents in the process. In April 2016, Adamou Moussa and Zékeria Namoro were arrested after calling for justice for the victims of the repression of the November protests in Mango. Both defenders were charged with incitement to commit a crime and detained for five months before being released on bail; in total, nine people were detained for extended periods in relation to the November and April protests. In March 2016, local officials banned a demonstration scheduled to take place in Lomé, organised by le Mouvement Martin Luther King, with just one day's notice; the law requires any objections to planned protests to be notified at least 72 hours in advance.

In April 2017, Kombate Garimbité, a member of the opposition Alliance of Democrats for Integral Development was arrested after he made critical statements regarding a local leader in Yembour. He was charged with disturbing public order after State authorities claimed that he had organized an anti-government protest the previous month. Protests organised by the political opposition and pro-democracy activists which have called for the observance of the 1992 constitution and the presidential two-term limit have been violently repressed. Between August and December 2017, mass demonstrations organised by the political opposition were violently dispersed, including with the use of live ammunition, and clashes broke out between security agents and protestors. Ten people were killed, including two members of the armed forces and three children under the age of 14. More than 200 people were arrested and 60 people were sentenced to up to five years of imprisonment. Charges included rebellion, wilful destruction, assault, violence against state officials, aggravated disruption of the public order and aggravated theft.

Freedom of expression has also become increasingly restricted in Togo. In February 2017, human rights defenders protested the blocking of the frequencies of two broadcasters, CityFM and La Chaîne du Futur, a television channel, by HAAC for breaching licensing rules. Demonstrators challenged the disproportionality of the penalty. Further crackdowns took place in the context of the pro-democracy demonstrations of late 2017. For a period of six days in September 2017, the Government shut down the internet. Reports also suggest that some journalists had their cameras confiscated while covering the protests, and a female journalist working for the French media outlets TV5 Monde and France 2, Emmanuelle Sodji, had her accreditation withdrawn by State authorities and was asked to leave Togo.

Togo has participated in two cycles of the UPR process; in 2016 it received two recommendations on the subject of human rights defenders.⁵⁷ It accepted a recommendation

⁵⁶ A/HRC/25/55/Add.2

⁵⁷ A/HRC/34/4

to improve access to justice for women through legal aid and ensure that women human rights defenders can work safely and are not hindered in their activities. It did not accept a recommendation to ensure a safe working environment for human rights defenders, by modifying the legislation that allows the denial of legal registration of organizations specialized in reproductive and sexual rights of women as well as associations defending the rights of lesbian, gay, bisexual, transgender and intersex persons. The Special Rapporteur has not sent any communications to Togo during the reporting period.

4. Issues and Trends

Noting the advancements made by Togo in certain key areas, the Special Rapporteur is deeply troubled by the recent deterioration in the situation of human rights defenders in Togo, and especially by the use of excessive force by State authorities, including the police, to repress the legitimate exercise of freedom of assembly, resulting in numerous deaths. He further regrets the use of criminalisation and judicial harassment against those who seek to hold the Government to account and uphold human rights in Togo, and the blocking of the internet to prevent free expression and access to information at times of great national significance.

The Special Rapporteur calls on Togo to reaffirm and strengthen its commitment to the implementation of the Declaration on Human Rights Defenders by putting in place concrete measures to ensure the protection of human rights defenders and creating an enabling environment for their work. He recommends that Togo urgently amend legislation which may intentionally or inadvertently restrict the legitimate activities of human rights defenders, such as those working on sexual orientation and gender identity rights, and calls for the decriminalisation of all press offences. He urges Togo to take steps to further educate State authorities on the rights of human rights defenders, including journalists, to ensure the proportionate use of force. The Special Rapporteur calls upon the State to uphold its constitutional obligations with regard to protecting freedom of expression and freedom of assembly, and recommends that the State ensure prompt and impartial investigations of violations against human rights defenders, so that perpetrators may be brought to justice.

East Africa

Burundi

1. National Context and Human Rights Defenders

Following a long period of one-party rule, civil war and a series of coups, democratic functioning was restored in Burundi with the 2005 Constitution, underpinned by the Arusha Accords of 2000. In 2015, President Pierre Nkurunziza, who has been in power since 2005, announced plans to run for a third term, despite the two-term limit provided for in the Constitution. This sparked political unrest and violence in which hundreds of people were killed. A failed coup attempt took place in May 2015; within days political opponents were arrested and more than 100,000 people fled the country. Pierre Nkurunziza was re-elected on 24 July 2015. In 2018, 430,000 Burundians remain displaced in neighbouring countries.

A UN Commission of Inquiry was established in 2016 to investigate human rights violations and abuses committed in Burundi since April 2015, including on their extent and whether they may constitute international crimes, with a view to contributing to the fight against impunity; its mandate has twice been extended. In 2017, Burundi became the first country to leave the International Criminal Court (ICC) after the ICC opened investigations into the 1200 people killed since the 2015 political unrest.

Prior to 2015, Burundi had a dynamic civil society and independent media that allowed for freedom of expression, but since the unrest and the subsequent crack down by State authorities, the space for civil society has been dramatically closed. Some active civil society presence remains; organisations, such as Iwacu, an independent media outlet, and Ligue burundaise des droits de l'homme iteka (Ligue ITEKA), have been vocal about the disappearance of their former employees. It has been noted that many leaders of human rights organisations have been arrested or forced into exile and that, within this hostile environment, defenders have been negatively portrayed or seen as political opponents. Some media outlets have been observed to lead smear campaigns against defenders, and have accused those working on sensitive issues, such as corruption, of using the title "defenders" as a cover for political work.

Defenders are subject to threats and harassment; reprisals for engaging in UN mechanisms have also been noted. Women human rights defenders and defenders working on sexual orientation and gender identity rights have been identified as particularly vulnerable. Same-sex relations were made illegal in Burundi in 2009, which has no prior history of anti-homosexuality legislation. A rise in homophobic sentiment has been linked to the introduction of the law, and sexual orientation and gender identity are a source of discrimination.

Burundi was included in the 2006 Global Survey on the Situation of Human Rights Defenders, however, detailed information was not available to the Special Rapporteur at that time.⁵⁸

2. Legal and Policy Framework

Burundi has ratified most major human rights treaties, with the exception of the Second Optional Protocol to the ICCPR, aiming to the abolition of the death penalty, and the International Convention on the Protection of the Rights of All Migrant Workers. It has accepted individual complaints and inquiry mechanisms under the Convention against Torture and the Optional Protocol to the Convention on the Rights of Persons with Disabilities. Burundi is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. In 2013, Burundi extended a standing invitation to all UN special procedures mandate holders.

In 2014, a bill on the protection of human rights defenders was drafted and presented to stakeholders, however due to political pressure and a lack of resources, no further progress has been made with regard to progressing the bill. The Special Rapporteur reiterates the importance of legislation for the protection of human rights defenders and commends the initial efforts of the State to develop such protections, however he notes earlier concerns with regard to the text of the draft which lacked certain elements of crucial importance, including

⁵⁸ E/CN.4/2006/95/Add.5

in the area of witness protection. Special Rapporteur considers that a revised draft law on the protection of human rights defenders would be of great benefit.

The 2005 Burundian Constitution affirms the State's commitment and respect for fundamental human rights as proclaimed in the UDHR and other international treaties. Burundi has created a Centre for the Promotion of Human Rights and Prevention of Genocide which is mandated with educating the population on respect for human rights. The Press Act, 2013, introduced key problematic restrictions for journalists and media outlets, including high fines, and powers to suspend media outlets and withdraw press cards; further, it limited the protection of sources, and defined restrictive eligibility criteria based on educational and professional standards rather than function. In 2015, a court ruled that the law violated freedoms of expression and of the press under the Treaty for the Establishment of the East African Community. Separately to this decision, Burundi introduced a revised Press Act, repealing some of the controversial provisions.

The Independent National Human Rights Commission of Burundi (CNIDH) was established in January 2011 as the national human rights institution. In 2013, the CNIDH set up a workshop between State and non-State actors to build a legal framework for protecting human rights defenders, however, as noted above, progress on this has halted. The Human Rights Committee of the ICCPR noted with concern in 2014 that scant physical and financial resources had been made available to the CNIDH and that the State had failed to implement recommendations made.⁵⁹ The CNIDH continues to publish reports, but its accreditation was downgraded from "A" to "B" status in 2018, in accordance with the Paris Principles. Human rights groups have criticised CNIDH's silence on the killings and closures of independent media and NGOs in recent years. The Special Rapporteur reiterates his concern that defenders have lost confidence in the CNIDH.

In 2014, the Human Rights Committee expressed concern over reports of harassment and intimidation to journalists and defenders by State security forces and police.⁶⁰ In its 2016 report, the Committee in the Elimination of Discrimination Against Women expressed deep concern regarding restrictions imposed on women human rights defenders, including women's organisations and women lawyers, since the onset of the crises, including increased surveillance and fear of retaliation for advocating women's rights.⁶¹ It noted that representatives of NGOs feared reprisals for attending the dialogue held by the Committee with the State, and expressed regret that women human rights defenders have had to leave Burundi to seek protection for their life and personal safety. Also in 2016, the Committee against Torture expressed grave concern regarding attacks and acts of intimidation against defenders, journalists and their families.⁶² The Committee reported that some NGOs had their activities suspended as a result of the political crisis and their bank accounts closed, and that press outlets, especially for private media, were targeted by police raids. The Committee also noted the case of four lawyers threatened with disbarment in apparent reprisal for their engagement with the Committee.

⁵⁹ CCPR/C/BDI/CO/2

⁶⁰ CCPR/C/BDI/CO/2

⁶¹ CEDAW/C/BDI/CO/5-6

⁶² CAT/C/BDI/CO/2/Add.1

The State does not have an explicit policy on human rights defenders or on their protection.

3. Implementation of the Declaration

The Special Rapporteur notes that progress on the implementation of the Declaration on Human Rights Defenders has been stalled in Burundi, and that the situation of human rights defenders has dramatically worsened since the onset of political unrest in 2015. As a number of sources have observed, defenders in Burundi are subjected to violations and obstacles in their work, including Government restrictions on their activity, threats and harassment, arbitrary arrest, detention and criminal prosecution, enforced disappearances and extrajudicial killings. Particular concerns have been raised regarding women human rights defenders, who have been forced to close down their organisations on account of threats to their families and who face a heightened risk of gender-based violence. Those working on sexual orientation and gender identity rights experience discrimination, including from within the human rights movement, and have been unable to access support through the CNIDH, which is perceived as not open to them.

The Special Rapporteur is concerned by reports that the Government has implemented measures to restrict, suspend or permanently close NGOs and independent media outlets. In November 2015, around ten NGOs were temporarily suspended for allegedly inciting violence. In October 2016, four human rights organisations were issued a provisional suspension from the Minister of the Interior and of Patriotic Development. In December 2016, Ligue ITEKA, a prominent human rights organisation, was banned for causing disorder.

It has also been noted that journalists and media outlets have been a key target of repression over recent years. In 2015, the government closed four private radio broadcasters. During the Constitutional Referendum (2018), the National Communication Council suspended two international media outlets, the BBC and Voice of America, for a period of for six months. They also suspended the online comment section of Iwacu, a national independent media outlet. In response to heightened risk, intimidation and threats, many defenders have fled the country and at least 90 journalists have been exiled with no income or security.

The Special Rapporteur is deeply troubled by the killing and disappearance of human rights defenders in Burundi. In August 2015, an attempted assassination was made on the life of Pierre Claver Mbonimpa, President of the Association burundaise pour la protection des droits humains et des personnes détenues (APRODH). His family was subsequently targeted; his son in law, Pascal Nshimirimana, was killed in October 2015 as he approached his house in Bujumbura, and his son, Welly Nzitonda, was found dead in November 2015 after having been arrested by the police. In October 2015, the body of Charlotte Umugwaneza, a woman human rights defender and board member on Observatoire de lutte contre la corruption et les malversations économiques, a leading anti-corruption organisation, was found mutilated on a rural street. Among the disappeared are Marie-Claudette Kwizera of Ligue ITEKA, who went missing in December 2015, and Jean Bigirimana, a journalist for Iwacu who went missing in July 2016. They remain missing today and the State has failed to properly investigate their disappearances. Leandre Sikuyavuga, chief editor at Iwacu, reflecting two years later stated, "If we stop, Jean will blame us forever. It's difficult, as we're sometimes scared. However, let's stay standing".

As reported by various sources, defenders have also been arbitrarily arrested, detained and sentenced on spurious charges. During 2018, five human rights defenders have received

sentences: Aime Constant Gatore, Marius Nizigama and Emmanuel Nshimirimana, all from the rights-based organisation PARCEM received sentences of ten years during a hearing in March, Nestor Nibitanga of APRODH was convicted to five years in prison in August 2018, while Germain Rukuki was condemned to 32 years in April, representing an unprecedented sentence for a human rights defender in Burundi. Rukuki had been arrested in July 2017 and detained irregularly for almost nine months.

Reprisals for cooperating with UN mechanisms have also been noted in Burundi. In 2016 four lawyers, Armel Niyongere, Lambert Nigarura, Dieudonné Bashirahishize and Vital Nshimirimana, contributed to the drafting of a joint shadow report submitted to the Committee Against Torture. Subsequently, the Public Prosecutor at the Court of Appeal of Bujumbura wrote to the President of the Bar Association to request that the lawyers be disbarred.

Burundi has participated in three cycles of the UPR, most recently in 2018. In the second cycle, Burundi received six recommendations pertaining to the situation of human rights defenders, of which five were noted and only one was supported.⁶³ In the third UPR cycle, 14 recommendations were made pertaining to human rights defenders, marking a dramatic increase in the urgency of the situation of defenders in the State.⁶⁴ The Special Rapporteur has send numerous communications to Burundi, including with regard to the cases of Germain Rukuki and Marie-Claudette Kwizera, and the banning of Ligue ITEKA. Many communications have received no response from the State; the Special Rapporteur reiterates the importance of State responses to his communications and urges Burundi to increase its engagement with the mandate in this regard. The Special Rapporteur conducted a country visit to Burundi in 2014. He raised concerns about the shrinking space for defenders and the violations of freedom of assembly and demonstration, freedom of association and freedom of expression and freedom of press. He also noted regret at the lack of networks for the protection of defenders of victims of human rights violations.

4. Issues and Trends

The situation for human rights defenders has significantly declined in Burundi since 2015, when the onset of political unrest was sparked by the announced intention of President Nkurunziza to stand for a third term and the subsequent coup attempt. In the period since, defenders have experienced a severe crackdown on their fundamental freedoms, and actors across civil society have been affected by the closing of civic space. Of deep concern to the Special Rapporteur is the exceptionally harsh nature of the violations currently experienced by defenders in Burundi, including extra-judicial killings, forced disappearances and the targeting of defenders' family members. In addition to this, defenders face spurious criminal charges and lengthy sentences, as well as the temporary or permanent banning of their organisations.

The Special Rapporteur calls upon Burundi to take immediate measures to de-escalate the situation of violence in the State and bring an end to reprisals against human rights defenders in connection with their legitimate work. He further calls on Burundi to ensure the thorough and impartial investigation of violations against defenders, including extrajudicial killings and forced disappearances, to ensure that perpetrators are brought to justice. The Special

⁶³ A/HRC/23/9 and A/HRC/23/2

⁶⁴ A/HRC/38/10

Rapporteur recommends that Burundi immediately release defenders detained on spurious charges related to their human rights works, and ensure fair compensation to all that have been victims of judicial harassment. He encourages the State to urgently revise and implement the draft bill on the protection of human rights defenders, and to strengthen the functioning of the national human rights institution to ensure that the rights of human rights defenders are upheld. He urges the State to cooperate with UN Commission of Inquiry to ensure accountability for the human rights violations and abuses committed since 2015.

Djibouti

1. National Context and Human Rights Defenders

Civil society space in Djibouti is restricted and very few human rights defenders are able to operate openly. In light of the human rights situation in Djibouti, some groups of human rights defenders have been observed to be particularly vulnerable. Women face discrimination due to long-standing cultural norms, Djibouti's family laws, and weak enforcement of existing protections. Early marriage and female genital mutilation (FGM) are prevalent, and the presence of foreign military bases has contributed to a substantial sex trade, with vulnerable women often trafficked for this purpose.

Sexual orientation and gender identity are also a source of discrimination in Djibouti. Although the constitution does not expressly outlaw homosexual activity, it is considered taboo and is *de facto* illegal. There are no civil society organisations or public support networks visibly working on sexual orientation and gender identity rights in Djibouti. There are significant numbers of migrants and refugees in Djibouti, notably from Ethiopia, Somalia and Yemen; defenders, civil society and humanitarian organisations working with migrants and refugees in precarious situations can face challenges in accessing these populations.

Djibouti was not included in the 2006 Global Survey on the Situation of Human Rights Defenders.

2. Legal and Policy Framework

Djibouti has ratified most of the major human rights treaties, with the exception of the Optional Protocol to the Convention against Torture, the Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of Migrant Workers. Djibouti has not accepted complaints and inquiry mechanisms, with the exception of those under the optional protocol to the ICCPR, those under the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and the inquiry procedure under the Convention against Torture. Djibouti is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of the Arab League.

While there is no specific law concerning human rights defenders in Djibouti, human rights are generally protected in the 1992 Constitution, by reference to the UDHR and the African Charter on Human and Peoples' Rights. The constitution also articulates a number of specific rights and duties, although some rights are subject to limitations. For instance, under Article 15 of the constitution, the right to expression, association and strike are included, but the

right to assembly is not expressly protected. Article 18 indicates that foreigners legitimately in the country are entitled to the protection of the law in respect of their person and property, but the constitution does not provide clear protections to the many migrants and refugees who enter Djibouti irregularly. Restrictive legislation used to impede the work of human rights defenders includes the exceptional security measures brought in under Decree No. 2015-3016 PR/PM of 24 November 2015, following the Paris terror attacks earlier that month. The decree facilitates the banning of assembly and gatherings in public areas as a counterterrorism measure, but has been noted to have significant implications for defenders. Of note is Article 6.1, which provides for the State to dissolve associations which threaten public order.

The National Human Rights Commission is listed as the national human rights institution for Djibouti, however it has not been accredited by the Global Alliance of National Human Rights Institutions. In 2014, the Committee on Economic, Social and Cultural Rights noted concern regarding the lack of independence of the National Human Rights Commission and the inadequacy of resources given to it.⁶⁵ Civil society submissions to the third UPR cycle in 2018 have suggested the body remains under close control of the authorities, is not properly independent, lacks transparency, and does not align with the Paris Principles.⁶⁶

3. Implementation of the Declaration

Djibouti has not taken significant steps towards implementing the Declaration on Human Rights Defenders. According to numerous sources, the few defenders who operate openly in Djibouti face harassment and attacks from security and police forces, including arbitrary arrest and detention, with some defenders held incommunicado. Instances of torture have been reported. The Special Rapporteur notes with concern the recent case of Kadar Abdi Ibrahim of the Movement for Democracy and Freedom; Ibrahim returned to Djibouti in April 2018 following an advocacy mission in Geneva and was held at the airport, subjected to a search of his home, and had his passport confiscated.

Staff of one of the most prominent human rights groups operating in Djibouti, the Ligue Djiboutienne des Droits Humains (LDDH), have frequently been harassed and detained. The arrest and imprisonment of former President of LDDH, Jean-Paul Noël Abdi, was the subject of communications to Djibouti in 2007 and 2009. In 2014, Zakaria Abdillahi, President of LDDH was arrested and detained for five days. In 2015, Saïd Hussein Robleh, Secretary General of LDDH was attacked twice by the police and during the second instance sustained injuries as a result of being shot at. Another LDDH staff member, Omar Ali Ewado, was arrested and sentenced to three months' imprisonment on charges of "inciting public hatred and spreading false news" after publishing a list of 27 people from the Yonis Moussa community who were killed during clashes with the police on the 21st December 2015; his charges were overturned in February 2016 following an appeal.

The reported deaths of at least 27 Yonis Moussa community members in 2015 are illustrative of the extreme and excessive force with which protests and strikes have been suppressed in recent years. The Special Rapporteur notes with concern ongoing restrictions on the rights to assembly, association and expression. The right to freedom of assembly in Djibouti is limited by a legal requirement to provide advance notification of public meetings and the power of

⁶⁵ E/C.12/DJI/CO/1-2

⁶⁶ A/HRC/WG.6/30/DJI/3

Government to impose a broad range of restrictions. There is no privately owned or independent media in the State; although opposition parties may publish journals, media sources broadcasting from outside the State are often blocked. Strict libel laws further serve to limit journalism.

Djibouti participated in the third cycle of the UPR in 2018, however the State has made no significant progress towards implementing the recommendations accepted under the 2013 UPR cycle, which included measures to protect freedom of expression, association and assembly; to lift restrictions on civil society, trade unions, journalism and political opposition; and to bring defamation laws into line with international standards.⁶⁷ Further recommendations focused on release of opposition political prisoners and the investigation of cases of harassment against defenders and allegations of torture and ill-treatment of prisoners. Djibouti has also not advanced its cooperation with UN human rights mechanisms and special measures, and defenders have reported that they are not able to engage with the National Human Rights Commission.

Communications to Djibouti have raised topics including the use of arbitrary arrest, detention and judicial harassment of defenders, and the use of excessive force by security forces in the suppression of protests and the right to freedom of expression. In light of these concerns, it is notable that the Special Rapporteur on Freedom of Assembly has requested to visit Djibouti in 2011 and 2013, but no invitation has been extended by the State.

4. Issues and Trends

It has been noted that human rights defenders in Djibouti face serious restrictions to their work and operate under threat of criminalisation and violent reprisals at the hands of State security forces, including the police. According to various sources, freedoms of expression, peaceful assembly and association are not adequately upheld and legislative measures have allowed for undue restrictions to the freedoms outlined in the Declaration. Djibouti has taken steps to allow better representation of minority and opposition groups in the political process. The establishment of the National Human Rights Commission is a positive development, but the functioning of the body must be strengthened in line with the Paris Principles, and a focus on the situation of human rights defenders included within its mandate.

The Special Rapporteur encourages Djibouti to continue seeking ways to enable broader democratic participation in politics, as well as to strengthen cooperation with the UN human rights mechanisms, including extending invitations to special mandate holders covering human rights defenders and the right to peaceful assembly. Moreover, Djibouti should seek to lift restrictions and cease harassment of journalists, bloggers, artists and other defenders, allowing organisations and individuals to carry out their activities freely. This should include unblocking blocked media outlets, allowing non-state independent media to operate. Djibouti should lift unnecessary restrictions on the right to assembly, and investigate the cases of detained defenders and allegations of abuse and harassment by security services. Current legislation, including Decree No. 2015-3016 PR/PM regarding exceptional state security, and clauses on defamation in the Criminal Code, should be revised in line with international

⁶⁷ A/HRC/24/10

standards to ensure that provisions do not infringe on defenders' legitimate exercise of their rights.

Eritrea

1. National Context and Human Rights Defenders

Reflecting a longstanding pattern of grave human rights abuses in Eritrea, the State has been under UN special procedures since 2012, with the appointment of a dedicated Special Rapporteur. The 38th Session of the Human Rights Council in 2018 extended this mandate for a further year.⁶⁸ Eritrea was also subject to a UN Commission of Inquiry on Human Rights from June 2014 to June 2016, which concluded that the systematic nature of violations over the previous 25 years may amount to crimes against humanity.⁶⁹ The inquiry identified “crimes of enslavement, imprisonment, enforced disappearances, torture, persecution, rape, murder and other inhumane acts”, stating that these crimes were committed systematically in order to “instil fear in, deter opposition from and ultimately to control the Eritrean civilian population”.

Eritrea was included in the 2006 Global Survey on the situation of human rights defenders.⁷⁰ Among the serious concerns raised were the tight restrictions on civil society; the lack of any free press and the expulsion of foreign journalists; restrictions imposed on the movement of foreign diplomats and foreign organisations; restrictions on freedom of expression, information and assembly; frequent arbitrary arrest and detention; and a lack of engagement by Eritrea with the mandate of the Special Representative.

In addition to the many well-documented abuses, Eritreans face compulsory indefinite national service in the military, which is a contributory factor in the high numbers of Eritreans deciding to flee the country. Eritrean refugees and migrants are often highly vulnerable to further abuse and punishment, if they are caught trying to leave Eritrea, while they are outside the State, or upon their return.

Particularly vulnerable groups in the State include certain minority ethnic groups, religious minorities, and women, who face high rates of female genital mutilation, domestic violence, early marriage and childbirth, and the risk of rape and sexual harassment during compulsory national military service. Sexual orientation and gender identity are also a source of discrimination in Eritrea and same-sex relations are illegal.

2. Legal and Policy Framework

Eritrea is party to most of the major UN human rights treaties, with the exception of the Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of Migrant Workers and the Convention on the Rights of Persons with Disabilities. It is not party to the Optional Protocol to the Convention against Torture or the Second Optional Protocol to the ICCPR, aiming to the abolition of the

⁶⁸ A/HRC/38/L.15/Rev.1

⁶⁹ A/HRC/32/47

⁷⁰ E/CN.4/2006/95/Add.5

death penalty. It has not accepted any individual complaints procedures or inquiry mechanisms. Eritrea is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights.

International obligations have not been translated into domestic law or policy. The constitution was drafted and ratified in 1997, and although it contains provisions to protect human rights, it has never been implemented. The Committee on the Rights of the Child⁷¹ and the Committee on the Elimination of Discrimination against Women⁷² noted in their 2015 reports that the prolonged compulsory national service, the ineffective implementation of the 1997 Constitution and the suspension of the National Assembly had resulted in the deterioration of the rule of law and a serious human rights and humanitarian situation in Eritrea. The State has no effective constitutional or legal protections for human rights or human rights defenders, and lacks an independent judiciary, a functioning legislative assembly, and institutions capable of checking and restraining the powers of the executive. Eritrea does not have a national human rights institution.

3. Implementation of the Declaration

No significant steps have been taken by Eritrea towards implementation of the Declaration on Human Rights Defenders. Since 2001, human rights organisations and independent journalists have been banned from operating inside Eritrea, and civil society and freedom of expression are severely limited. It has been noted that these restrictions make it effectively impossible for human rights defenders to operate inside the State, and those that attempt to do so face the dangers of arbitrary arrest, detention in harsh prison conditions and extrajudicial killings. Sharing information on the situation inside Eritrea abroad can equally expose individuals to arrests and detention. As a result of such restrictions, organisations which actively work on human rights issues in Eritrea must typically do so from outside the country, led by members of Eritrean diaspora.

Concerns have been raised surrounding human rights defenders from religious minorities, who face significant violations. In May 2017, 122 Eritrean Christians were detained in a crackdown against unregistered denominations around the country. Expressions of dissent are observed to be met with reprisals. In October 2017, Haji Musa, the Honorary President of Al Diaa Islamic School, was arrested for refusing to enforce a government ban on the veil or hijab at the school. His arrest sparked protests which were met with repression, mass arrests and detentions. Musa is believed to have died while still detained in police custody on 1 March 2018; his body was returned to his family without any explanation of the cause of his death. A second wave of protests took place following his funeral; the Special Rapporteur on the situation of human rights in Eritrea deplored the arbitrary arrest and detention of hundreds of people, including children, who participated in the protest to voice their criticism against Government policy. While some were subsequently released, an unknown number remain in custody.

The Special Rapporteur is concerned by reports that foreign mining companies have been implicated in human rights abuses in Eritrea, particularly with regard to the use of forced labour through national conscription. Three Eritrean human rights defenders have brought a

⁷¹ CRC/C/ERI/CO/4

⁷² CEDAW/C/ERI/CO/5

case before a Canadian court, claiming damages related to slavery, torture and inhuman treatment at an Eritrean mine held by a Canadian company.

The Special Rapporteur sent a letter of allegations to Eritrea in 2009, concerning the arbitrary arrest, detention and deaths of a number of journalists and other defenders. Eritrea did not respond to this communication, which conforms to a broader trend of non-engagement with UN human rights mechanisms. The Special Rapporteur on the situation of human rights in Eritrea has noted that the Eritrean government has failed to engage in dialogue in connection with her mandate for six years, including consistently refusing access for visits to the State. Likewise, during its period of investigation, the UN Commission of inquiry on Human Rights in Eritrea requested to visit the State but was declined by the government.

In her 2018 report to the Human Rights Council, the Special Rapporteur on the situation of human rights in Eritrea has been encouraging recent moves by Eritrea to allow some limited access by envoys, diplomats and parliamentarians from different countries, as well as some high-level UN officials and journalists.⁷³ Eritrea also submitted its first Periodic Report on the African Charter to the 62nd Ordinary Session of the African Commission on Human and Peoples' Rights in 2018, representing its first submission since accession to the Charter. During 2018, Eritrea has also responded favourably to moves by Ethiopia to respect a 2000 border agreement and to restore peace between the two States. This border dispute, and associated security issues, has been cited by the Eritrean government as the main justification for violating human rights, and particularly as the main rationale for imposing indefinite military service.

4. Issues and Trends

The situation for human rights defenders in Eritrea is dire, with defenders unable to carry out their work for fear of reprisals, including arrest, detention, torture, enforced disappearances and extrajudicial killings. The Special Rapporteur hopes that rapprochement with Ethiopia creates an opportunity for long overdue reforms in Eritrea. He recommends that Eritrea engage with UN human rights mechanisms, including the special procedures mandate holders, and begin broader reforms in compliance with its human rights obligations under international law.

The Special Rapporteur is hopeful regarding the recent progress towards resolving the border dispute with Ethiopia through peaceful means. Once resolved, the State should abolish the practice of indefinite compulsory national service with immediate effect. Further, the Special Rapporteur calls on Eritrea to facilitate the immediate release of prisoners of conscience and bring an end to the arbitrary arrests, detention and extrajudicial killings which create an atmosphere of fear and intimidation for human rights defenders and others. Allowing independent civil society organisations, human rights defenders and NGOs to conduct their work freely and without harassment would mark a significant step toward the implementation of the Declaration; allowing independent media and press to operate and making improvements in the transparency and independence of the judicial process would further consolidate this.

⁷³ A/HRC/38/50

Ethiopia

1. National Context and Human Rights Defenders

In April 2018, the Ethiopian People's Revolutionary Democratic Front (EPRDF) elected Dr. Abiy Ahmed as Prime Minister. Since his inauguration, Ethiopia has made positive moves to improve its human rights record. In June 2018, the state of emergency was lifted two months earlier than planned. Such changes are already leading to improvements in the situation of human rights defenders

Prior to 2018, Ethiopia's treatment of human rights defenders had long been grounds for concern. The 2006 Global Survey on the Situation of Human Rights Defenders attests to a generally poor human rights situation at the time, including severe restrictions on civil society space, repression against human rights defenders, and major shortcomings in the implementation of justice.⁷⁴ Of particular concern were credible reports of police brutality, torture, extrajudicial killings, arbitrary arrest, unfair trials, and poor access to economic, social and cultural rights. Until very recently, such issues have persisted, and this legacy of entrenched human rights abuses represents a significant challenge to reform and reconciliation.

It has been noted that human rights defenders face a high level of risk generally, with journalists, bloggers and those working on the rights of ethnic groups and religious minorities facing heightened threats. Homosexuality is illegal in Ethiopia and there are no civil society organisations or public support networks visibly working on sexual orientation and gender identity rights. Women also face significant discrimination and violations to their rights.

2. Legal and Policy Framework

Ethiopia has ratified most major human rights treaties, with the exception of the Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Optional Protocol to the Convention against Torture, and the Second Optional Protocol to the ICCPR, aiming to the abolition of the death penalty. It has not accepted individual complaints or inquiry procedures, with the exception of the inquiry procedure under the Convention against Torture. Ethiopia is a member of the African Union (which is headquartered in Addis Ababa), and has ratified the African Charter on Human and Peoples' Rights.

The 1995 constitution provides for substantial protection of human rights and freedoms. However, such rights have not been fully respected in practice nor embedded in national institutions, laws and policies. The State national human rights institution, Ethiopian Human Rights Commission, is accredited "B" status, meaning it is assessed as not fully compliant with the Paris Principles. On his visit to Ethiopia in April 2018, the UN High Commissioner for Human Rights also noted that the organisation is not perceived to be fully independent.⁷⁵

⁷⁴ E/CN.4/2006/95/Add.5

⁷⁵ UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein at the end of his official visit to Ethiopia, Addis Ababa, 26 April 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22990&LangID=E>

Within Ethiopia's legal framework, a number of specific laws adopted in 2008 and 2009 have been subject to well-documented criticism by human rights groups, including the UN High Commissioner for Human Rights, for the severe restrictions they placed upon civil society, freedom of the press and the work of human rights defenders. Notable among these laws are the Charities and Societies Proclamation No. 621/2009, the Anti-Terrorism Proclamation No. 652/2009, and the Freedom of the Mass Media and Access to Information Proclamation No. 590/2008.

The Charities and Societies Proclamation places severe administrative and financial restrictions on domestic organisations, including a 10 percent limit on foreign funding, and a 30 percent budgetary limit on "administrative costs". Further the law prohibits foreign NGOs from working on human rights issues in Ethiopia, and provides broad and discretionary powers to the Charities and Societies Agency. The Anti-Terrorism Proclamation includes an excessively broad and vague definition of a terrorist act, qualifying any public dissent as an act of terrorism, to which many critical voices have fallen victim. Further, the Freedom of the Mass Media and Access to Information Proclamation grants broad powers regarding defamation, introduces harsh financial penalties, and enables the government to arbitrarily deny licenses and permits.

The State does not have an explicit policy on human rights defenders or on their protection.

3. Implementation of the Declaration

While the political developments of recent months signal positive change for the situation of human rights defenders, overall, little progress has been made on the implementation of the Declaration since the 2006 Global Survey. Human rights defenders have faced threats, intimidation, restrictions on freedom of expression, assembly and association, judicial harassment, arbitrary arrest and extrajudicial killings.

The Special Rapporteur is concerned by reports that civil society space has been highly restricted through repressive legislation. In particular, the 2008/09 laws noted above have been used to the detriment of many of the rights emphasized by the declaration, including the right to form associations and non-governmental organizations, the right to meet or assemble peacefully, the right to seek, obtain, receive and hold information relating to human rights, and the right to obtain resources to support the work of human rights defenders. It has been observed that, since their introduction, Ethiopia has used these laws to restrict and break up protests, and to sentence numerous dissenters and human rights defenders to prison or death, including opposition politicians and journalists. States of emergency have also been imposed under Article 93 of the constitution. Civil society submissions to the second cycle of the UPR for Ethiopia in 2014, noted with concern that legal restrictions had led many human rights defenders to leave the country, others to limit their activities, and an overall dramatic reduction in the number of independent organizations working on human rights issues.⁷⁶

As raised in communications by the Special Rapporteur to Ethiopia, at least 75 people were killed over the course of several weeks of protests in Oromia in late 2015, when security forces opened fire on protesters. The protests, which came in response to the Addis Ababa Integrated Development Master Plan regarding expansion into Oromia, were met with harsh

⁷⁶ A/HRC/WG.6/19/ETH/3

reprisals, including the arrest, detention and disappearance of numerous protesters. Since November 2015, some 500 people are reported killed and thousands disappeared in the context of protests in the Oromia and Amhara regions.

In April 2014, three journalists and six bloggers belonging to a group called Zone 9, which published on human rights issues and governance issues in Amharic, were arrested on terrorism charges for their writing. Five were acquitted in July 2015 after more than a year in detention, while the remaining four were acquitted in October 2015. Of the group, Befequadu Hailu was found guilty on a separate charge of inciting violence, based on a confession obtained during his imprisonment. Attempts were made to reopen the case against Befequadu, Natnael Feleke, and Atnafu Berhane, but were subsequently dropped in January 2018.

An encouraging shift in the political rhetoric has taken place, and while changes have yet to be institutionalised, some improvements in Ethiopia's human rights situation have already been noted. 2018 has been marked by the release of hundreds of political prisoners and the closure of Maekelawi Prison. Among those released were Eskinder Nega and Andargachew Tsege. Nega is a journalist who had been imprisoned since 2011 for voicing criticism of the government. Interviewed after his release, he said, "I'm free personally, but my country is not free, so it's mixed emotions." Tsege is also a vocal critic and had been living in exile before he was abducted in Yemen in June 2014 and secretly detained in solitary confinement for over a year before being put on death row.

The lifting of the state of emergency, public pledges to reform the security sector, and beginning political dialogue regarding some of the 2008/09 laws and proclamations which have restricted the activities of human rights defenders all represent positive advances for the situation of human rights defenders in Ethiopia. However, the arrest and ten-day long detention of twelve prominent defenders as recently as March 2018, while the state of emergency was still in place, including Nega, Befequadu and Mahlet Fantahun, a woman human rights defender and co-founder of Zone 9 who was also among those detained in 2014, tempers the positive rhetoric.

The former High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, made his second official visit to Ethiopia from 22-26 April 2018 at the invitation of the government. During the visit, the High Commissioner's public statements sounded a cautiously optimistic note, and a Memorandum of Understanding was signed between the Ethiopian Government and the Regional UN Human Rights Office for East Africa, to facilitate closer cooperation. The High Commissioner's comments also included a specific recommendation and offer of help to revise "the Charities and Societies Proclamation, the Anti-Terrorism legislation and the Mass Media Laws, which are in desperate need of reform."⁷⁷ The Special Rapporteur is hopeful that these advances will be substantiated in law and practice.

4. Issues and Trends

While the situation of human rights defenders in Ethiopia has been deeply troubling for many years, and defenders have suffered distinct abuses, Ethiopia is to be applauded for the recent

⁷⁷ UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein at the end of his official visit to Ethiopia, Addis Ababa, 26 April 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22990&LangID=E>

steps taken to deepen its cooperation with the UN human rights mechanisms and initiate reform. Such cooperation might include accepting the High Commissioner's invitation to work closely with OHCHR to revise some of the most problematic laws, including the Charities and Societies Proclamation, the Anti-Terrorism Proclamation, and the Freedom of the Mass Media and Access to Information Proclamation, in line with international standards and obligations. The extension of standing invitations to special procedures mandate holders would also be welcomed.

The Special Rapporteur calls on Ethiopia to embed human rights protections in national and regional institutions, particularly in the security and judicial sectors, and work to grant greater independence and resources to the Ethiopian Human Rights Commission. Such measures should be seen as part of a broader and ongoing effort to create an atmosphere of respect for human rights as proclaimed in the 1995 constitution and the relevant international instruments. Recognising the violations of recent decades, the State should initiate thorough and impartial investigations into the use of excessive force that led to loss of many lives and ensure that perpetrators are brought to justice. The current momentum in the country creates an opportune moment for civil society to foster dialogue with the government geared towards opening up civic space, wherein all human rights defenders should be enabled to carry on their work without fear of reprisals.

Kenya

1. National Context and Human Rights Defenders

The situation for human rights defenders in Kenya is fragile and defenders continue to operate at significant personal risk in an atmosphere of tension, hostility and impunity. It has been noted that arbitrary arrest and judicial harassment remain the most common risks for defenders, and that the pervasive nature of this threat points to the effective criminalisation of human rights work in Kenya. Death threats are also a commonly used tactic.

An entry for Kenya was included in the 2006 Global Survey, however, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time.⁷⁸ She expressed concerns regarding the high number of incidents in which police or security forces were involved in violations against defenders, including reported instances of torture.

Human rights defenders facing the highest levels of risk in their work include those working in the fields of women's rights, sexual orientation and gender identity rights, land and environmental rights, and corporate accountability. Sexual orientation and gender identity are a key source of discrimination and defenders are frequently subjected to violence, including sexual violence. Journalists who write for publications outside the mainstream press are also more likely to be harassed by authorities.

2. Legal and Policy Framework

⁷⁸ E/CN.4/2006/95/Add.5

Kenya is party to most major human rights treaties, with the exception of the Optional Protocol to the Convention Against Torture, the second Optional Protocol to the ICCPR aiming to the abolition of the death penalty, and the International Convention on the Protection of the Rights of All Migrant Workers. It has signed but not ratified the Optional Protocol to the Convention on the Rights of the Child. It has not accepted individual complaints or inquiry procedures, with the exception of the inquiry procedure under the Convention against Torture. The ICESCR, CEDAW and the International Convention on the Elimination of All Forms of Racial Discrimination have been translated into domestic legislation. Kenya is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights.

The 2010 Constitution provides the legal and institutional framework for human rights in Kenya. Chapter 4 of the constitution guarantees many fundamental freedoms, including the rights to freedom of expression, freedom of the media, access to information, and freedom of assembly and association (Articles 33-37). The Kenya National Commission on Human Rights (KNCHR) is the national human rights institution; it was established in 2011 replacing the previous statutory body of the same name. It is accredited "A" status, in accordance with the Paris Principles. There is also a Witness Protection Agency, which was established in 2008.

The Public Benefit Organization (PBO) Act, 2013, which was signed under former President Mwai Kibaki, should offer transparent and progressive regulation and improve the working environment of civil society organisations, replacing the problematic Non-Governmental Organizations Co-Ordination Act, 1990. However, current Government has persistently failed to implement the PBO Act, despite two rulings by the High Court. Additionally, subsequent legislation proposed in 2013 by the newly elected Kenyatta Government under the Miscellaneous Amendment Bill, would have brought in punishing restrictions for civil society, including a 15 percent cap on foreign funding. The amendments were deemed contrary to the spirit of the PBO Act and the Bill was met with significant resistance; following a successful campaign by human rights defenders across civil society it was rejected by Parliament.

In its 2017 report, the Committee on the Elimination of Discrimination against Women noted concern regarding shrinking space for civil society in Kenya, expressed among other things by threats to the lives, security and work of women human rights defenders, including during the electoral process, as well as limitations on foreign funding and administrative limitations imposed on civil society organizations.⁷⁹ It has also noted the failure to implement recommendations made by the Truth, Justice and Reconciliation Commission in its final report in 2013. The Committee on Economic, Social and Cultural Rights noted concern in its 2016 report, that there has been a long delay in adopting legislation and policies that are crucial to the realization of the economic, social and cultural rights enshrined in the Constitution.⁸⁰ It is also noted the failure of the State party to comply with many court rulings.

The State does not have an explicit policy on human rights defenders or on their protection.

3. Implementation of the Declaration

The Special Rapporteur notes that the implementation of the Declaration on Human Rights Defenders in Kenya has been stalled, as harassment and persecution of defenders, in particular by State actors, have increased significantly in recent years. Despite the presence

⁷⁹ CEDAW/C/KEN/CO/8

⁸⁰ E/C.12/KEN/CO/2-5

of an active and vibrant civil society in Kenya, defenders carry out their work under significant threat. Reprisals are observed to be widespread and to have grown in frequency since President Uhuru Kenyatta came to power in 2013. Government officials have publicly criticised human rights defenders and contributed to the climate of hostility against them. Judicial harassment is also noted to be common, and a number of human rights organisations have been deregistered and had their offices raided.

KNCHR reported that human rights defenders work in an environment marked by impunity and a lack of options for redress. The Committee Against Torture noted in their 2016 report the lack of measures taken to prevent and punish harassment, intimidation and violence directed against human rights defenders, including with respect to the deaths of Hassan Ali Guyo in August 2013 and newspaper editor and publisher John Kituyi in April 2015. The National Coalition of Human Rights Defenders Kenya (NCHRD-K) has reported that increasing persecution of defenders and limitations on human rights have undermined constitutional and international protections. Daniel Kamau (DK) Ngugi, the executive director of NCHRD-K, warned human rights defenders that “people mark you because you speak out. You speak truth to power”.

In 2009, human rights defenders suffered reprisals surrounding the visit of the Special Rapporteur on extrajudicial executions to Kenya. Defenders were systematically intimidated by the police, military, and Government officials, and two activists who had been reporting on police death squads were murdered just two weeks after the Special Rapporteur’s mission. More a dozen others went into hiding. The Committee against Torture reported that the witness protection system is weak and ineffective, as demonstrated by the threats, harassments and killings of human rights defenders who had testified during the Special Rapporteur’s mission.

The Special Rapporteur is concerned by reports that human rights defenders, particularly journalists, face significantly heightened risk during elections, while women and girls have been targeted with sexual violence. A wave of violence and grave human rights violations followed the presidential elections in December 2007 with police using excessive and lethal force against opposition protesters. Charges were brought against both President Kenyatta and Deputy President William Ruto at the International Criminal Court, relating to crimes against humanity during the post-election violence. The cases were terminated in 2014 and 2016 respectively, amid concerns regarding witness tampering and lack of government cooperation.

Violence has also marred the August 2017 elections, leading to many deaths, including at least 33 people shot by police. The politically motivated responses of state authorities to post-election demonstrations, which particularly targeted opposition demonstrators and government critics, was noted. Further deaths followed the second poll in October 2017, when police fired live ammunition at protesters. Fear of reprisals was cited as a primary cause of relatives not reporting these deaths. The NGOs Coordination Board threatened human rights organisations with closure and other punitive measures for criticising the electoral process. The NCHRD-K noted that ‘elections should just be part of normal life, but... various landmines that come along the way... we need to put measures in place to mitigate risks around the election period’.

Press and media freedoms also represent a key area for concern in Kenya. Ahead of the 2017 elections, it was observed that journalists and bloggers reporting on sensitive topics including land, corruption and security were targeted with threats, intimidation, arbitrary arrest and violent attacks. International human rights organisations have reported on at least 50 cases of journalists and bloggers who were targeted for their work in the past three years. In January 2018, the Government switched off three television stations that had chosen to cover the mock swearing in of opposition leader Raila Odinga, in contravention of a Government directive. In March 2018, it was reported that anti-riot police physically attacked journalists reporting on opposition lawyer Miguna Miguna's deportation. Government officials have also verbally threatened a number of journalists, contributing to a culture of self-censorship.

Sexual orientation and gender identity rights defenders also face particularly high risk in Kenya. Homosexual relations are illegal, however defenders have had recent success at the Court of Appeal, which ruled in March 2018 that forced anal exams are unconstitutional. Nevertheless, defenders have faced mob violence and many organisations have observed that they are forced to keep a low public profile. Attacks against defenders have largely been left without investigation, and authorities have often spoken out against defenders of sexual orientation and gender identity rights, increasing stigmatization.

The Special Rapporteur has received a large number of communications concerning the situation of human rights defenders in the State, reiterating the concerns outlined above. In the past year, the Special Rapporteur has received communications concerning threats and acts of violence against environmental human rights defenders and the persistent repression of peaceful protests by defenders, amongst other issues.

4. Issues and Trends

Human rights defenders in Kenya face a situation of increasing risk, including threats and intimidation at the hands of State authorities, arbitrary arrest and detention, and judicial harassment. The Special Rapporteur is deeply troubled by the extrajudicial killing of defenders as a result of the use of lethal force by the police. He is also concerned that the problem of impunity for abuses perpetrated against human rights defenders continues to grow. Severe reprisals against journalists and bloggers, and attacks on media freedom have grave implications for freedom of expression in Kenya.

The Special Rapporteur recognises the progressive intentions included in the PBO act and calls on Kenya to implement the law in line with the recommendations of the High Court. He recommends that Kenya conduct speedy, impartial and transparent investigations into cases of extrajudicial killings and ensure that the perpetrators are held accountable. Further, the Special Rapporteur calls on Kenya to stand by its commitment to upholding human rights and create an enabling environment for human rights defenders. Steps towards this could include strengthening protective mechanisms for human rights defenders and ensuring press freedoms are maintained.

Rwanda

1. National Context and Human Rights Defenders

Space for civil society and independent media is severely limited in the Rwanda, with little toleration of dissent. Many human rights defenders, civil society organisations and journalists have declared having resorted to self-censorship to avoid confrontation with State authorities. According to various sources, the media is effectively State-controlled and some human rights organisations have been infiltrated by the ruling party, the Rwandan Patriotic Front (RPF). Human rights defenders, including journalists, political activists and human rights lawyers have reported increasing threats and harassment in relation to their work, with their family members also frequently subject to threats. In consequence, many vocal defenders and journalists have been forced into exile. Laws requiring national and international NGOs to register have imposed significant administrative and financial burdens. It has also been noted that some members of international human rights organisations have been denied visas to work in Rwanda, and that defenders have also suffered from reprisals for engaging with international human rights mechanisms, including participation in the UPR.

The Republic of Rwanda was included in the 2006 Global Survey, however, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time.⁸¹

2. Legal and Policy Framework

Rwanda has ratified all of the major international human rights treaties, with the exception of the Convention for the Protection of All Persons from Enforced Disappearance. It has accepted individual complaints and inquiry procedures under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol to the Convention on the Rights of Persons with Disabilities; it has also accepted inquiry procedures under the Convention against Torture. Rwanda is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. In 2011, Rwanda extended a standing invitation to all UN special procedures mandate holders.

There is no dedicated national protection mechanism for human rights defenders, however, the Rwandan Constitution, 2003, affirms the promotion, respect and protection for human rights, and includes key protections of relevance to the work of human rights defenders, including freedom of expression, information and of the press, freedom of assembly and freedom of association. However, freedom of assembly is subject to a notification system requiring 30 days advance notice for public gatherings and demonstrations. Human rights committees within the Parliament are mandated to conduct human rights investigations. The promotion and protection of human rights are also integrated into various policy areas, such as health and education.

Laws No. 04/2012 and No. 05/2012, govern the functioning of national and international NGOs respectively, and impose cumbersome administrative and financial burdens on civil society organisations seeking to register and gain a legal personality. International NGOs may only receive registration for the period of their current funding, and administrative costs as a percentage of overall budget are strictly limited to 20 percent for both national and international NGOs. A written agreement and performance contract is required with the District where activities are carried out, and national NGOs may have their registration denied or terminated if they fail to comply with legislation.

⁸¹ E/CN.4/2006/95/Add.5

The media is regulated under Law No. 02/2013, which removed some barriers to freedom of the press found under the previous legislation of 2009, including a stipulation on academic qualifications for journalists, and certain penalties for press offences, including suspension and closure of a publication. However, under the 2013 amendments, authorisation for media outlets and accreditation for journalists remain preconditions for practising journalism and State control of the internet remains in place. Defamation remains a criminal offence, and laws relating to “divisionism” include vague and overly broad provisions which have been noted to be used to restrict freedom of expression.

The National Commission on Human Rights of Rwanda (NCHR) is the national human rights institution, and is accredited “A” status, in accordance with the Paris Principles. However, in 2012 it was recommended to be downgraded to “B” and given one year to re-establish full compliance with the Paris Principles, which it achieved. In its 2016 report, the Human Rights Committee expressed concern that members of the NCHR are selected by a committee appointed by the President, which could compromise their independence, and further that the Commission is not perceived as an independent body.⁸² International human rights organisations have also expressed concern that the NCHR has discredited allegations of extra judicial killings and enforced disappearances. In 2015, the UPR submission of the NCHR highlighted collaboration with NGOs and civil society, but did not make reference to the situation of defenders in Rwanda.

UN treaty bodies have raised concerns about intimidation, harassment and arrests of human rights defenders, journalists and political opposition. In 2013, the Committee on the Rights of the Child expressed deep concern over reported threats, harassment, intimidation and arrests of human rights defenders, including journalists.⁸³ In 2016, the Human Rights Committee, while noting that the 2013 amended version of the law on genocide ideology introduced a more precise definition of the offence, expressed concern at the vague definition of some crimes, such as the crime of separatism, and the chilling effect this may have on freedom of expression.⁸⁴ It further expressed concern that opposition politicians, human rights defenders and journalists have been prosecuted on the basis of such charges. In 2017, the Committee against Torture further raised concerns about the consistent reports of harassment and charges against members of the political opposition, defenders and journalists.⁸⁵ The Committee on the Elimination of all Forms of Discrimination Against Women also noted significant obstacles, including cumbersome registration requirements as introduced under Law No. 04/2012 and Law No. 05/2012, faced by national and international NGOs.⁸⁶ It further expressed concern regarding the interference by the Rwanda Governance Board with the appointment of leadership positions in certain NGOs.

3. Implementation of the Declaration

Clear progress on the implementation of the Declaration on Human Rights Defenders has yet to be observed in Rwanda, and the situation of defenders in the State remains deeply troubling. While legal protections for key rights exist, civil society has been observed to

⁸² CCPR/C/RWA/CO/4

⁸³ CRC/C/RWA/CO/3-4

⁸⁴ CCPR/C/RWA/CO/4

⁸⁵ CAT/C/RWA/CO/2

⁸⁶ CEDAW/C/RWA/CO/7-9

operate under a pervasive atmosphere of self-censorship, reflecting a long history of threats, harassments and intimidation, including at the hands of State authorities, with many human rights defenders forced into exile. State officials have been reported to be hostile toward defenders critical of the government, and towards international human rights organisations; these sentiments are reflected also in the pro-Government media. As noted by several sources, this has led to fragmentation within civil society, with organisations closer to the Government denouncing the work of organisations which take a more critical stance.

Particular concerns have been raised regarding the Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR), which has been a target of recurrent harassment. In 2014, the Special Rapporteur expressed his concern at reports that the board of LIPRODHOR had been ousted and taken over by individuals sympathetic to the government. Some months following the ousting, several former members of the board were arrested shortly before a planned general meeting; Evariste Nsabayezi and Daniel Uwimana were charged with forgery and usage of forged documents. The Special Rapporteur expressed concerns in his communication to Rwanda that these arrests formed part of a trend whereby human rights defenders are targeted because of their exercise of those rights. International human rights organisations have also been targeted. In 2010, the Special Rapporteur sent an urgent appeal about the cancellation of the work visa of Carina Tertsakian, a senior researcher at Human Rights Watch. As expressed in his communication, the Special Rapporteur was concerned this might be related to her activities in defence of human rights.

The Special Rapporteur is concerned to note that journalists have also found themselves at risk on account of their work, with a number having received criminal sentences resulting in imprisonment and others being forced into exile. In 2015, the chairman of the Rwanda Media Commission, a regulatory body, fled the country after receiving threats; Fred Muvunyi was known to be vocal against government infringements on press freedom. Changes in the media law in 2013 have brought an end to the suspension of entire publications, such as in 2010, when two independent newspapers, Umuseso and Umuvugizi, were suspended for six months, however online censorship has continued with several news websites remaining inaccessible. In 2015, the government imposed an indefinite suspension on the BBC's Kinyarwanda broadcasting following a documentary which questioned the official accounts of 1994 genocide. Reports of threats against journalists have declined in recent years, however, civil society actors believe this to be linked to increased self-censorship rather than a reduction in hostility from State actors.

Political activists who oppose the government and members of opposition parties have also been subjected to threats, prosecution and detention. According to several reliable sources, this increased in 2017 ahead of the presidential elections. Presidential candidate and woman human rights defender Diane Rwigara, who had campaigned on issues of poverty, injustice and freedom of expression, was targeted in a smear campaign which included leaked nude photographs following the announcement of her candidacy. In September 2017 she was arrested and detained for almost a year on charges of inciting insurrection against the government and forgery, along with her mother who was also detained. Both have since been released on bail pending their trial. Rwigara reported that several of her representatives had been arrested and threatened with treason charges, but were later released.

In March 2016, Illuminée Iragena, a member of United Democratic Forces (FDU-Inkingi), an unregistered political party, went missing while travelling to work. She had been a close

supporter of the party's imprisoned president, Victoire Ingabire. No police response to the report of Iragena's disappearance was given, and no information on her status or whereabouts has been released. Another party member was arrested on the day of Iragena's disappearance; Léonille Gasengayire was arrested and detained for three days before being released. She was later rearrested and charged with inciting insurrection, of which she was acquitted in March 2017. In February 2017, Violette Uwamahoro, the wife of exiled opposition activist Faustin Rukundo, was arrested and held incommunicado for two weeks before police released the details of her detention. Uwamahoro is a dual national who had returned to Rwanda from the UK to attend a funeral and disappeared after her arrival in Kigali. She was provisionally released after several weeks and allowed to return to the UK. In May 2017, Jean-Damascene Habarugira, a local representative of FDU-Inkingi went missing after travelling to meet a military reservist responsible for village security; some days later, his family were contacted and his body was released from the local hospital. Those close to Habarugira maintain that his murder was in connection with his opposition to government agricultural policy.

Rwanda has participated in two cycles of the UPR, most recently in 2015. During the second cycle of the UPR, Rwanda received eight recommendations relating to human rights defenders, of which only two were supported by the State.⁸⁷ The Special Rapporteur has sent numerous communications to Rwanda. In 2016, the Special Rapporteur expressed his concern regarding the human rights defender Epimack Kwokwo, who was declared *persona non grata* and arbitrarily expelled. There is every indication that his expulsion was as an act of reprisal for his legitimate and peaceful human rights work in cooperation with the United Nations, although this was rejected in the State response to the Special Rapporteur's communication. In 2017, the Special Rapporteur also raised the case of Robert Mugabe, a journalist and human rights defender who was the target of an attempted kidnapping, prosecution, and interrogation following his cooperation with UN human rights procedures. The Rwanda Media Commission reported attacks against Mugabe to the police, requesting an investigation and measures to ensure his safety. The police subsequently charged Mugabe of treason and of spreading rumours with intent to undermine the Government, crimes under the Rwandan Penal Code. The Special Rapporteur received no State response to his communication.

4. Issues and Trends

Human rights defenders, including members of civil society organisations, journalists and political activists face an extremely hostile environment in which they seek to carry out their work. This has significantly diminished civil society within Rwanda, leading to fragmentation and high levels of self censorship. The Special Rapporteur reiterates the value of fostering an enabling environment in which a robust and dynamic civil society can thrive, and in which all human rights defenders can operate free from interference.

The Special Rapporteur calls on Rwanda to cease all practices that have the effect of depriving or discouraging human rights defenders from exercising their rights to communicate with United Nations human rights mechanisms. He urges Rwanda to initiate prompt and impartial investigations into reported violations against human rights defenders and ensure that those responsible are brought to justice. He further calls on Rwanda to strengthen protections for human rights defenders, including journalists, and recommends that Rwanda ensure that

⁸⁷ A/HRC/31/8

legislation, policies, and practices do not undermine the expression of minority or dissenting views or beliefs.

Somalia

1. National Context and Human Rights Defenders

Long-standing insecurity has been a central challenge for the Somali people and Government, and for the work of civil society and human rights defenders. After more than two decades of armed conflict, federal government institutions have limited capacity and receive substantial international support. Violence by non-state armed groups, notably Al Shabaab, an armed rebel group associated with al-Qaeda, continues particularly in the south, while the autonomous regions of Somaliland and Puntland enjoy relative stability. Insecurity has also been exacerbated by poverty, drought, outbreaks of disease and internal displacement. Over 2 million people have been internally displaced, more than a million of whom due to drought.

Insecurity has had a profoundly negative impact on human rights in Somalia. Concerns have been raised about violations of human rights and humanitarian law, and the lack of accountability of both non-state armed groups, and state and international security and military personnel. Serious abuses have been documented, including against vulnerable groups. Children have been recruited into military operations by militias, and faced trial for terrorism-related offences. Women and girls face discrimination; high levels of sexual violence, rape and assault; early marriage and the widespread practice of female genital mutilation (FGM). Sexual orientation and gender identity are also a source of discrimination, manifesting in strict laws against homosexuality, strong cultural taboos, and a threat of violence, floggings, beatings and death. Those displaced by drought and conflict in Somalia, especially women and children, are also particularly vulnerable to violence and human rights abuses.

Reflecting long standing international concern about human rights in the State, Somalia is subject to UN special procedures and an Independent Expert on the situation of human rights in Somalia has been appointed by OHCHR since 1993. The State is also supported by the United Nations Assistance Mission in Somalia (UNSOM) established in 2013 by UN Security Council Resolution 2102 to replace the UN Political Office for Somalia (UNPOS). While UNPOS focused on advancing the cause of peace and reconciliation, UNSOM has a mandate to support Somalia and the African Union with peacebuilding and state-building activities, as well as to promote and monitor human rights in the country. To discharge this human rights and protection mandate, UNSOM has established a Human Rights and Protection Group (HRPG). Somalia was not included in the 2006 Global Survey.

2. Legal and Policy Framework

Somalia is party to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the ICCPR, the International Convention on the Elimination of All Forms of Racial Discrimination; the ICESCR; and the Convention on the Rights of the Child. It has signed but not ratified the Optional Protocol on the Involvement of Children in Armed Conflict. It has not accepted individual complaints and inquiry procedures, with the exception of those under the Optional Protocol to the ICCPR and the Convention against Torture.

Somalia is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of the Arab League but has not ratified the Arab Charter on Human Rights.

The provisional constitution provides significant human rights protections and a legal framework which should help to safeguard human rights defenders. For example, the constitution protects freedom of association, freedom of expression and belief, and freedom of assembly, demonstration, protest and petition. While this represents an important milestone for Somalia, efforts are ongoing to strengthen the federal government and create effective institutions capable of realising the protections and freedoms granted by the constitution. The State does not have a national law or policy explicitly addressing the protection or protecting rights of human rights defenders.

However, the Media Law of Somalia, implemented in January 2016 and revised in July 2017, includes several key restrictions for journalists which are a source of major concern. The revisions to the law have reduced the heavy fines imposed on journalists for infringements and removed the requirement of a journalism degree to practice journalism, however, the law maintains vague and overly broad restrictions, including the prohibition of "propaganda against the dignity of a citizen, individuals or government institutions," and "dissemination of false information". Defenders have strongly protested the provisions of the new law and have expressed concern that it provides the State wide-ranging powers over journalists which will encourage self-censorship.

Somalia has taken steps towards establishing an independent National Human Rights Commission, which is provided for in the 2012 constitution, adopting a bill for its establishment in 2016. At regional level, Puntland established an Office on Human Rights Defenders (OHRD) in early 2015, with support from UNSOM. OHRD has since conducted monitoring and outreach activities and published its first annual report in 2016. The National Human Rights Commission in Somaliland also receives capacity-building and monitoring support from UNSOM.

3. Implementation of the Declaration

Efforts to implement the Declaration on Human Rights Defenders in Somalia are in their nascency and Somalia remains one of the deadliest places to be a human rights defender in Africa. In 2013, Somalia endorsed the Post-Transition Human Rights Roadmap, a two-year plan to strengthen human rights in the State, with support from UNSOM HPRG. An action plan for implementation followed in 2015, after a national consultation process, and addressed several thematic areas, including proposals to improve freedom of expression and the rights of human rights defenders. The Action Plan also seeks to implement recommendations emerging from the UPR process, and support State engagement with the UN human rights mechanisms.

While human rights are protected by the Federal Constitution and the Human Rights Roadmap, it is clear to the Special Rapporteur there is much still to be done to realise the rights and objectives of the Declaration. In practice, the federal government does not have control over all areas of Somalia, which means implementation of the federal constitution and human rights protections varies by region. It has been observed that defenders, in particular journalists, continue to face major restrictions and risks including harassment, arbitrary arrest, attacks, and extrajudicial killings, at the hand of Al Shabaab, but also the

federal and regional police and security forces. Many perpetrators of past human rights violations, including threats and attacks against human rights defenders and journalists, have yet to face justice.

The Special Rapporteur is deeply concerned by recent killings and violations against human rights defenders, including Abrizak Kasim Iman, a journalist and cameraperson for a privately owned television network, who was shot dead by a police officer near a public park in Mogadishu in July 2018, as well as a prominent Somali youth activist and entrepreneur Mohamed Sheikh Ali, who was shot dead in August 2018 by unknown armed men in Mogadishu. Ali was the son of Sahro Mohamed Ahmed, a grassroots activist and chairperson of Somali women development centre, an NGO working on gender equality, sexual and gender based violence and women's empowerment. On 28th June 2018 Farhia Mire, a female journalist at the government-owned radio station was attacked and injured by unknown men in Mogodishu.

The autonomous authorities in Somaliland and Puntland bear responsibility for the harassment of journalists and other human rights defenders taking place in those regions. Recent cases of harassment of journalists in Somaliland include Mohamed Adan Dirir and Omar Ali Hassan, who were arrested and detained without charge in 2017 for carrying out journalistic activities and making critical posts on social media. Hassan was released after three days of detention, while Dirir was sentenced to one year and six months in jail in October 2017. His hearing took place without his lawyer being present or informed of his trial until the sentence had been passed. He was released in June 2018 following a presidential pardon of over 500 prisoners, following nine months of detention. Various news websites have been reportedly suspended in Somaliland in the past year for publishing "false news". In Puntland, journalists Ahmed Ali Kilwe and Omar Saeed Mohammed were each arrested in Garowe in July and August 2017 and detained for up to two weeks for making social media posts critical of the President of Puntland.

The second cycle of the Universal Periodic Review in 2016 included recommendations for Somalia to recognize and protect the legitimate role of journalists and human rights defenders in advancing human rights; to extend an invitation to the UN Special Rapporteur on the situation of human rights defenders; to investigate and bring to justice those responsible for attacks against journalists, civil society and defenders; and to release those defenders who had been arrested and detained for their legitimate human rights activities.⁸⁸ A number of communications have been issued by the Special Rapporteur to Somalia, focusing on reports of threats, intimidation, arbitrary arrests, detention, reprisals and killings of journalists, human rights defenders and trade unionists, including by the Al Shabaab militant group.

4. Issues and Trends

Somalia has made significant progress over recent years, including adopting a new constitution with substantial protections for human rights, creating a human rights roadmap and taking steps to establish a national human rights institution. However progress is impeded by insecurity, high levels of poverty and humanitarian need, and the limited capacity of government institutions. Further effort is required to build federal institutions capable of

⁸⁸ A/HRC/32/12

realizing and enforcing the human rights ambitions of the provisional constitution and the Declaration.

The Special Rapporteur remains concerned by reports of State actors' implication in violations against defenders and calls upon Somalia to address impunity regarding abuses by security forces by carrying out impartial and transparent investigations. He strongly recommends strengthening protections for journalists and ensuring that press freedom is not restricted, including by revising key elements of the Media Law. The Special Rapporteur encourages Somalia to continue working closely with the United Nations human rights mechanisms and the international community to strengthen national institutions responsible for ensuring human rights protections, including by increasing accountability in the security sector.

South Sudan

1. National Context and Human Rights Defenders

Human rights defenders in South Sudan face severe challenges which are exacerbated by political transition and instability. The State's early post-independence gains were setback by the outbreak of the civil war in December 2013 and many human rights defenders have been forced into exile during intensified bouts of conflict. Journalists have been reported to face particularly heightened threats, with excessive interference from Government officials and state actors. Numerous instances of extrajudicial killings have been reported, as well as violent attacks, death threats, arbitrary arrests, detention, and the closing of news outlets.

The ongoing conflict and related humanitarian crisis has led to significant levels of displacement, including 2.18 million people internally displaced and a further 2.4 million South Sudanese forced to flee to neighbouring countries. Extremely high levels of sexual violence have characterised the conflict, with 65 percent of South Sudanese women and girls reporting experiences of sexual violence. This poses an extreme threat to all women including women human rights defenders. Impunity for attacks on defenders, in particular journalists, is also a key concern. The United Nations Mission In South Sudan (UNMISS) Human Rights Division, the African Union Commission of Inquiry on South Sudan, and the Commission on Human Rights in South Sudan have documented human rights violations committed by both sides of the conflict since it broke out in 2013.

2. Legal and Policy Framework

South Sudan has yet to ratify many core international and regional human rights instruments, and there is a lack of harmonization of statutory and customary frameworks with international and regional human rights standards. South Sudan is party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, and the Convention on the Rights of the Child. South Sudan is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights.

The Transitional Constitution of South Sudan made far-reaching provisions in its Bill of Rights, which guarantees civil, political, economic and social rights to citizens. The Constitution

provides for the protection and promotion of freedom of expression and access to information, freedom of the press, and the right to form or join political parties, associations and trade or professional unions.

However, more recent legislation has been met with criticism for restrictive and burdensome clauses which threaten the work of human rights defenders and impede freedom of association and expression in South Sudan. These include the NGO Act, 2016, which establishes the legal framework for NGOs, the Relief and Rehabilitation Commission (RRC) Act, 2016, which establishes the regulatory body mandated to implement the NGO Act, and three significant media laws: The Broadcasting Corporation Act, 2013, The Media Authority Act, 2013 and The Right of Access to Information Act, 2013. The media laws should support press freedoms, but the South Sudan Media Authority has significantly tightened controls on media outlets since its establishment in 2016.

Defenders have raised valid concerns relating to Section 7 of the NGO Act, which is overly narrow and does not adequately encompass NGOs that focus on advocacy. Further, mandatory registration prohibits the operation of organisations not registered with the RRC and criminalises voluntary activity carried out without a registration certificate, with an associated penalty of up to \$10,000 or three years in prison or both. Registration fees and the cost of travel to Juba to register at the relevant offices can be prohibitive for defenders and presents an excessive administrative burden. Section 12 also allows for the denial of registration if an NGO is involved with “tribal and political differences in the country”, and the Registrar of NGOs is permitted to revoke the registration of NGOs if they do not meet certain requirements, while no provisions to appeal are included. Concerningly, the RRC is also granted the power to “supervise, monitor and evaluate the activities of NGOs” and “organize and coordinate the work and programs of the organisations with geographical and sectorial limits” without providing limitations to this power by way of guidelines or due process.

There is no national protective mechanism for defenders at risk. The Transitional Constitution establishes a national human rights institution, the South Sudan Human Rights Commission, mandated to monitor, document and report on human rights. The Commission issued its first report on conflict-related violations in March 2014; however, human rights monitors were unable to conduct field investigations in many states. The South Sudan Human Rights Commission has not released any reports for several years, and is reported to be significantly under-resourced. It has not been accredited by the Global Alliance of National Human Rights Institutions.

The Government of South Sudan has yet to establish a commission for truth, reconciliation and healing or conduct national consultations so as to inform legislation to establish such a commission. Although the Government has established a technical committee to support preliminary sensitization activities regarding such a commission and held a few consultations, there has been no further progress in establishing the commission.

3. Implementation of the Declaration

The Special Rapporteur notes that implementation of the Declaration on Human Rights Defenders in South Sudan is minimal, and the State has yet to develop and enact specific laws and policies to recognize and protect the work of defenders. It has been noted that the civic space has significantly decreased since the onset of conflict in 2013, which has exacerbated the already weak system of administration of justice. A national coalition of human rights

defenders was established in 2012, however its activities were disrupted by the outbreak of civil war. The coalition has recently been revitalised to respond to the needs of South Sudanese defenders. There are increasing reports of arbitrary arrests, prolonged detention and allegations of torture and ill-treatment in custody.

Concerns have been raised regarding the inadequate legal framework, with many international human rights instruments still unratified, which makes it difficult for State agents to be held accountable, leading to endemic impunity. The Special Rapporteur recognises the trial and sentencing of 12 soldiers in the Terrain case, wherein five international aid workers were raped and one journalist was killed in 2016, as a step towards addressing this culture of impunity with regard to violations committed by State agents. However he calls upon the Government of South Sudan to ensure the prompt, thorough and impartial investigation of all violations against human rights defenders, and ensure that perpetrators are brought to justice.

The Special Rapporteur is deeply concerned by the use of laws and regulatory bodies to further restrict and impede the activities of human rights defenders, and is troubled by reports suggesting the registration of civil society organisations has been used to target and monitor their activities, as well as that press associations were suspended in November 2017, pending their registration under the new system. Journalists are particularly vulnerable in South Sudan. It has been reported that the National Security Services (NSS) and other State authorities regularly harass, intimidate, and arbitrarily detain journalists and others who publicly criticize the Government.

In August 2015, President Kiir made threats against journalists and media workers at a news conference, stating that “freedom of press does not mean you work against your country. If anybody among them [journalists] does not know that this country has killed people, we will demonstrate it to them one day.” Three days after the threat, well-known reporter Peter Moi was fatally shot by two unidentified assailants on his way home from work. Another journalist, Joseph Afandi, was detained incommunicado by the NSS between December 2015 and February 2016. His detention followed the publication of an article critical of the government. Two weeks after his release he was kidnapped by two unidentified men, beaten and burned with molten plastic, and left for dead. There has been no investigation into either case.

It appears from numerous sources that the targeting of independent media has produced a “chilling effect” in South Sudan that deters the legitimate exercise of the right to freedom of expression and opinion and the right to seek, impart and receive information. Further, it has led to the self-censorship of many journalists in fear of reprisals. The NSS has also closed newspapers and seized entire print-runs on multiple occasions in what has been seen as an attempt to suppress information and impact the revenue streams of media outlets. In March 2018, UNMISS Radio Miraya was suspended for failing to comply with media laws. Human rights defenders and representatives of civil society organizations reported pervasive surveillance by the NSS, including the infiltration of civil society groups, consequently contributing to a toxic environment of mistrust among colleagues.

Recommendations to South Sudan on the situation of human rights defenders during the second UPR cycle included to protect human rights defenders and journalists from violence and arbitrary arrests, and to address impunity for crimes against human rights defenders and

journalists, which were noted by South Sudan.⁸⁹ It accepted recommendations to ensure the protection of and access to all areas by journalists, human rights defenders and humanitarian workers, and to take all necessary measures to ensure that civil society organizations, human rights defenders and journalists are able to carry out their legitimate activities without facing legal or administrative obstructions or fear or threat of reprisals.⁹⁰

The Special Rapporteur has received communications in recent years concerning the legislative developments noted above and their impact on human rights defenders as well as on the severe mistreatment of individual human rights defenders, including through arbitrary arrest and indefinite detention, torture, and enforced disappearance.

4. Issues and Trends

Clear challenges face South Sudan as it seeks to resolve the conflict which has severely impacted upon efforts towards state-building since 2013. Conflict has coincided with a marked deterioration in defenders' ability to exercise rights and freedoms outlined in the Declaration, in particular, freedom of expression and access to information. Moreover, as reported by various sources, the Government has continued to demonstrate a lack of tolerance for critical voices and has subjected human rights defenders to harassment, intimidation, arbitrary arrest, detention and extrajudicial killings. Legislative restrictions and over-powerful regulatory bodies have severely curtailed defenders' abilities to conduct their work.

The Special Rapporteur calls upon South Sudan to combat impunity, in particular among State agents, by ensuring the thorough and impartial investigation of all violations against human rights defenders. As a step towards achieving this, the Government should sign the Memorandum of Understanding operationalising the Hybrid Court of South Sudan. Further, the Special Rapporteur recommends that Sudan revise legislation, including the 2016 NGO Act, that places undue restrictions and administrative burdens on human rights defenders, and ensure suitable limits to the powers of regulatory bodies, including the RCC and the South Sudan Media Authority. South Sudan should stand by its commitment to expedite the ratification of international human rights treaties, and uphold the commitments to human rights outlined in the Transitional Constitution.

Sudan

1. National Context and Human Rights Defenders

The Sudan suffered a long-standing civil war, which was brought to an end with the signing of the Comprehensive Peace Agreement (CPA) by the National Congress Party (NCP) and the Sudan Peoples' Liberation Movement (SPLM) in 2005. Nevertheless, localised conflict continues, and almost 2 million people are internally displaced; the Sudan is host to a further 925,000 refugees and asylum-seekers from the neighbouring region, a majority of whom from South Sudan. Although the Government and the armed groups have not agreed on a permanent ceasefire, they continue to extend temporary cessations of hostilities.

⁸⁹ A/HRC/34/13 and A/HRC/34/13/Add.1

⁹⁰ A/HRC/34/13 and A/HRC/34/13/Add.1

Human rights defenders in the Sudan face a high level of threat in relation to their work which is exacerbated by instability within the State. Staff of civil society organisations are commonly targeted and incidents of harassment, arrests and prolonged detention without access to legal representation are frequently reported. Women's rights organisations are subjected to intense scrutiny; women human rights defenders experience high risk in their work and a heightened risk of sexual violence. Journalists, critics of the government and student groups also experience significant repression in the Sudan. Sexual orientation and gender identity are a source of discrimination and same-sex relations are illegal. Very few civil society organisations and public support networks are able to visibly work on sexual orientation and gender identity rights.

The Sudan was included in the 2006 Global Survey. The Special Representative was concerned by the high number of allegations of persistent violations against defenders, as well as the impact of the war in Darfur and southern Sudan.⁹¹ These concerns have continued to be a pressing concern and, as reported by several sources, defenders working on issues relating to the situation in Darfur continue to be subjected to intimidation, harassment and arbitrary arrest by the National Intelligence and Security Service (NISS).

2. Legal and Policy Framework

The Sudan has ratified some major human rights treaties, but is not party to the Optional Protocol to the Convention against Torture, the Second Optional Protocol to the ICCPR, aiming to the abolition of the death penalty, the Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Elimination of All Forms of Discrimination against Women, and the International Convention on the Protection of the Rights of All Migrant Workers. It has signed but not ratified the Convention against Torture. The Sudan has not accepted individual complaints or inquiry procedures, with the exception of those regarding the Convention on the Rights of Persons with Disabilities. The Sudan is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights.

In 2014, the Human Rights Committee reported concern regarding allegations indicating that State officials have subjected opponents and perceived opponents of the Government, human rights defenders and other activists to harassment, intimidation, arbitrary arrest and detention, and torture and ill-treatment.⁹² In 2015, the Committee on Economic, Social and Cultural Rights expressed concern regarding reports of harassment and intimidation of defenders of economic, social and cultural rights, and of violent repression of actions aimed at claiming Covenant rights.⁹³ It also noted that the National Human Rights Commission was not in full compliance with the Paris Principles, and expressed concern at the existence of numerous public bodies with a human rights mandate in the context of limited resources in the State party.

The Interim National Constitution was signed in 2005, following the brokering of the CPA. It contains a Bill of Rights which enshrines protections regarding freedom of assembly and association. Further, article 27 (3) states that all international human rights treaties ratified by the Sudan form integral parts of the Bill of Rights. However, the powers accorded to other

⁹¹ E/CN.4/2006/95/Add.5

⁹² CCPR/C/SDN/CO/4

⁹³ E/C.12/SDN/CO/2

institutional authorities are inconsistent with the spirit of international human rights law, in particular those accorded to the NISS, Military Intelligence and the Sudan Armed Forces.

The CPA and the National Human Rights Commission Act, 2009, laid the groundwork for establishing the Sudan National Human Rights Commission in 2012 as the national human rights institution. It has not been accredited by the Global Alliance of National Human Rights Institutions. However the Special Rapporteur is pleased to note that the positions of Chairperson, Deputy Chairperson and Commissioners of the Sudan National Human Rights Commission have recently been filled; he hopes that this will enhance the functionality of the Commission. The National Action Plan for the Promotion and Protection of Human Rights for the period 2013-2023 was introduced with a view to hastening legal reforms, harmonising national legislation with the regional and international obligations, however, progress with regard to implementation has been slow.

A number of domestic laws pose undue restrictions on the activities of human rights defenders and infringe on fundamental rights and freedoms. Foremost among these is the Voluntary and Humanitarian Work Act, 2006, which regulates civil society organisations, imposes restrictions on registration, including the annual renewal of licenses, and requires organisations to gain explicit approval to receive foreign funding. It has been criticised as unconstitutional on the basis that it violates the right to freedom of association. Further, it includes narrow definitions of the permissible activities of civil society groups. Civil society groups have held that the discriminatory application of the Voluntary and Humanitarian Work Act has resulted in organisations working on a wide range of advocacy and policy issues facing severe barriers to their work. The Humanitarian Aid Commission (the body responsible for implementing the Voluntary and Humanitarian Work Act) is granted broad discretionary powers, including the dissolution of civil society organisations which are in contravention of the Act. A new draft of the Act was circulated in 2017, which if passed into law would impose further restrictions on human rights defenders.

The Press and Publications Act, 2009, grants far-reaching powers to the National Press Council (NPC) to oversee media in the Sudan and impose administrative sanctions on media outlets, including suspensions. A new draft of the Press and Publications Act was circulated in 2014, which if enacted would further constrain freedom of expression, through the increase of punishments for individual journalists, including work suspensions and the revocation of licenses. The National Security Act, 2010, granted further powers to the NISS powers to search, seize, arrest and detain without judicial oversight. Likewise, the 2013 amendment to the Armed Forces Act, 2007, extends the jurisdiction of the Sudan Armed Forces Military Court to trials of civilians, with the power to impose the death penalty. Particular concerns have been raised regarding journalists, who have been subjected to repeated censorship under the Press and Publications Act of 2009 and by the NISS under the National Security Act. It has been noted that vaguely worded provisions in the Criminal Act, 1991, including of “rioting” and “disturbance of public peace”, have been used to restrict freedoms of expression, association and assembly.

The State does not have a national law or policy explicitly addressing the protection or rights of human rights defenders.

3. Implementation of the Declaration

The Sudan has failed to make significant progress towards the implementation of the Declaration. Further, the Special Rapporteur is deeply concerned that revisions to legal instruments proposed in recent years indicate a negative trend towards further restrictions and barriers to the legitimate activities of human rights defenders. The far-reaching powers of the NISS and the impunity surrounding violations committed by NISS agents are of particular concern; the Special Rapporteur has noted a high number of reported enforced disappearances, arbitrary arrests and incommunicado detentions of defenders by the NISS, including cases of ill-treatment and torture. Harsh reprisals have forced some defenders to cease their work entirely, and others to seek exile abroad.

Violations have been seen to intensify before and during election seasons. It has been reported that, prior to the 2010 elections, security forces repeatedly used excessive and lethal force against peaceful protesters, particularly targeting gatherings in support of opposition parties. During the elections, the NISS reportedly arrested, detained and tortured human rights defenders including journalists and members of civil society organisations. Several sources have observed that, in 2015, the Government again intensified the crackdown against the media, civil society and political opponents during the election season, and implemented restrictions to freedoms of assembly and expression, resulting in high numbers of arrests and detentions.

Annual anti-government and anti-austerity protests have also been met with severe repression: in 2012 over 300 arbitrary arrests were documented during protests which took place in June and July; in September and October 2013 more than 170 people were fatally shot and at least 800 people were arrested in connection with nationwide protests. Many were released after a number of days, often following summary trials leading to floggings or fines, however, some were detained by the NISS for weeks or months without charge. Torture and abuse of political detainees was documented during the protests in 2011, 2012 and 2013. Most recently, at the beginning of 2018, protests were met with excessive and disproportionate use of force by State authorities, including the use of lethal force and tear gas. One person was killed and several injured in the Darfur city of El Geneina. It has been reported that, over two days in January, the NISS arrested over 200 people, including political activists and journalists, some of whom from their homes or offices. They were held incommunicado or taken to undisclosed locations. Most detainees were released in April 2018, prior to the visit of the Independent Expert on the situation of human rights in the Sudan.

Women human rights defenders have long played a key role in Sudan, however, security forces have been noted to use violence, intimidation and other forms of abuse to silence women. The Independent Expert on the situation of human rights in the Sudan has raised concerns that these abuses are made worse by the wider context of gender inequality in Sudanese society and the legal framework that institutionalizes it, namely the use of “public morality offences” to criminalise women deemed to be “indecently” dressed.⁹⁴ The humiliation of corporal punishment is also used in violation of international human rights norms.

Journalists are at particular risk in the Sudan. Concerns have been raised regarding the government efforts to silence critics, including the harassment, arrest and detention of

⁹⁴ A/HRC/39/71

journalists, the suspension of their licences and the enforced closure of newspapers. Following the independence of South Sudan, Sudanese authorities banned newspapers with “southern links”. In February 2015, the NISS confiscated the entire print runs of 14 newspapers and in May 2015, the Government was reported to have issued a warning to journalists to stay within “red lines”, accusing them of threatening national security by reporting on the military and other government matters. In January 2018, the NISS seized the Al-Tayar, Al-Mustagilla, Al-Karar, Al-Midan, Al-Assayha and Akhbar Al-Watan newspapers. It has been observed that these consistent attacks on freedom of expression have encouraged self-censorship and that they pose a severe threat to the work of human rights defenders. Sexual violence against women journalists has also been reported.

The Sudan has expelled several international NGOs and revoked the licenses of multiple Sudanese NGOs. It has also de facto expelled several UN officials. In 2015, over 40 organisations were not permitted to renew their registration. The Special Rapporteur notes that concerted attacks on single organisations and individual defenders pose a threat to wider civil society networks. In December 2016, Mudawi Ibrahim Adam, an internationally recognised human rights defender, was accused of spying and treason. Adam was detained for eight months before being released on a presidential pardon. He reported, “they convicted me of nothing. I was facing 12 charges, six of which carry the death penalty”.

The Sudan accepted UPR recommendations in 2011 and 2016 to ensure the protection of human rights defenders, in particular journalists, against intimidation, harassment, arrest and detention, and to uphold the rights to freedom of expression, association and assembly, including freedom of the media.⁹⁵ However, the Sudan has yet to engage in meaningful actions to implement these recommendations with a view to creating an enabling environment for human rights defenders. The Special Rapporteur has received a large number of communications, on an ongoing basis, concerning the situation of human rights defenders in the State. The communications raise many of the issues noted above; in the past year there have been communications expressing concern about enforced disappearances, racial targeting of Darfuri students, and the use of criminal prosecution to target a human rights defender.

4. Issues and Trends

The situation for human rights defenders in the Sudan remains deeply repressive. The Special Rapporteur is troubled by the prevalence and arbitrary nature of arrests and detention targeting members of civil society organisations, journalists and women human rights defenders. The holding of detainees incommunicado without access to legal representation, and documented ill-treatment and torture by State security forces, including the NISS, continues unabated and is to be condemned in the strongest terms. Further, the use of legal instruments to restrict, control and impose burdensome administrative obligations on civil society organisations and media outlets is severely inhibiting the legitimate activities of human rights defenders, and appears as part of a trend towards an increasingly hostile environment.

The Special Rapporteur calls on the Sudan to bring an immediate end to the harassment of human rights defenders by State authorities, and to release all those who have been arbitrarily detained as a result of their peaceful engagement in the defence of human rights.

⁹⁵ A/HRC/18/16 and A/HRC/33/8

Furthermore, the Sudan must halt the use of punitive measures against media outlets and journalists and ensure that freedom of expression is upheld. The Sudan should institute an independent judicial inquiry into killings and human rights violations committed by State authorities, in particular with regard to the September 2013 demonstrations. The Special Rapporteur recommends that the Sudan revise restrictive or overly burdensome measures noted within domestic legislation, including the Sudan Voluntary and Humanitarian Works Act, 2006, in line with the provisions of the Interim National Constitution and international human rights standards.

Tanzania

1. National Context and Human Rights Defenders

John Magufuli's election to the presidency in 2015 has been noted as a turning point for human rights defenders in Tanzania, who have since experienced the severe curtailment of their rights and increasing restrictions to their legitimate activities.

Civil society in Tanzania is rich and diverse; prior to 2015 human rights defenders enjoyed a relative level of tolerance towards their work. However, while some restrictive trends predate Magufuli's election, it has been observed that, in the years since, Tanzania has experienced a dramatic shrinking of civic space and a brutal crackdown against defenders, civil society organisations and independent media outlets. It has been reported that human rights defenders have been threatened and stigmatized by authorities, and face intimidation, harassment, arbitrary arrests and detention. Particular concerns have been raised surrounding restrictive laws passed in recent years, which have limited the legitimate work of civil society organisations and stifled independent media outlets. Due to the repressive conditions, some defenders have resorted to self-censorship. Journalists are noted to be particularly at risk, as are defenders working on sexual orientation and gender identity rights, women human rights defenders and environmental defenders. Women face significant discrimination and violations to their rights; violence against women and impunity for perpetrators of gender-based violence are particularly concerning. Women human rights defenders experience increased risk when advocating on issues such as domestic violence or early marriage. Sexual orientation and gender identity are also a source of discrimination in Tanzania, and defenders working in this area have seen a sharp increase in harassment and violations in connection with the Government's "public morality" agenda. Discrimination and social stigma against people with albinism persists.

Tanzania was included in the 2006 Global Survey, in which the Special Representative expressed concern regarding infringements to the right to freedom of association.⁹⁶ She also noted limited awareness of the Declaration and about human rights in general, especially in rural areas and among poor and marginalized people.

2. Legal and Policy Framework

Tanzania has ratified most major human rights treaties, with the exception of the Convention against Torture and its Optional Protocol; the Second Optional Protocol to the ICCPR aiming

⁹⁶ E/CN.4/2006/95/Add.5

to the abolition of the death penalty; and the International Convention on the Protection of the Rights of All Migrant Workers. Tanzania has signed but not ratified the Convention for the Protection of All Persons from Enforced Disappearance. It has not accepted individual complaints or inquiry procedures, with the exception of those under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

The 1977 Constitution affirms the promotion and protection of human rights and guarantees freedom of peaceful assembly and freedom of expression, although it does not explicitly guarantee freedom of the press. The State national human rights institution, the Commission for Human Rights and Good Governance (CHRAGG), is accredited “A” status, in accordance with the Paris Principles. However, during the last UPR cycle, it was emphasized that CHRAGG is weak on account of under-funding and has limited powers of enforcement.⁹⁷ CHRAGG coordinated the launch of the National Human Rights Action Plan in 2013, a five-year strategy for the promotion and protection of human rights.

In 2010, the State enacted the Public Private Partnership Act to collaborate with the private sector for various human rights projects. In 2011, Tanzania made a voluntary commitment to “enhance conducive environment for civil societies to work in the promotion and protection of human rights.” However, since 2015 Tanzania has enacted a range of new laws which target and restrict human rights defenders, civil society organisations and independent media outlets. Of note are the Cybercrimes Act, 2015, the Statistics Act, 2015, the Media Services Act, 2016, the Access to Information Act, 2016, and the Electronic and Postal Communications Act (Online Content) Regulations (EPOCA), 2018.

With regard to freedom of expression, the Cybercrimes Act, which criminalises a wide range of online activities, including the publication of information deemed false, deceptive, misleading, or inaccurate, has had a chilling effect on civil society. Taken together with the Statistics Act, published in the same year, which outlaws the publishing of statistical information that has not been approved or authorised by the National Bureau of Statistics and the communication of information which may result in the “distortion of facts”, this new legislation has given the State new powers to control and restrict free expression. The legislation has affected both individual journalists and bloggers, as well as media outlets and civil society organisations, which have reported concern that they are unable to publish their own collected data without risking infringement of the law.

The Cybercrimes Act also grants law enforcement officials broad powers to search and seize digital equipment, and permits surveillance or interception of communications without judicial oversight. The Media Services Act contains similarly worrying provisions, including making it an offence to practice journalism without accreditation, and affords the Minister of Information, Youth, Culture and Sports overly broad and discretionary powers to prohibit the import of foreign publications, and to prohibit or otherwise sanction content which is deemed to jeopardise national security or public safety. Furthermore, the EPOCA Regulations require all online blogs and forums to formerly register with the Tanzania Communications Regulatory Authority (TCRA). The annual fee for registration has been set at TSh 2,000,000, which is prohibitively high. The regulations further demand that forum or blog administrators must review all content posted by users, and prohibits service providers from publishing

⁹⁷ A/HRC/WG.6/25/TZA/3

“content that causes annoyance, threatens harm or evil, encourages or incites crime, or leads to public disorder”. The TCRA has discretionary powers to shut down blogs and forums. The broad and overly vague language of the regulations has been condemned as inviting arbitrary interpretation and civil society organisations have called for the legislation to be withdrawn entirely.

The State does not have a policy explicitly addressing the protection of human rights defenders or their rights as articulated in the Declaration.

3. Implementation of the Declaration

Despite the positive outlook for defenders in Tanzania until relatively recently, the implementation of the Declaration in Tanzania has been significantly derailed since the election of President Magufuli in 2015. While many restrictions to civil society have been implemented through legislation, a shift in the rhetoric of leading politicians has also given rise to more hard-line interpretations of ambiguous laws by State officials. A worrying trend identified by various sources has been the judicial harassment of sexual orientation and gender identity rights defenders on charges of “promoting homosexuality”, which is not an offence under Tanzanian law. Likewise, civil society organisations have noted that they are now required to seek prior authorisation for their activities, rather than simply giving notification. While defenders in semi-autonomous Zanzibar identify some difference in the challenges faced in comparison with mainland Tanzania, most notably in relation to women’s rights and restrictions to media freedom, defenders there have also seen a decrease in civic space over recent years.

Defenders working on sexual orientation and gender identity rights have been met with a clamp down on their activities as part of the Government’s “public morality” agenda. Tanzania’s Home Affairs Minister Mwigulu Nchemba publicly announced that “those who want to campaign for gay rights should find another country that allows those things.” Organisations have reported facing obstacles to registration and several have experienced office raids. Authorities have threatened some organisations with suspension and the deportation of foreign nationals working on sexual orientation and gender identity rights. In addition, the Government has introduced a ban on importing and distributing lubricants, targeting clinics which provide health services to key populations. In October 2017, a meeting in Dar es Salaam organised by the Community Health Education Services and Advocacy (CHESA) and the South Africa-based Initiative for Strategic Litigation in Africa (ISLA) was raided by police. Twelve participants were arrested, together with the hotel manager, and briefly detained. Two South African nationals and one Ugandan participant were deported; ISLA’s Executive Director was banned from re-entering Tanzania. CHESA’s registration was suspended, however, the status of the investigation, the legal status of the case, and CHESA’s registration status remain unclear. In November 2017, a communication was sent by the Special Rapporteur to the Government of Tanzania on this case; no response was received from the State.

A clear deterioration in the situation for human rights defenders working in civil society organisations and as journalists has been noted. The Tanzania Human Rights Defenders Coalition has expressed concerns that, “human rights defenders [are] working in [a] highly difficult and risky environment... they are being harassed, criminalized, arbitrarily arrested, and sometimes charged under criminal offences because of their work.” In 2017, Ole Ngurumwa Onesmo, the National Coordinator for THRDC, publicly criticised the arrest of

fellow defender John Baraka; Onesmo was arrested for his objection in a clear act of reprisal. It has been observed that the Government's harsh tactics have resulted in the fragmentation of civil society and an environment in which organisations and individuals are reluctant to speak out for one another, fearing becoming targets themselves. Defenders have pointed to this lack of unity as a major factor in the shrinking of civic space across Tanzania.

The impact of the newly implemented restrictive laws has been noted to be stark. In June 2017, Mawio, a newspaper, was suspended for two years following publishing an image of two former Tanzanian Presidents next to an article about corruption in the mining industry. The article did not implicate either President. During the same year three further newspapers, MwanaHalisi, Mawio and Raia Mwema, were closed or temporarily banned for inciting violence, and the government suspended the Tanzania Daima newspaper for a period of 90 days on charges of publishing false news.

The Special Rapporteur is particularly concerned by reports that journalists have been attacked, faced threats, detention, death, suspension of employment and denial of freedom of movement. In 2017, freelance journalist Azory Gwanda was abducted by unidentified individuals. Numerous sources have noted that his disappearance was linked with articles he published documenting the murders of a number of local officials and police officers in the Pwani Region. Gwanda's whereabouts remain unknown and there has been no comprehensive investigation into his disappearance. Defenders and those critical of the government have also been subjected to threats and detention. In 2016, the co-owners of the whistleblowing news and blog site JamiiForums, Maxence Melo and Micke William, were arrested for criticizing government actions. They are being tried on spurious charges of obstructing justice for failing to disclose the identities of those who have posted the details of allegedly corrupt officials on their site. The site is currently suspended pending the outcome of the case. To date there have been over 40 adjournments of the hearing, and if convicted, each faces fines and a possible jail sentence of at least one year. Previously, Melo has also reported police harassment, arbitrary arrest, and was subject to a travel ban.

In 2016, all opposition protests were banned, and in February 2018 a student not involved in an opposition protest was killed when security forces used live ammunition to disperse a protest. In advance of a second protest planned for April 2018, seven people were arrested; nine who attempted to gather were almost immediately arrested. It has been reported that, during 2018, a high number of opposition politicians and parliamentarians have also been violently attacked. Women human rights defender and Member of Parliament, Halima Mdee, criticized the President's decision to ban pregnant girls from school. In response, she was arrested for insulting the President under the sedition clause of the Cybercrimes Act. In February 2018, Godfrey Luena, a land rights defender and Member of Parliament was killed outside of his home by unknown persons. Luena had been a vocal critic of alleged state sponsored land-grabbing.

Two recommendations pertaining to human rights defenders were made to Tanzania during the most recent UPR cycle.⁹⁸ These were only noted by the State. In addition to the communication noted above, the Special Rapporteur also sent a communication to the Government of Tanzania in 2016, concerning arrests of 57 Maasai, including human rights defenders, from the Loliondo community in Ngorongoro District contesting Government

⁹⁸ A/HRC/33/12

plans to allocate Maasai ancestral lands to tourism and gaming companies. The Special Rapporteur received no response from the State in either case.

4. Issues and Trends

The Special Rapporteur is gravely concerned by the swift deterioration of the situation of human rights defenders in Tanzania under the current Government. In particular, there are concerns surrounding the implementation of new laws which have drastically constricted civic space and which, combined with a lack of tolerance for diversity and dissent, have imperilled human rights defenders and resulted in an atmosphere of disunity within the broader civil society. Further, the Special Rapporteur is concerned that the rhetoric employed by Government officials has encouraged a hard-line approach to be taken by local authorities, including charges brought against defenders which have no basis in law.

The Special Rapporteur recommends that Tanzania revise or repeal restrictive laws and regulations which unjustly impede the work of human rights defenders to bring them in line with constitutional obligations and international human rights standards, in particular: the Statistics Act, 2015, the Cybercrimes Act, 2015, the Media Services Act, 2016, the Access to Information Act, 2016, and the EPOCA Regulations, 2018. Tanzania should improve awareness of the rights of human rights defenders among State authorities and police officers to guarantee that these rights are upheld. Furthermore, the Special Rapporteur calls on Tanzania to drop spurious charges brought against human rights defenders and to lift all suspensions against civil society organisations, media outlets and individual journalists.

Uganda

1. National Context and Human Rights Defenders

Human rights defenders in Uganda face considerable risks and restrictions in their work. In addition to attacks on the media, which have included gags imposed via charges of treason, defenders have also reported increased threats and physical attacks, intimidation and harassment, interrogations, office raids and break-ins. Continued violence against defenders has been observed to take place in an environment characterised by impunity towards perpetrators. Reprisals against those who seek to access international and regional human rights mechanisms have also been noted. Defenders at heightened risk include those working on sexual orientation and gender identity rights, as well as those working on corruption and land rights. Rurally-based defenders, including print and radio journalists, also face increased risk due to their more limited access to protections and legal assistance compared with defenders based in large cities such as Kampala.

An entry for Uganda was included in the 2006 Global Survey.⁹⁹ The Special Representative expressed concern regarding political repression and the conflict in northern Uganda that had been ongoing since 1986. However, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time.

⁹⁹ E/CN.4/2006/95/Add.5

2. Legal and Policy Framework

Uganda has ratified most major human rights treaties, with the exception of the Optional Protocol to the Convention against Torture and the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty. It has signed but not ratified the Convention for the Protection of All Persons from Enforced Disappearance. Since the 2006 Global Survey, Uganda has become party to the Convention on the Rights of Persons with Disabilities. Uganda is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights.

The 1995 Constitution guarantees a range of rights that are relevant for the defence of human rights and the protection of defenders, including: the right to freedom of association and freedom of expression, including freedom of the press and other media, and the right to peaceful assembly. The constitution stipulates that these rights can be subjected to limitations in the protection of the rights of other persons and the public interest. The Constitution affirms that every Ugandan citizen has the right to participate in the affairs of government, individually or through his or her representatives in accordance with law, and to participate in peaceful activities to influence the policies of government through civic organizations.

The Uganda Human Rights Commission was founded in 1996 as an independent national human rights institution, as provided for under the Constitution. It is accredited "A" status, in accordance with the Paris Principles and has powers to investigate human rights violations, both on its own initiative and on the basis of complaints made by individuals or groups. Based on its findings, the Commission may order the release of a detained person, compensation, or any other legal remedy.

The Committee on Economic, Social and Cultural Rights, noted with concern in its 2015 report that the CESCR has no direct applicability in the domestic legal order and that not all Covenant rights were protected in the State party's Constitution or laws and hence are not justiciable in courts.¹⁰⁰ Further, it found that insufficient budgetary resources were allocated to the Uganda Human Rights Commission, which negatively affected the Commission's ability to carry out its mandated activities. It also observed the failure by the State to implement decisions taken by the Commission and to follow up on reports issued by it.

While the Constitution and domestic legislation provide key protections to defenders, many safeguards are not translated into practice. Furthermore, a number of laws enact restrictions on the work of human rights defenders, or seek to control and criminalize their legitimate activities. The State does not have a policy explicitly addressing the protection of human rights defenders or their rights as articulated in the Declaration.

Problematic among these is the Public Order Management Act (POMA), 2013, which gives wide discretionary powers to the police to deny and disperse assemblies, and has been used to facilitate the arrests of political activists. Further, the Non-Governmental Organisations (NGO) Act, 2016, and subsequent Non-Governmental Organisations Regulations, 2017, contain overly-broad and vaguely worded provisions specifically targeting defenders and civil

¹⁰⁰ E/C.12/UGA/CO/1

society organisations which are inconsistent with the rights to freedom of assembly and association as defined in the Constitution.

The NGO Act includes provisions which restrict the operations of organisations, a burdensome registration procedure with the NGO Bureau and periodic permits. NGOs are prohibited from carrying out activities in any region without the explicit approval of the District Non-Governmental Monitoring Committee (DNMC) and local government. The Bureau is permitted to refuse the registration of NGOs, and section 30(1)(a) states that an “organisation shall not be registered under this Act, where the objectives of the organisation as specified in its constitution are in contravention of the laws of Uganda”. This restriction has grave implications both for defenders seeking to effect change in Ugandan law, as well as for defenders working for groups regarded as illegal, such as those focused on sexual orientation and gender identity rights. Any act deemed prejudicial to Uganda’s security, interest, or the dignity of its people is an offence punishable by a fine and/or a maximum of three years in prison. Prior to the implementation of the Act, in 2015 the Committee on Economic, Social and Cultural Rights noted concern regarding an earlier draft amendment to the NGO Registration Act; the Committee recommended that Uganda amend the draft bill and ensure that its provisions would respect the independence of NGOs and their activities in defending human rights.¹⁰¹ These recommendations have not been implemented with regard to the 2016 Act.

The Press and Journalist Act, 2000, further imposes undue restrictions on the practice of journalism with negative implications for freedom of expression. All journalists are required to be accredited by the State appointed Media Council and to register with the National Institute of Journalists of Uganda. Editors are held responsible for ensuring what is published is not contrary to “public morality”. The Media Council has powers to suspend journalists, impose harsh monetary penalties on media outlets and ban publications. The draft Press and Journalist (Amendment) Bill, 2010, which remains pending, has been criticized as being overly punitive in nature, including wide-ranging and ill-defined powers enabling authorities to revoke the license of media outlets for publishing content deemed to be "prejudicial to national security, stability and unity". In 2016 a directive was issued that required all journalists covering the legislature to possess a degree in journalism or a related field, and to have worked as a journalist for at least three years.

Several acts not directly related to the work of human rights defenders nevertheless include provisions which have concerning applications pertaining to the rights of defenders. The Refugees Act, 2006, prevents refugees in Uganda from political expression and has been criticised by civil society as a means for gagging their freedom of expression. Likewise, the Anti-Terrorism Act, 2002, and the subsequent Anti-Terrorism (Amendment) Act, 2015, give government officials broad powers of surveillance and the capacity to freeze individual and organisational bank accounts without judicial oversight.

3. Implementation of the Declaration

Uganda has failed to take credible steps towards the implementation of the Declaration on Human Rights Defenders and significant provisions within recent legislation have considerably undermined the freedoms afforded to defenders under the Constitution and in international law. The Special Rapporteur is gravely concerned by the deterioration in the

¹⁰¹ E/C.12/UGA/CO/1

situation for human rights defenders in Uganda, including members of civil society organisations, journalists and independent media outlets. Acts of intimidation and violence against journalists have been observed to be a common occurrence; those who speak out and criticise authorities are frequently beaten, abducted, or have their equipment seized with impunity. Charges of treason are used to gag the media and State authorities have been noted to directly block the broadcasting of television news reports. Under threat of severe repercussions for their work, many journalists are resorting to self-censorship.

Sexual orientation and gender identity are sources of discrimination in Uganda, and defenders working on these issues face significant risk in their work from both State and non-State actors. Prominent human rights defender, David Kato Kisule, who is considered the “father of Uganda’s LGBT-rights movement” was killed in 2011 in a violent attack at his home. In 2014, Uganda adopted an Anti-Homosexuality Act which was overturned after a number of months, following a successful legal challenge by human rights defenders. The Act criminalized the promotion, aiding and abetting of homosexuality, invigorating anti-homosexual sentiment. This resulted in a raft of violations and led to the temporary closure of several civil society organisations, including the Refugee Law Project. In 2014, a group of human rights defenders were threatened by the Ugandan Government delegation after presenting a report on abuses of the rights of LGBTI persons at the 55th Session of the African Commission on Human and Peoples’ Rights.

Freedom of assembly has repeatedly come under threat; in September and October 2017 State authorities imposed a blanket ban on demonstrations which had arisen in opposition to the proposed constitutional amendment to lift the cap on the age of presidential candidates. It appears from various reports that this came as part of a wider crackdown which saw the excessive use of violence by security agents against protesters and targeted “preventative” arrests carried out under POMA. Organisations also had their bank accounts frozen, including Action Aid Uganda, which had been vocal in its opposition to the bill. Media outlets were threatened with the revocation or suspension of their licences for broadcasting live parliamentary debates. Parliamentarians opposed to the bill were blocked from entering the Parliament building and suspended for alleged disorderly conduct.

It has been noted that this series of events reflect a pattern in which freedom of assembly has been repressed and police and security officers have been treated with impunity for attacks against human rights defenders. This is despite the acceptance by Uganda of a UPR recommendation to investigate and hold accountable the security forces that attacked human rights defenders during the 2011 post-election period when the “Walk to Work” protests were met with excessive force, leading to the deaths of nine bystanders and the hospitalisation of 84 people; no prosecution has taken place.¹⁰² The election itself was marred by brutal crackdowns by security forces; at opposition protests prior to the election, 33 women human rights defenders were arrested and then severely beaten by police after appearing in court.

In total, Uganda received and supported four recommendations on the subject of human rights defenders in the second UPR cycle,¹⁰³ however no meaningful actions by the State have been noted by the Special Rapporteur towards the implementation of these

¹⁰² A/HRC/19/16

¹⁰³ A/HRC/34/10

recommendations. The Special Rapporteur has sent numerous communications to Uganda in recent years, with regard to both the individual cases of defenders and the implementation of legislation with negative impacts for defenders. However in the majority of cases, no substantive response has been received from the State. The Special Rapporteur is concerned that this represents an increasing lack of engagement on the part of the Uganda with UN mechanisms.

4. Issues and Trends

Human rights defenders in Uganda face a high level of threat in their work from both State and non-State actors. The Special Rapporteur is deeply concerned by the myriad ways in which newly implemented legislation curtails defenders' rights and imposes unnecessary and burdensome administrative requirements on organisations, media outlets and independent journalists. These come in conjunction with the extensive discretionary powers afforded to State regulatory bodies without due judicial oversight and are compounded by an atmosphere of impunity for violations committed by State actors against human rights defenders.

The Special Rapporteur calls on Uganda to urgently amend the provisions of legislation which place undue restrictions on the legitimate activities of human rights defenders, including the Public Order Management Act, 2013, and the Non-Governmental Organisations Act, 2016, to ensure free assembly and association in line with international human rights standards, and conformity with the Constitution and international obligations. He urges Uganda to uphold international standards on freedom of expression and media, and end restrictions on, and violent repression of, journalists and media outlets. The Special Rapporteur also recommends that Uganda initiate impartial and transparent investigations into cases of violations against defenders in the context of elections and political unrest.

North Africa

Algeria

1. National Context and Human Rights Defenders

The People's Democratic Republic of Algeria suffered through a civil war for more than a decade after a coup in 1991. Up to 150,000 people died during the conflict and its legacy continues to affect the politics of Algeria and influence the civil space within which defenders are allowed to operate. Algeria had been operating in a state of emergency for 19 years, until it was lifted in early 2011. Algeria is a member of the Arab League and the African Union. It is party to the African Charter on Human and Peoples' Rights and the Arab Charter on Human Rights.

Algerian human rights defenders face restrictions in their ability to carry out their legitimate and peaceful work. As noted by numerous sources, human rights defenders, including notably journalists, lawyers and bloggers, have been harassed and subjected to police inquiries, arbitrary detention, prosecution and false charges. Some of the most visible and critical civil society organisations in Algeria have reported sustained and unwarranted digital and physical surveillance of their activities. Particular concerns have been raised regarding organisations

working on certain issues, such as sexual orientation and gender identity, or human rights violations committed during the Civil War, which face heightened difficulties in registering and in carrying out their work. Defenders working to protect and promote sexual orientation and gender identity rights, indigenous defenders, and women human rights defenders all also face specific risk compounded by their intersectional characteristics.

The State was included in the 2006 Global Survey, but the Special Representative regretted that she had not received a response to her request for information.¹⁰⁴ She sent eighteen communications regarding twenty-two human rights defenders between 2005 and 2006. The Global Survey noted that defenders seeking justice for those disappeared during the civil war were particularly vulnerable. The Global Survey also raised concerns about the repression of the right to freedom of assembly, the closing-down of press outlets following accusations of defamation, and the barring of human rights defenders from attending international human rights events.

2. Legal and Policy Framework

Algeria is party to all of the core international human rights treaties, but it is yet to ratify the Convention for the Protection of All Persons from Enforced Disappearance.

The Constitution provides for freedom of expression, association and assembly under article 48. Related provisions include article 49, which guarantees freedom of peaceful demonstration, and article 54, which guarantees the right to form associations. Freedom of movement is protected by article 55.

The work of human rights defenders is, however, made difficult through some restrictive laws. The 2012 Law on Association (Law 06-12 adopted in 2012) required all organisations to re-apply for registration, and await authorisation from the Ministry of Interior before being able to operate legally. The Law allows the State to dissolve organisations, and refuse registration of organisations on vague grounds. Attention has been drawn to the fact that, in some cases, the authorities do not provide any legal justification for their decision not to register an association nor do they issue the initial registration receipt, without which the associations cannot hold public meetings or obtain funding from abroad. There is no right to appeal the Ministry's decision.

Also in 2012, a new Law on Information was adopted, which requires all organisations to have prior approval from a media regulatory authority before publishing or disseminating information. The Committee to Protect Journalists has stated that at least 32 provisions in the Law impede the right to freedom of expression. The Law builds on other legislation which limits freedom of expression, such as laws against defamation, and a 2006 presidential decree which criminalises criticism of the conduct of security forces during the civil war.

Under the Law on Public Meetings and Gatherings (Law 19-91 of 1990), organisers must apply for authorisation to carry out demonstrations, marches or rallies at least eight days before the event. Three days' advance notice is required for temporary public 'gatherings'. Under the country's Penal Code, it is a criminal offence, punishable by imprisonment, to organise or take part in an unauthorised gathering.

¹⁰⁴ E/CN.4/2006/95/Add.5

The Conseil National des Droits de l'Homme (CNDH) was strengthened by Constitutional amendments in 2016. It has a stronger mandate than previous national human rights institutions, and is classified as partially (level B) conforming with the Paris Principles.

3. Implementation of the Declaration

Algeria does not have legislation that specifically addresses the situation of human rights defenders; no protective mechanism or policies exist for human rights defenders. The Special Rapporteur notes that, overall, the Declaration is not consistently respected, and the State frequently interferes with the legitimate work of human rights defenders, especially those working on sensitive issues.

Freedom of expression is tightly controlled in Algeria. Although respected in theory, the press is heavily reliant on income from public sector advertising, meaning they face pressure not to criticise the government. Journalists and media outlets have reported that they operate in a restrictive environment and are forced to exercise self-censorship.

Attention has been drawn to particular cases where freedom of expression has been criminalised. In 2017, Blogger Abelhakim Mohandi, who is involved in online activism including managing the Facebook page “Revolution of young Algerians,” was charged with “making secret documents available to the public [and] illegal possession and spreading of information” after sharing information about a teargas deal undertaken by the government. In March 2018, human rights defender and online activist Abdullah Benaoum was sentenced to two years in prison for his political work. He has written about labour rights, prisoners’ rights, and the rights of people with disabilities in Algeria. In 2018, Hassan Bouras was Front Line Defenders’ Regional Winner owing to his work in exposing corruption and torture through his work as a journalist and blogger. Over two decades, Bouras has faced judicial harassment, arbitrary detentions, violent raids on his home, and imprisonment. Journalist Mohamed Tamalt was imprisoned after posting a video featuring a poem which was critical of the president. He died in prison in December 2016 after staging a hunger strike in protest at his sentencing.

The right to freedom of assembly has also been violated for human rights defenders. A presidential decree from 2001 which bans public assemblies in Algiers is still in force.

The Special Rapporteur is concerned by reports that, across the country, the authorities have employed tactics including refusing to authorise demonstrations, using excessive force to disperse protests, arbitrary bans, preventive detentions, prosecution of protesters and activists, and intimidation and retaliation against defenders. Those who breach the laws of assembly may be fined or imprisoned for up to five years. Human rights defender Al-TaHER Belabbas is the national coordinator of the National Committee to Defend the Rights of the Unemployed in Algeria. Most recently, he was sentenced to two months in prison in April 2018 on the charge of “incitement to protests”. It has also been observed that the State has used travel bans to restrict the ability of defenders to travel and discuss the situation of human rights defenders in international fora.

Some issues remain sensitive, and those working on them face consistent targeting and harassment from the authorities. For example, concerns have been raised regarding defenders whose work deals with the civil war, who are frequently targeted by authorities for their legitimate work. On 29 September 2016, around twenty people were arrested when the

State prevented a peaceful demonstration organised by civil society organisations and the families of victims of enforced disappearance during the civil war. The authorities have regularly prevented families of the disappeared from holding sit-ins or demonstrations. Associations whose remit includes working with families whose loved ones were disappeared during the civil war also face obstacles to legal registration. In 2018, prominent human rights defenders Ameen Fiddah, Rafik Belamrania and Salah Dabouz faced reprisals for their work relating to the civil war.

Some groups of defenders face specific threats for carrying out their work owing to their intersectional characteristics. Many defenders working with the indigenous Amazigh are reported to face arbitrary arrest and detention; in 2016, there were around 140 Amazigh political prisoners in the M'zab region. Some carried out repeated hunger strikes to protest their detention. According to various sources, the police have interrupted, forbidden or forcibly prevented traditional activities and events. In July 2016, police dispersed and arrested at least 100 indigenous Movement for the Autonomy of the Kabylie activists as they were preparing to hold unauthorised meetings to commemorate the 15th anniversary of the Berber Spring.

The Mozabite and Kabylie also face repression by police either through arbitrary arrest, banning of all forms of expression or protest, and through surveillance of phones and internet. In Kabylia, a continuous harassment against Amazigh non-governmental organizations has been reported. For example, defenders belonging to the Amazigh World Congress (CMA) have faced judicial harassment and been threatened with imprisonment if they continue with their activism. In November 2017, human rights lawyer Ahmine Nouredine was charged with “false communication” and “insulting a regulatory body” after he filed a complaint against security forces who beat an Amazigh man to death. Salah Dabouz, an attorney who represents Mozabite prisoners was arrested and released in an attempt to have him discontinue his activities. Dabouz is President of Ligue Algérienne pour la Défense des Droits de l'Homme (LADDH) and has also been harassed for his work relating to the civil war.

Defenders of sexual orientation and gender identity rights also face challenges to carrying out their work. Stigmatisation, persecution, intimidation, targeting and accusations of being anti-Islam are observed to be common. Despite the constitutional guarantee of the right to non-discrimination, defenders of sexual orientation and gender identity rights are restricted in setting up associations for the promotion of LGBT rights. Civil society organisations have reported that human rights and feminist associations are concerned about openly supporting LGBT rights for fear of the immediate withdrawal of their accreditation. Human rights defender Anouar Rahmani has been continuously harassed and threatened for his work in writing about freedom of expression and conscience, environmental rights, and minority and LGBT rights. He is the first defender in Algeria to openly support same-sex marriage. He was summoned for questioning in 2017 regarding a fictional novel he wrote.

Women are active in defending human rights in Algeria. They have campaigned on issues including gender-based violence and discriminatory laws. Women human rights defenders face some of the same problems as men. For example, in March 2018, two prominent women’s rights organisations, FARD (Femmes Algériennes Revendiquant leurs Droits) and AFEPEC (Association Féministe pour l'Épanouissement de la Personne et l'Exercice de la Citoyenneté), were closed down by authorities, despite having legally registered with the

authorities. It has also been reported that, in March 2017, Algerian activists who had gathered to peacefully mark International Women's Day were dispersed and arrested by police as they demonstrated. However, women human rights defenders also face specific challenges. Feminist human rights defender and union activist Soumia Salhi has highlighted that traditional social ideas affect women's ability to do activist work: "For a feminist activist, the hardest part is having your demands and behaviour accepted by your family and neighbourhood." Furthermore, the work of women human rights defenders has often been overlooked or miscategorised, particularly when violence against them is not carried out by the State.

The Special Rapporteur has received a large number of communications concerning the situation of human rights defenders in Algeria, including communications in every year since the 2006 Global Survey. A recent communication concerned the arrest, detention and torture of Kamal Eddine Fekhar, an indigenous Mozabite human rights defender who stated that "state-sponsored racism is being perpetrated against the Mozabite because they are neither Arabs nor Sunni Muslims." These communications provide examples of the many ways, consistent with the foregoing analysis, in which the rights of human rights defenders in the State are violated. While the Special Rapporteur thanks the State for generally responding to his communications, the State must take action to both fully address the violations outlined in the communications and also prevent future similar violations.

4. Issues and Trends

Human rights defenders in Algeria suffer from a range of restrictions that interfere with their freedom of expression, assembly and association. While these freedoms are protected by the Constitution, in practice other laws restrict defenders' work. As noted above, in recent years a growing number of defenders have been targeted and faced harassment, intimidation, threats, arbitrary detention, and prison sentences. Restrictions on registering civil society organisations and on holding public assemblies have also impacted defenders' work. Journalists, bloggers and defenders whose work addresses the abuses committed during the civil war face continued risk and are repeatedly targeted by authorities. Indigenous defenders, defenders of sexual orientation and gender identity rights, and women human rights defenders also face specific risks for their legitimate work.

The Special Rapporteur recommends that the government introduce a mechanism to protect human rights defenders. He regrets that the authorities continue to deny long-standing requests to visit by UN Special Procedures and recommends that the State accept their requests to visit. The Special Rapporteur is deeply concerned by the State's systematic targeting of defenders working on human rights cases related to the civil war, and urges the State to cease intimidation of the families of the disappeared, and allow them to carry out their legitimate and peaceful work. The Special Rapporteur also encourages the national human rights institution to develop its programme of work on human rights defenders.

Egypt

1. National Context and Human Rights Defenders

Egypt has long had, even during the years of repression under President Mubarak, a large, vibrant and outspoken civil society. According to the State, there are 48,300 registered non-governmental organisations in Egypt among which 3,000 are working in the field of human rights. In the aftermath of the 2011 revolution, many new civil society organisations opened and new programming was launched. Many human rights defenders in exile returned to contribute to the new, more open, civil society. However, the Presidencies of Morsi and el-Sisi have decisively reversed this trend. A state of emergency was re-imposed in 2017 following a series of deadly terrorist attacks across the country and has been extended until at least January 2019.

As noted by numerous sources, all human rights defenders are at risk in Egypt in what has become a hostile environment. Defenders perceived to support the Muslim Brotherhood (or other Islamist factions), assisting the victims of the violence of the revolution and coup, and critical of the government, security services or military have been reported to be particularly at risk. Defenders of and from the Coptic Christian minority face challenges from within their community; women human rights defenders and defenders of sexual orientation and gender identity rights defenders face social hostility exacerbated by the popular media and the State and targeting by the State.

Egypt was included in the 2006 Global Survey on the situation of human rights defenders.¹⁰⁵ The Global Survey noted modest progress in terms of human rights but expressed concern about emergency laws and the numerous obstacles human rights defenders faced in their work. The Global Survey also noted that no specific steps had been taken in relation to the protection of human rights defenders or the implementation of the Declaration.

Today, human rights defenders are reported to face harassment from State officials, arbitrary arrest, indefinite detention and unfair trial, enforced disappearance, and torture. The State has been reported to repeatedly target human rights defenders and organisations for prosecution and has introduced increasingly restrictive laws, policies and processes that severely restrict the activities and rights of human rights defenders. Many prominent Egyptian human rights organisations have been closed, forced to relocate to neighbouring countries; growing numbers of Egyptian human rights defenders have been forced (in some cases, once again) into exile.

Women human rights defenders are active in Egypt but face gender-specific risks that reflect the patriarchal society of Egypt and the high levels of violence against women. Common forms of sexual violence include virginity tests, removal of clothes, threats of rape, verbal and physical abuse and threats of being persecuted for prostitution, all of which are a demonstration of the stronger hatred female defenders face due to them defying culturally, socially and religiously accepted gender norms.

2. Legal and Policy Framework

Egypt has ratified all major international human rights treaties apart from Convention on Enforced Disappearance, the Optional Protocol to the Convention against Torture and the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to

¹⁰⁵ E/CN.4/2006/95/Add.5

the abolition of the death penalty. Egypt is also party to most of the major human rights instruments of the African Union and the Arab League.

There are no national laws, policies or protective mechanisms in place for human rights defenders at risk. The 2014 Constitution, however, guarantees a large number of basic rights ranging from freedom of expression and protection regarding due process to the prohibition of censorship and shutting down of newspapers and media outlets. The Constitution also recognises the obligations in international human rights treaties as being part of Egyptian law and enforceable by domestic courts.

The Constitutionally guaranteed right to freedom of expression is restricted by provisions in the laws governing non-governmental organisations prohibiting (under Law 70 of 2017) “any work of a political nature.” It has been noted that advocacy activities or those concerned with civil and political rights, for instance, could potentially be encompassed by the law and disallowed. Concerns have also been raised regarding Egypt’s strict defamation and insult laws, which include criminal penalties, and which have also been used to silence critics of Egypt’s Government. This was the case prior to the 2011 Revolution and has remained the case afterwards, as countless provisions criminalizing defamation of public authorities in particular remain part of the Penal Code.

Journalists, in particular, have been noted to be at risk of being subject to prosecution under these laws. In 2013, satirist Bassem Youssef was accused of insulting President Morsi and Islam and subject to threats and a protracted investigation, eventually forcing him into exile. Egypt has been described as “one of the world’s biggest prisons for journalists” by Reporters Without Borders. In June 2018, the Egyptian Parliament approved a new law regulating the press and media that has been denounced as overly restrictive by the Press Syndicate.

Although the right to organize public meetings, procession and peaceful demonstrations is guaranteed by article 73 of the Constitution, a controversial 2013 law on peaceful assembly significantly restricts these rights. As a result of a ruling by the Supreme Constitutional Court, the law has been amended to give the judiciary final review of the approval (or refusal) of protests. Egypt’s Illegal Assembly Law of 1914 also remains in effect, and, together with various provisions of the Penal Code, is often used to bring additional charges against individuals detained in the context of protests.

Mass protests have played a significant role in Egypt’s recent political history, including as part of the Arab Spring. These protests often were responded to by acts of violence by the State, including the targeting of largely peaceful protesters during the occupation of Tahrir Square in 2011 and the violent raiding of protest camps of supporters of President Morsi in 2013. On both occasions, large numbers of protesters were killed and the perpetrators of the violence have largely enjoyed impunity. It has been noted that excessive force is often used against protesters, and that hundreds of protest participants have been arbitrarily detained and imprisoned. The Special Rapporteur is concerned by reports that hundreds of those arrested at the protests in support of President Morsi have been subjected to prosecution, unfair mass trial, and heavy sentences (of life in prison and execution).

National laws regarding associations and foundations prohibit political work, require registration, require prior approval of funding and include wide-ranging limitations on activities that the State may not support. Egypt’s longstanding law on non-governmental organisations (Law 84 of 2002) severely restricted the ability of human rights defenders to

register their organisations. Many organisations have reported years of delays and complex administrative and judicial processes in order to register their organisations. In 2013, 43 employees of foreign-based non-governmental organizations were convicted of a range of offenses in relation to their receipt of funding and performance of prohibited activities and sentenced to up to five years in prison (Case 173/2011). In April 2018, Egypt's highest court overturned some of the convictions in Case 173/2011, though it is unclear whether the defenders will face renewed prosecution.

Notwithstanding the restrictive legal frameworks, human rights defenders were generally successful in navigating the formation and management of non-governmental organisations during the aftermath of the 2011 revolution and during the rule of President Morsi. The current government has both dramatically increased its enforcement of existing restrictions, including in particular restrictions on access to international funding, and sought to introduce even more restrictive legal frameworks.

In May 2017, President el-Sisi signed into effect Law 70 of 2017 which increased the regulatory burden on and the scope of liability and penalties for breaches of the law by non-governmental organisations. The application of parts of Law 70 of 2017 remains in abeyance pending the introduction of transitional regulations. However, its presence serves as an active warning to civil society organisations. Furthermore, a 2018 law draft on cybercrime has raised concerns over the possibility of it being used to interfere with online expression and the work of media outlets. It has been reported that over 497 websites have been blocked since 2017.

Egyptian emergency law allows the authorities to adopt broader powers, including restrictions on the media. State security courts have expanded power under the emergency law and also jurisdiction over all matters of "terrorism". The Egyptian president may also issue verbal or written instructions to spy on citizens' communication, censor media outlets and close their printing presses during a state of emergency. The Special Rapporteur is concerned by reports that these powers have been used against human rights defenders during the current state of emergency.

Egypt's national human rights institution, the National Council for Human Rights (NCHR), is currently fully accredited (level A) as complying with the Paris Principles. Notwithstanding its accreditation, the Council has been criticized by some human rights defenders as not being fully independent of the State and being ineffective in its investigation of and advocacy on human rights violations. Human rights defenders have criticized the Council for its denial that the State uses enforced disappearance and torture against human rights defenders despite substantial evidence of these practices.

3. Implementation of the Declaration

The State has failed to protect human rights defenders and their fundamental freedoms. The State does not generally acknowledge (or use) the term "human rights defender", let alone in its expansive sense. As stated by the NCHR: "The individual human rights defenders are not formally recognized by the State. They are recognized as members of NGOs if they enjoy such status." The rights in the Declaration remain, in practice, illusory to most defenders.

Barriers to the activities of human rights defenders in Egypt take a variety of forms ranging from explicit limitations on permissible activities to governmental interference in internal affairs to vague grounds for dissolution and the imposition of harsh sanctions to extra-legal

harassment by security authorities. As noted by a number of sources, human rights defenders and organisations conducting human rights advocacy have been the subject of particular scrutiny by the State. Of particular concern in relation to the use of lawfare against defenders is the increasing imposition of the death penalty against individuals, including defenders, viewed as politically opposed to the State.

Egyptian authorities have been reported to interfere with the international travel of human rights defenders, using travel bans to prevent numerous defenders from traveling outside Egypt to participate in international conferences and meetings. It has also been observed that human rights defenders who travel abroad are frequently questioned about the purpose of their travels upon exit and re-entry. Authorities have also refused entry into and ordered the deportation of non-citizen human rights defenders.

The restrictions on non-governmental organisations in law have been worsened in their implementation by State bureaucracy and by private actors. It has, for example, been noted that receipt of international funding requires approval by the Ministry of Social Solidarity, a process that can take months if not years (often longer than the project for which the funding has been sought). These delays are exacerbated by suspicion from the banking sector and additional restrictions imposed by local anti-money laundering regulations.

In addition to the foregoing human rights violations, women human rights defenders face discriminatory practices and sexual harassment and violence. In 2017, the Special Rapporteur expressed concern over the increasing attacks on women human rights defenders. A range of communications concerning issues such as travel bans against women human rights defenders and arbitrary arrests were received in 2016 and the government replied to only six of the thirteen. Three human rights defenders were released on bail. In May 2018, Amal Fathy was arrested and prosecuted as a result of her posting on social media a video days in which she criticizes state's failure in protecting women from sexual harassment. Non-governmental organisations working on women's rights, led by women defenders, and adopting "feminist" approaches, including the El-Nadeem Centre, Nazra for Feminist Studies and Lawyers for Justice and Peace, have been targeted with a wide range of forms of legal and administrative harassment.

Attention has also been drawn to the targeting by the State of defenders of sexual orientation and gender identity rights. It has been noted that this targeting is part of a larger State led campaign against the LGBT community that has widespread support in society. Hundreds of individuals belonging to the LGBT community have been prosecuted with many of them being sentenced to prison for "debauchery." A recent crackdown on the LGBT community occurred after the arrest of a man waving a rainbow flag during a concert in Cairo. According to various sources, the Interior Ministry has used the internet to track down LGBT individuals. Defenders arrested because of their work on sexual orientation and gender identity rights or their LGBT identity face a significantly heightened risk of torture and sexual assault while in prison.

Egypt is home to large numbers of migrants and refugees. Shortly after the coup of 2013, the State was reported to target Syrian nationals because of their perceived support of President Morsi. Defenders of people on the move, and in particular Syrian defenders, faced elevated risk of arrest, detention, and, in the case of non-citizens, deportation. It has also been noted that the Egyptian security forces frequently collaborate with the security forces of other States, raising the risk for defenders in exile in Egypt.

4. Issues and Trends

Egypt has been experiencing a period of political and economic instability. The State is concerned about the protection of its citizens in an environment in which sectarian violence against minority Coptic Christians is on the rise along with terrorist attacks against the State and high profile targets. However, the Special Rapporteur urges the State that its response must be proportionate and that the heavy handed restrictions it imposes on human rights defenders and civil society more generally run the risk of undermining its ability to achieve its objective of social peace and political stability. The Special Rapporteur requests that the State ensure that the state of emergency is discontinued when no longer necessary and that, in any case, it is not used to further restrict the activities of human rights defenders.

The ill-treatment and detention of human rights defenders is a concerning trend in Egypt. Furthermore, restrictions on the ability of defenders to associate in non-governmental organisations and the intolerance of dissent present notable challenges for defenders. The Special Rapporteur calls on the State to abandon its rhetoric that human rights defenders act against the interests of Egypt and Egyptians. The State must also revisit its recent laws affecting freedom of expression and association and ensure that any implementing regulations bring them into compliance with international standards. State police and security forces should cease their targeting and mistreatment of women human rights defenders.

Libya

1. National Context and Human Rights Defenders

Since 2011, Libya has been dealing with extreme political instability after widespread unrest led to civil war, international intervention, and the death of its longstanding leader, Muammar Gaddafi.

On 18 December 2015 the interim Libyan Political Agreement was signed, giving temporary power to the Government of National Accord, with a view to holding elections in December 2018. However, armed rival factions continue to control much of the country with open conflict breaking out sporadically. In September 2018, a state of emergency was declared following violent clashes between militia in Tripoli which resulted in the deaths of at least 39 people. Libya has also become a key transit point for migrants and refugees traveling to Europe; defenders of people on the move are also particularly vulnerable, especially when their activities conflict with the vested interests of smugglers and traffickers.

The State is a member of the Organisation of Islamic Cooperation, the Arab League, the Non-Aligned Movement and the African Union. For the latter, Libya has ratified the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

Libya was included in the 2006 Global Survey, although not enough information was available to make an assessment of the situation of human rights defenders.¹⁰⁶ At that time, the state

¹⁰⁶ E/CN.4/2006/95/Add.5

was party to almost all of the core international human rights treaties including the ICCPR. According to Libyan law, international obligations took precedence over national law.

Traditional civil society (e.g. elder councils) and informal initiatives form the bulk of civil society in Libya. Many human rights defenders work outside of formal organisations and through such more traditional and informal means. Despite the rapid formation of more formal civil society organisations immediately following the revolution, security challenges have forced many human rights defenders into exile and many organisations into dormancy. The situation of human rights defenders is difficult in Libya due to the political instability and sporadic armed conflict in the country. As noted by a number of sources, human rights defenders have been subjected to particular violations and abuses, including assassination, attempted murder, abduction, threats, surveillance, and raids on their homes and offices. Cases of this type have been witnessed predominantly in Benghazi and Tripoli, though defenders in remote areas likely face similar (or greater) violations. Many reported attacks have targeted high-profile activists, producing a chilling effect on the work of other human rights defenders. Women human rights defenders in particular face multiple layers of gendered risks and obstacles that can be attributed both to the ongoing conflict and the conservative, religious influence on gender roles in the Libyan society.

2. Legal and Policy Framework

Libya has ratified the International Covenant on Civil and Political Rights and acceded to almost all of the core human rights treaties. It is notably not party to the Convention on Enforced Disappearance and the Optional Protocol to the Convention against Torture.

Libya has been reviewed twice under the UPR process. The State has agreed to take measures to protect human rights defenders and to ensure the investigation of the crimes committed against them.¹⁰⁷ However, the Special Rapporteur is concerned that this commitment is belied by the numerous and continuing reports of attacks, killings, detention and violence against human rights defenders.

A new constitution was drafted in 2011, which confirms Libya as a democratic state and Shari'a as the main source of legislation. Human rights and fundamental freedoms are protected by the Constitution. Article 14 of the Constitution is particularly comprehensive, protecting "freedom of opinion, individual and collective expression, research, communication, press, media, printing and editing, movement, assembly, demonstration and peaceful sit-in in accordance with the statute." Article 15 protects the freedom to establish political parties, associations and other civil society organisations, although with the caveat that "societies in conflict with public order or public morals or threatening in other ways the State or the integrity of the national territory shall be prohibited". In July 2017 a new draft Constitution was approved, however plans for a referendum to approve its text have been halted.

The national human rights institution of Libya, the National Council of Civil Liberties and Human Rights, is accredited as partially complying (level B) with the Paris Principles. It has been subjected to attacks in the form of raids on its office and threats against its staff, and has been reduced to minimal functioning, particularly since it closed its offices in Tripoli in late 2014. This is a disheartening development given the Council's previous attempts towards

¹⁰⁷ A/HRC/30/16 and A/HRC/30/16/Add.1

independence from the government and its leadership in the abolishment of a 2012 law that made 'glorifying the dictator' a criminal offense, a law that was in conflict with Libya's Constitutional guarantee of the freedom of expression.

The Human Rights, Transitional Justice and Rule of Law Division was established within the United Nations Support Mission in Libya (UNSMIL) in 2011. Its mandate is to promote the rule of law and monitoring and protect human rights. UNSMIL's Director of the Human Rights, Transitional Justice and Rule of Law Division is also the Representative of the United Nations High Commissioner for Human Rights in Libya.

3. Implementation of the Declaration

Libya does not have law or policy specifically addressing the situation of human rights defenders; it does not have a national protective mechanism for human rights defenders at risk.

As civil and political instability has increased in recent years, human rights defenders have faced growing risk as they attempt to carry out their peaceful and legitimate work. Attacks, including killings, abductions, torture and other ill-treatment, unlawful deprivation of liberty and death threats by phone and on social media, are concerning, particularly since the escalation of fighting 2014. Armed groups across the country have targeted human rights defenders seeking to shed light on and address human rights violations and abuses.

Freedom of expression is under severe threat in Libya. It has been documented that bloggers and other defenders using social media for their activism have been physically attacked, detained, threatened, harassed, and disappeared by armed groups from all sides of the current conflict, including those affiliated with the State. Blogger and activist Abdelmoez Banoon was abducted on 25 July 2014 and remains missing. Others, such as Mr Essam Safar, remain in detention for their activism on social media.

In August 2018 the Foreign Media Department (FMD) issued new measures which limit the ability of international journalists to carry out their work, and put reporters at risk of targeted attacks. The measures include restrictions on entry, sporadic granting of temporary visas, limitations on what events journalists can cover, and the requirement that they wear vests with the FMD logo, making them visible targets. It has been noted that defenders are practising self-censorship and even attempting to flee the country to protect themselves.

The Special Rapporteur is encouraged by the release of blogger Mr Ramadan Althoweebin in May 2018 after he was arrested and detained in April 2018 for Facebook posts criticising the Ain Zara municipality and exposing corruption. However, the conditions of his release forbid him to freely express any further criticism of the municipality or the militia in Ain Zara.

In 2012, a new law on freedom of assembly was introduced which was compatible with international human rights principles. However, the ability to safely carry out peaceful protest in many areas has been observed to be severely undermined by the presence of armed militia and concurrent political instability. Staff members of Jurists without Chains, a human rights organisation in Benghazi, shut its premises in 2014 following numerous threats, a raid, and the firing of a projectile into their office.

All defenders are vulnerable in Libya. Several prominent and influential individuals were murdered in Benghazi in 2014 because of their human rights work, including newspaper

editor Muftah Abu Zeid, influential lawyer and human rights defender Salwa Bughaigis, and two young civil society activists, Tawfik Bensaud and Sami al-Kawafi. The violence levied against defenders continued into 2015. Prominent civil society activist Entissar al-Hassaeri was shot dead in Tripoli in February. Two members of the National Commission for Human Rights Libya, a human rights NGO, were abducted in February 2015 in central Tripoli. Both have since been released, but other human rights defenders and members of civil society remain missing or have gone into hiding.

Particular concerns have been raised regarding women defenders, who face increased and specific risk for carrying out their work, particularly as the State introduces and attempts to introduce repressive gender-based laws. The Special Rapporteur is concerned by reports that since the murder of Salwa Bughaigis, security for women defenders has deteriorated. Bughaigis' murder was followed by the targeted killings of Fariha Al-Berkawi, on 17 July 2014, and Entisar El Hassari, in February 2015. According to human rights defender Laila Mughrabi, who is now living in exile as a result of her work, the murders and other targeted attacks against women defenders are not taken seriously by the State because, "Perceiving these women as equal political actors is not an option [for the authorities] and their assassinations are then boiled down to criminality and nothing more." Women defenders are also at risk of sexual violence and smear campaigns on social media, which can involve accusing them of committing adultery (which is punishable by up to five years in jail) or being prostitutes. Furthermore, according to Alaa Murabit, the founder of The Voice of Libyan Women, women defenders are told "you guys are being selfish, you need to focus on the greater good of the community" when they attempt to carry out their work.

Growing numbers of migrants and refugees in Libya find themselves facing arrest, severe mistreatment while in detention (including torture, forced labour and slavery), and further exploitation by human traffickers aligned with various armed groups, militias, and elements of the Libyan state. Defenders of people on the move have reported serious reprisals from the actors involved in the exploitation of migrants and refugees. Migrants and refugees who themselves try to defend their rights face particularly severe mistreatment, including torture, disappearance and death.

The Special Rapporteur has received regular communications concerning the situation of human rights defenders in Libya which coincide with the foregoing analysis. The Special Rapporteur has not received responses from the State with respect to many of his communications.

4. Issues and Trends

Libya is undergoing a period of prolonged internal armed conflict and political instability. Human rights defenders in Libya face increasing and extreme risk for attempting to carry out their legitimate work in protecting and promoting human rights. They are operating in an unstable environment which is heavily controlled by armed militia in opposing factions. Defenders face arbitrary detention, intimidation, threats, restrictions on freedom of speech and murder. Women defenders are also at risk of sexual violence, smear campaigns, restricted freedom of movement and trivialisation of their work. Defenders of people on the move, including in particular refugees and migrants defending their own rights, face particularly severe retribution from those involved in their exploitation. Obstacles and challenges to human rights defenders' work and safety are remarkable and extensive,

demonstrating that the rights guaranteed in the Declaration and the Constitution are not currently protected in practice.

The Special Rapporteur recognises that the State faces challenges far beyond the situation of human rights defenders and that it is undergoing a period of transition, hopefully towards a more peaceful and stable environment in which all people's rights are better protected. The Special Rapporteur reminds the State and all stakeholders that any new social and political settlement must be founded upon a commitment to protect human rights, including a commitment to the role of human rights defenders and the rights articulated within the Declaration.

The Special Rapporteur recalls that the Security Council resolution 2174 of August 2014 on the situation in Libya decreed that asset freeze and travel ban measures will apply to listed individuals or entities that plan, commit, or direct acts that violate international human rights law or acts that constitute human rights abuses. He urges the Government of Libya and all those with effective authority on the ground to take urgent measures to protect human rights defenders and ensure a safer and more enabling environment for them to conduct human rights work in the country.

Mauritania

1. National Context and Human Rights Defenders

Human rights defenders in Mauritania face practical obstacles to their work. The degree of vulnerability for human rights defenders in Mauritania is connected to specific human rights issues. Significant human rights issues include ethnic and caste discrimination, slavery, and the need for accountability for a campaign of atrocities against certain groups three decades ago.

In relation to slavery, Mauritania was the last State in the world to abolish slavery (in 1981) and only criminalised slavery in 2007. Some scholars and civil society organisations have argued that the State has the highest proportion of people in slavery of any country in the world.

It has been noted that, since many of these human rights issues victimise black Mauritians, black human rights defenders are especially vulnerable both due to their identity and cause, as well as gender should they be women. Many of the internationally prominent civil society organisations in Mauritania (Kawtal, SOS-Esclaves and The Initiative for the Resurgence of the Abolitionist Movement) work on the issue of slavery. However, bans on human rights organisations, the suppression of peaceful protests, threats, attacks and arbitrary arrests affect all groups of human rights defenders, creating a repressive environment.

In addition to groups that are vulnerable due to the issues they are working on, attention has been drawn to women human rights defenders, who are threatened and lack governmental protection. An example of this is the case of the human rights defender Aminetou Mint El Moctar who faced a death threat in the form of a fatwa in 2014 and felt that she lacked government protection.

Mauritania was included in the 2006 Global Survey.¹⁰⁸ However, the State did not make any submissions in relation to that report (as with the current report). The Global Survey noted the absence of much information about the implementation of the Declaration and the situation of human rights defenders in the State. The Global Survey expressed concern about the communications received by the Special Rapporteur which revealed restrictions on the freedoms of expression and association of human rights defenders and the particular mistreatment of defenders working against slavery, defenders working on the issues of disappearance and detention, and women human rights defenders.

2. Legal and Policy Framework

Mauritania is party to the core international human rights treaties. Mauritania is also a member of the African Union and has ratified treaties such as the African Charter on Human and People's Rights and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Mauritania is also a member of the Arab League but has not become party to the Arab Charter on Human Rights.

The Commission nationale des droits de l'homme (CNDH) is the national human rights institution. It has previously been fully (level A) accredited as complying with the Paris Principles but GANHRI has recently recommended its downgrade (to level B) by the end of 2018 if CNDH cannot establish its full compliance. Amongst the reasons for CNDH's threatened downgrade are its failure to cooperate with civil society and its refusals to denounce the significant human rights violations that occur in the State, and to condemn specific human rights violations, including in relation to human rights defenders.

3. Implementation of the Declaration

There are no national policies or protective mechanisms for human rights defenders at risk.

Key rights such as the freedom of opinion, expression, assembly, association, privacy and the right not to be illegally detained or prosecuted are protected by the Constitution. Positive reforms regarding these rights have been made, examples of which are the 2011 elimination of sentences for defamation and slander and the 2006 reform of abolishing the need for government approval for newspapers. However, religious offences are severely punished and expression online has been restricted since 2015. Since 2018, apostasy has been punishable by death. In April 2018, Mauritania's National Assembly passed a law on "blasphemous speech" and "sacrilegious acts" which broadens the scope of cases in which the death penalty could be applied and restricts the free expression of defenders on religious matters. As some civil society organisations have observed, harsh punishments for religious crimes may affect human rights defenders who use or promote progressive and egalitarian interpretations of Islam in their work. Human rights defenders are reportedly already suffering from labelling that could lead to apostasy claims and death penalty.

It has been noted that the right to promote human rights, form assemblies and enjoy protection is not respected in Mauritania. During its most recent UPR in 2015, Mauritania accepted the recommendation to provide legal protection for human rights defenders but did not agree with the recommendations to release anti-slavery activists from prison, to protect the freedom of expression or to grant civil society organisations sufficient space.¹⁰⁹ It

¹⁰⁸ E/CN.4/2006/95/Add.5

¹⁰⁹ A/HRC/31/6

reiterated its denial that human rights defenders faced serious violations: “the delegation stated that they were not confronted with any difficulties.”¹¹⁰ The intransigence of the State in the face of numerous documented instances of human rights violations is disappointing.

The ability of defenders to freely associate is restricted, including by the Law on Associations of 1964 which gives the Ministry of Interior control over the authorisation and legalisation of associations and organisations. In practice, it has been noted that the restrictions of the Law are exacerbated by its application as a means to control (and refuse registration to) human rights defenders working on controversial issues. A 2016 draft law that could replace the 1964 law would reportedly not improve the situation for civil society organisations in Mauritania. The state frequently refuses approval (or severely delays approval) of a variety of public events including awareness-raising and training events, as well as events aimed at providing services to victims.

The Special Rapporteur has received a large number of communications concerning the situation of human rights defenders in the State. The communications have raised many of the issues noted above; over the past year concerns have been expressed particularly concerning the arrest and mistreatment of human rights defenders exercising their right to peaceful assembly and seeking to participate in the international discussion of human rights (including before the Committee Against Torture).

4. Issues and Trends

The situation of human rights defenders working on the issues of slavery and discrimination is worrying. It is well documented that human rights defenders belonging to this group have been imprisoned, tortured and attacked and seem to lack any kind of protection. The Special Rapporteur calls on the State to release and provide an effective remedy for these human rights defenders. It has also been observed that forming and maintaining civil society organisations is challenging in Mauritania, especially for those working on the two above-mentioned issues. This makes tackling the two largest human rights issues in Mauritania extremely risky and difficult. The Special Rapporteur calls on the State, in partnership with human rights defenders, to reform its laws and policies so that they better implement the Declaration’s guarantee of freedoms of expression, association, and assembly.

While the Special Rapporteur on the situation of human rights defenders has not visited Mauritania, the United Nations Special Rapporteur on contemporary forms of slavery visited the state in October-November 2009. The existence of different forms of modern slavery was reported, but on the other hand, the state’s willingness to eradicate slavery was noted as well. The development of a concerted national strategy for eliminating slavery was recommended, something which would likely benefit human rights defenders working on the topic as well.

Morocco

1. National Context and Human Rights Defenders

¹¹⁰ A/HRC/31/6

Morocco was included in the Global Survey 2006 and the Special Representative thanked the State for providing her with information to complete her assessment.¹¹¹ The Global Survey recognised that the rights to freedom of expression, assembly and association were protected by law and that the governments had established mechanisms to support communication and collaboration between the State and civil society. However, the Global Survey expressed concern that over the previous year, she had received eleven communications regarding 64 human rights defenders in Morocco. The Global Survey noted that defenders in the Western Sahara were particularly vulnerable.

The occupation, governance and independence of Western Sahara, or the Sahrawi Arab Democratic Republic, remains a politically heated topic. Defenders working on this topic (and those working in the Western Sahara) are particularly vulnerable to mistreatment by the State along with journalists, defenders seeking political reforms (particularly through mass movements and protests), and women human rights defenders.

The State has implemented a strategy to improve cooperation with civil society, and some civil society organisations work alongside the government to draft laws relating various issues.

2. Legal and Policy Framework

Morocco is party to all of the core international human rights treaties. It is a member of the Organisation of Islamic Cooperation, the Arab League and the African Union.

The amended 2011 Constitution guarantees rights regarding freedom of expression, assembly, peaceful demonstration, access to information, functioning of civil society organisations and the freedom of the press. The Ministry for Relations with Parliament and Civil Society coordinates the relationship between civil society and the government.

The Criminal Code of Morocco prohibits membership in groups categorised as seditious, violent, or in furtherance of terrorist activities. It has been noted that this provision is used to threaten and prosecute defenders working in and on the Western Sahara and governance issues. In June 2009, the Amazigh president of the Rif Human Rights Association was targeted under these provisions, and sentenced to three years in prison.

Legislation requires that advance notification must be given to the authorities before holding a public meeting (24 hours) or demonstration (three days). The authorities reserve the right to refuse to grant permission for these activities, and can intervene to halt them at any time.

Morocco's national human rights institution, Conseil national des droits de l'homme, has been assessed as fully compliant (level A) with the Paris Principles. Its independence has, however, been questioned as the 2011 Constitution does not clearly define its mandate and jurisdiction, and there is lack of a transparent selection process for members. In recent years, the Conseil has been developing its capacity through partnerships with other regional national human rights institutions and developing its programming in relation to human rights defenders.

3. Implementation of the Declaration

¹¹¹ E/CN.4/2006/95/Add.5

No specific protective mechanisms, laws or policies are in place for human rights defenders at risk. The rights in the Declaration are unevenly implemented. The Special Rapporteur is particularly concerned by the situation of defenders operating within or in support of the Western Sahara, who are consistently targeted and whose activities are repressed by the State. As well as taking place consistently within the Western Sahara region, in recent years important civil activism has also taken place in Rif and Jerada. In these regions, defenders have reported heavy reprisals for carrying out their legitimate work.

Freedom of expression is curtailed in a variety of ways and the press in Morocco is not regarded as free. It has been observed that human rights defenders and journalists have been subject to surveillance using sophisticated technology, and that the internet has been deliberately cut during major events, negatively impacting on defenders' ability to communicate. Freedom of expression online is policed. For example, in 2018, blogger and founder of an anti-government news site Abdelkadir al-Hor was sentenced to four years in prison for "promoting terrorism" and "inciting dissidence" for his anti-government Facebook posts.

In a positive step for freedom of expression, in 2016 prison penalties were removed from the Moroccan Press Code. However, according to numerous reports, journalists continued to be prosecuted and in some cases imprisoned under the Penal Code. In its most recent UPR in 2017, Morocco rejected the suggestion that it further loosen "the procedures for registration of civil society organisations and bring registration mechanisms in line with international standards" and that it refrain from prosecuting journalists other than under the Press Code.¹¹²

Artists have also been imprisoned for crossing Morocco's so-called "red lines" which include insulting the King, Islam or Morocco's "territorial integrity" (referring to claims on the Western Sahara). Seventeen year-old rapper Othman Atiq, known as Mr. Crazy, was sentenced to three months in prison in 2016 for rapping about police corruption in Casablanca. The rapper Lhaqed (Mouad Belghouat) lives in exile following continued harassment, arrests and intimidation since September 2011. Lhaqed has written songs about corruption and social injustice and was involved in the pro-democracy 20 February Movement. In addition, Morocco has censored Sahrawi cultural expressions, and Sahrawi artists who promote the right of self-determination are banned from taking part in cultural life.

Defenders face restrictions on their ability to register civil society organisations and the regulations governing civil society organisations are observed to be often used, selectively and arbitrarily, to restrict the activities of defenders. It has been noted that defenders working with or in the Western Sahara face particularly severe restrictions, with the State allowing none of the Western Sahara's human rights groups to be legally registered.

The right to freedom of assembly is protected by law, however, in practice, protestors have often faced reprisals for their involvement in peaceful protests. In 2017, the government moved between tolerating and severely repressing peaceful protests. In July 2017, clashes took place between protesters and the State which resulted in over 80 people being injured. By October 2017, although some anti-government protests had been tolerated, in the Rif region over 450 Hirak Rif protesters had been arrested for their role in peaceful

¹¹² A/HRC/36/6 and A/HRC/36/6/Add.1

demonstrations. The State also continues to uphold historic sentences relating to protests. For example, in April 2018 Zine El Abdine Erradi was arrested when he returned to Morocco from France, where he had sought asylum. He was taken to prison to serve a one-year sentence which had been handed to him in absentia for his participation in peaceful sit-ins against police brutality in 2012. In 2018, human rights defender and lawyer Abdessadeq El Bouchtaoui was sentenced to twenty months in prison as a result of his representation of defenders in Al-Hoceima who faced charges in relation to protests. Even documenting protests can be hazardous: also in 2018, Tarik El-Wazna was arrested and arbitrarily detained for two months for taking photographs documenting protests.

Defenders working in or on the Western Sahara face a particularly dangerous environment. Defenders seeking to publicly protest the policies of the State with respect to the Western Sahara have faced severe reprisals. For example, prominent defender and member of Sahrawi Committee for the Defence of Human Rights Abdelkhalik ElMarkhi was sentenced to four years in prison in 2014 for participating in a demonstration regarding Sahrawi rights. In 2016, Ali Al-Sadouni, Nour-al-Din Arkoubi and Khalihon Al-Faak were imprisoned for their legitimate and peaceful participation in protests calling for self-determination in the Western Sahara. According to various sources, their time in prison has been characterised by torture, ill-treatment, lengthy periods in solitary confinement, and hunger strikes.

In some respects, the legal frameworks governing the rights of women in Morocco are progressive, including since 2004 the reformed Moudawana (Family Code) which is among the most progressive family codes in the Arab world and grants women equal rights in marriage and the domestic sphere. However, women human rights defenders continue to face social stigma and marginalization, even within the human rights movement. Women human rights defenders in Morocco have not gained as much local or international attention as men despite being active on a number of issues. One woman human rights defender in the rural province Sulaliyyate who joined the decade-long protest against the privatisation of tribal lands said that at times the traditional position of women can be effective, because they are not targeted as much by the police: "In our traditions, it was shameful for women to leave the house," Saida Soukat said. "But the men would get arrested, so women took over. We left our children behind."

It has been noted that the imposition of international travel bans and internal travel restrictions against defenders has increased in recent years. Attention has particularly been drawn to unnecessary restrictions imposed on some human rights defenders and activists seeking to enter and leave Western Sahara west of the berm. International human rights organisations have also been denied entry to carry out research in the Western Sahara since 2015.

In 2016, the Special Rapporteur expressed concern about reprisals against woman human rights defender Ms Ghaliya Djimi as a result of her cooperation with the UN. Djimi is vice-president of the Sahrawi Association for the Victims of Human Rights Violations (ASDVH) and is a long-term defender of human rights in the Western Sahara. Along with other Sahrawi women defenders, she has been beaten, harassed and imprisoned for her work. She explained being imprisoned for her activism did not deter her from her commitment to improving human rights for her fellow Sahrawis: "in jail, we celebrated the national Sahrawi festival, we studied and we taught our fellow inmates to read...we tried not to be sad, not get

depressed despite not seeing the sun, despite the torture, not being able to rise up, despite the brutal treatment from the police in prison”.

The Special Rapporteur has sent a number of communications to the State in recent years. In 2017, he sent two communications regarding twenty-five defenders and one regarding the excessive use of force against protestors in the Rif region. In 2016, he sent three communications, one regarding Ms Ghalia Djimi, and others raising his concerns about the treatment of defenders in the Western Sahara.

4. Issues and Trends

The Special Rapporteur is encouraged by some legislative amendments in recent years which have improved freedom and civil society space in Morocco, and suggest that the State is on course to having an enabling legal framework for the promotion of civil society. The Special Rapporteur also encourages the national human rights institution to continue to build its capacity and to develop greater programming on and support for human rights defenders. Furthermore, he urges the State to encourage more women human rights defenders to participate in activism to promote and defend human rights.

The Special Rapporteur urges the State to continue its positive steps towards creating an enabling legal environment for defenders by creating a mechanism for the protection of human rights defenders in Morocco, including the Western Sahara. He is gravely concerned by the treatment of defenders in Jerada, Rif and above all the Western Sahara, and urges the State to stop its persecution of these defenders. Above all the Special Rapporteur is gravely concerned by the continued harsh repression of human rights defenders in and working on the Western Sahara, who are unable to enjoy their rights to freedom of expression, assembly or association, and whose situation has not improved since the last Global Survey in 2006. The Special Rapporteur remains troubled by the repressive measures meted out against journalists and bloggers, and especially against defenders involved in peaceful protests.

Tunisia

1. National Context and Human Rights Defenders

Civil society, including human rights defenders, have played a key role in the political transition of Tunisia. The award of the Nobel Peace Prize in 2015 to the Tunisian National Dialogue Quartet is emblematic of the important role of civil society during the current transitional period. However, in the last year particularly some actions of President Essebi have caused serious concern among international human rights organisations, and the rise of ultra-conservative Islamist factions poses a threat to women’s rights. A state of emergency has been declared in Tunisia since the November 2015 terrorist attack on a police bus in central Tunis.

Despite the commendable steps taken by the State, it has been observed that human rights defenders still face significant challenges and risk when carrying out their work, including judicial harassment, arbitrary detention, physical aggression, smear campaigns, and charges such as defamation cases brought against them. Those most at risk include journalists, women human rights defenders, defenders of sexual orientation and gender identity rights,

defenders of religious minorities (particularly Bahá'í), bloggers and defenders of economic, social and cultural rights.

The State was included in the Global Survey 2006.¹¹³ The Special Representative regretted that the State did not submit a response to her request for information for the Global Survey. However, the Global Survey noted that the State had an active civil society, but that there were concerns over freedom of expression and other fundamental freedoms. In the previous year, the Special Representative had received 54 communications concerning the situation of human rights defenders in the State concerning 78 defenders, including at least 12 women defenders; most of these communications concerned members of human rights organisations and journalists.

The bulk of the communications concerned cases of threats, intimidation, arrests and legal proceedings for belonging to an unrecognised organisation or for exercising the right to freedom of expression. Some cases also involved defenders who had been physically ill-treated by police officers, who had been the target of a defamation campaign, or who had been subjected to professional sanctions or restrictions on their freedom of movement, assembly and association. The Special Representative also noted cases of intimidation against members of the families of these persons, including children. The Global Survey expressed concern about the situation of defenders in Tunisia.

Tunisia is a member state of the Organisation of Islamic Cooperation, the African Union and the Arab League.

2. Legal and Policy Framework

Tunisia has become party to almost all major international human rights treaties; it is not party to the Convention on Migrant Workers. Tunisia hosted the redrafting of and was an initial signatory to the Arab Charter of Human Rights and is party to the African Union's main human rights treaties, with the notable exception of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

The right to be free from torture, ill-treatment and arbitrary arrests, as well as the rights to opinion and expression, information and publication, to assembly and peaceful demonstration as well as establishing associations are guaranteed by the 2014 Constitution. Tunisia has also established the National Authority for the Prevention of Torture.

Under the state of emergency, the government is granted exceptional powers, many of which severely impede the work of human rights defenders. The Interior Minister is able to bypass judicial approval when prohibiting assemblies, banning meetings, imposing curfews, and enforcing media censorship and monitoring of the press. It has been noted that the state of emergency has also been used to restrict freedom of movement and to excuse arbitrary arrests and ill-treatment of defenders. The state of emergency compounds an already restrictive law concerning public assemblies which has been in place since 1969, that allows broad measures for their suppression.

Immediately following the Revolution, the State enshrined Decree 88, which was welcomed as one of the most enabling civil society laws in the region. Decree 88 provided protections to exercise the fundamental freedom of association. However, on 27 July 2018 the parliament

¹¹³ E/CN.4/2006/95/Add.5

passed a controversial law (Law 30 of 2018) which requires all civil society organisations to register with the National Registry of Institutions. Registering requires providing a wealth of sensitive information to the authorities including personal data of staff. The government can deny registration, and failing to properly register can result in steep fines and imprisonment. The Law has been called unconstitutional.

Advances in freedom of expression since 2011 are more limited. Decree 88 protects the right of an association “to express its political opinions and positions vis-à-vis issues of public affairs.” However, Article 128 of the Criminal Code criminalises defamation, and in recent years human rights defenders have expressed concern that the law is being used broadly and extensively. It has been reported that the defamation law has been used against a wide range of defenders, including writers, journalists, bloggers and artists. Defenders have expressed concern that the de jure protections gained in 2011 are being undermined by de facto limitations and heavy handed restrictions of important rights.

A draft law on the protection of private data, prepared adopted by the Cabinet on 8 March 2018 has been criticized as effectively repealing the right of access to information contained in Law No. 22/2016.

The Comité supérieur des droits de l’homme et des libertés fondamentales serves as Tunisia’s national human rights institution and has been accredited as partially (level B) complying with the Paris Principles.

3. Implementation of the Declaration

Since the emergence of a new political regime in 2011, the State has taken a number of positive steps in regards to fulfilling its obligations on human rights, which has had an impact on human rights defenders. These include creating new mechanisms, institutions and laws on human rights, with human rights defenders included within these institutions.

The newly established National Commission of Coordination, Preparation and Presentation of Reports (CNCEPRSR) has been tasked with supporting and ensuring the implementation of recommendations from UN processes. Following the concluding observations from the Committee Against Torture in 2016,¹¹⁴ the CNCEPRSR organised a series of consultative activities to support the creation of a plan for the implementation of the recommendations. This plan was the first example of a national implementation plan and was welcomed by treaty body. The Ministry of Justice has also signed nine memorandums of understanding with associations and organisations of human rights defenders, authorising them to visit prisons. By late December 2016, the organizations had conducted 664 visits. The Special Rapporteur commends the positive steps towards ensuring an institutional framework conducive to human rights and the involvement of human rights defenders in the development of this framework.

The freedom of expression of defenders is limited in law and in practice. Several journalists and bloggers face defamation cases and other charges. The chief editor of NAWAT website Thameur Mekki is facing charges for an article criticising a prominent Tunisian businessperson, and blogger Mohamed Hammami was sentenced to eight months in prison and a fine after Mehdi Ben Gharbia, the Minister in charge of Constitutional Bodies, Civil

¹¹⁴ CAT/C/TUN/CO/3

Society and Human Rights, accused him of defamation. Blogger Taher Arifet was arrested and arbitrarily detained in July 2017. His work with the Association for Defense of Human Rights concerns the economic and social exclusion of youth in the Tataouine province.

It has been observed that the right to peaceful assembly has been limited by the state of emergency and is frequently infringed by the heavy handed policing of demonstrations. Since April 2017, there had been a surge in protests and sit-ins in Tataouine province regarding sustainable development and employment. In May, 2017 protestor Muhammad Anouar Skrafi was killed by the National Guard during one protest. Dozens were also injured.

Homosexuality is illegal in Tunisia, creating a risky environment for defenders of sexual orientation and gender identity rights. Defender Bouhdid Belhedi is among those who have been a target of attacks in recent years. Belhedi is a member of the civil society organisation Shams, which campaigns for the decriminalisation of homosexuality in Tunisia. The organisation faced several administrative hurdles when registering. Belhedi has been physically attacked at least twice due to his activist work.

Tunisia is making progress on women's rights, and is set to be the first State in the region to grant equal inheritance rights to women and allow them to marry outside of the Muslim faith. Still, it has been noted that women campaigning in favour of these changes face harassment from conservative elements within and outside the State. Ahlem Belhadj, a human rights defender and the director of the Tunisian Association of Democratic Women has voiced a need for tools that would help Tunisian women defenders to access the United Nation mechanisms, expressing concern over the "moral attacks" the women human rights defenders face and the impunity that prevails for violations against women defenders.

The Committee on the Elimination of Discrimination against Women has recommended that the State create an enabling environment for the effective and sustainable functioning of autonomous women's organisations and groups.¹¹⁵ Human rights defender Lina Ben Mhenni blogs about ongoing protests in Tunisia, and is particularly active in the topics of women's rights and students' rights. Ben Mhenni faces ongoing judicial harassment, and fears for her safety to such an extent that the Ministry of the Interior has provided her with a security guard to accompany her daily.

The Special Rapporteur has received a number of communications concerning the situation of human rights defenders in Tunisia, both before and after the Revolution. In 2012 the Special Rapporteur visited Tunisia and was concerned by the situation of a number of groups of human rights defenders, including members of human rights associations, journalists and media workers, women human rights defenders, artists and cultural workers, academics, defenders of economic and social rights, judges and lawyers, and victims of the revolution. All of these groups of defenders remain at particular risk. The Special Rapporteur is encouraged that the State has responded to some of his communications, including through the investigation into the death of a political activist and trade unionist in 2017. The Special Rapporteur looks forward to a continuation of the constructive dialogue between the State and the mandate.

4. Issues and Trends

¹¹⁵ CEDA W/C/TUN/CO/6

The broader political context of Tunisia has undergone a revolutionary change since the 2006 Global Survey. The Special Rapporteur commends the positive steps taken by the State since 2011 to improve its position on human rights and women's rights. The situation of defenders killed or injured during the Revolution remains to be completely addressed. Notwithstanding the change of government, an effective remedy for such violations must be provided to the families of those killed during the revolution and to individuals who were wounded, including the provision of access to appropriate medical and rehabilitation services.

The Special Rapporteur welcomes the establishment of the CNCEPRSR in particular and encourages the State to continue to strengthen this institution. However, the Special Rapporteur is increasingly concerned by the continuous renewal of the state of emergency and by reports of the government's continued use of the state of emergency to limit the rights of defenders even in situations without security implications. The state of emergency continues to be an obstacle to defender's work, interfering with basic rights such as freedom of movement, expression and assembly. The situation of women human rights defenders and those defending sexual orientation and gender identity rights remains a concern.

The Special Rapporteur urges the State to continue its positive work on establishing mechanisms for the protection and promotion of human rights, and recommends that it establish a mechanism specifically to protect human rights defenders, moving beyond the ad hoc protection of individual defenders. Impunity for human rights violations against defenders must also be addressed as a matter of priority with all violations receiving a prompt and impartial investigations and with all perpetrators being brought promptly to justice. Allegations of torture while in detention must be investigated urgently and the partnership with defenders seeking better monitoring of detention conditions should continue, representing good practice within the region.

Southern Africa

eSwatini (Kingdom of) (formerly the Kingdom of Swaziland)

1. National Context and Human Rights Defenders

The exercise of human rights and fundamental freedoms is severely constrained in eSwatini. Human rights defenders are extremely limited in the work they are able to do and political parties are banned. As noted by various sources, there is no freedom of the press; domestic media is State-controlled, and criticism of the Government can result in threats, prosecution and imprisonment. Homosexuality is illegal in eSwatini. Defenders who face heightened risk include journalists, pro-democracy activists and those working on sexual orientation and gender identity rights. eSwatini was not included in the 2006 Global Survey on the Situation of Human Rights Defenders.

2. Legal and Policy Framework

eSwatini has ratified most major international treaties, with the exception of the Optional Protocol to the Convention against Torture, the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty, the International Convention on the Protection of the

Rights of All Migrant Workers, and the Convention for the Protection of All Persons from Enforced Disappearance. The implementation of these treaties has, however, been minimal, and no State visits have taken place. eSwatini has not accepted individual complaints or inquiry mechanisms, with the exception of those under the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and the inquiry procedure under the Convention against Torture. eSwatini is a member of the African Union and has ratified the African Charter on Human and Peoples' Rights. It is also a member of the Southern African Development Community.

There are no explicit legal protections for human rights defenders in eSwatini. The 2006 Constitution includes rights to freedom of expression, assembly and association, and guarantees "the independence of non-Governmental organisations which protect and promote human rights". However, concerns have been raised surrounding a number of domestic laws which run contrary to those rights and freedoms, and contain provisions that are systematically used to target human rights defenders, including journalists. Notable are the Suppression of Terrorism Act, 2008, the Sedition and Subversive Activities Act, 1938, and the Public Order Act of 1963, alongside a range of others including the Proscribed Publications Act, and the Official Secrets Act, which is used to obstruct access to Government-held information. eSwatini does not have a freedom of information law, and accessing Government information is difficult. The Swaziland Commission on Human Rights and Public Administration/Integrity is the national human rights institution; it has not received adequate funding or financial independence and has not been accredited according to the Paris Principles.

The Suppression of Terrorism Act has been widely criticised for its broad definition of "terrorist act". The Act provides authorities with sweeping powers to target individuals, civil society organisations and political movements critical of the Government, and those who engage in public protests. This has resulted in the banning of major political formations; individuals affiliated with political groups have also been labelled as promoters of terrorism. The Suppression of Terrorism Act has been reported to be used, along with the Sedition and Subversive Activities Act and the Public Order Act, to suppress freedom of expression and the press, and to detain, arrest, convict and imprison journalists and other human rights defenders. The Public Order Act, which regulates public gatherings in eSwatini, allows critics of the King or Government to be prosecuted, fined and imprisoned for two years. The Act also grants wide-ranging powers to the National Commissioner of the police to stop any pro-democracy meetings or protests.

In 2017, the Human Rights Committee of the ICCPR expressed concern at reported attacks on journalists, political opponents, human rights defenders and trade unionists.¹¹⁶ Further, it noted reports that proposed amendments to the Public Order Act would severely restrict freedom of expression, assembly and association, impose cumbersome requirements for obtaining permits before holding a meeting or hosting an activity, and give law enforcement officers discretionary powers to interrupt meetings. It also noted concern regarding reports that a monitor should be present during public meetings and that trade union leaders had been kept in preventive detention to bar them from engaging in legitimate trade union activities.

¹¹⁶ CCPR/C/SWZ/CO/1

3. Implementation of the Declaration

There has been little observable progress on the implementation of the Declaration on Human Rights Defenders in eSwatini. In practice, it has been noted that human rights defenders, and particularly those who call for democracy or seek to hold the Government to account, face arrests as well as harassment, threats and intimidation by State authorities. Reporting on royal and political matters is severely restricted and self-censorship by journalists is observed to be commonplace.

In June 2018, defenders working on sexual orientation and gender identity rights held eSwatini's first Pride March. Melusi Simelane, communications manager of The Rock of Hope eSwatini, an LGBTI advocacy organisation said, "This is the first event of its kind, our first opportunity to show our faces to the world and to our country. I am not scared". Both the organisers and local police received threats in advance of the event, however, the march took place peacefully and the organisers praised the support of the police for their role in ensuring the security of the event. The Special Rapporteur is encouraged to see State authorities in eSwatini working to uphold the rights of human rights defenders in this instance.

Reports however suggest that peaceful demonstrations are regularly met with repression; security forces have forcefully prevented or dispersed meetings and protests, including a number conducted by the Trade Union Congress of Swaziland. As reported by several sources, those identified as leaders of such protests have been arrested and had their homes raided by police, and human rights defenders are frequently subject to surveillance. In September 2018, police used stun grenades and tear gas to disperse workers involved in a national strike; in August 2018 a teacher identified as Willie Dlamini was shot and wounded when police and security forces attacked a demonstration held in protest against a Government decision not to pay cost of living adjustments on salaries. Journalists also face significant hostility from State authorities, including the police. In August 2018, Andile Nsibande was assaulted by police after he took photos of officers attacking striking textile workers. In December 2017, Zweli Martin Dlamini fled to South Africa after receiving death threats following a story he had published revealing the King's involvement in an alleged corruption case.

Pro-democracy activists have experienced considerable reprisals for their engagement in the defence of human rights. In May 2014, Mario Masuku, president of the pro-democracy People's United Democratic Movement, and Maxwell Dlamini, a member of the Swaziland Youth Congress, were arrested after addressing a large crowd at a Labour Day event, and charged under terrorism, sedition and subversion laws. Denied bail, they were held in jail for over a year before being released, following a decision by the Supreme Court.

eSwatini has participated in two UPR cycles, most recently in 2016.¹¹⁷ It received two recommendations of relevance to human rights defenders, accepting one recommendation by France to guarantee respect for civil and political rights, in particular freedom of expression and freedom of association, and to take the necessary measures so that journalists and human rights defenders can exercise their activities freely. It noted a recommendation by Norway to withdraw all criminal charges brought against human rights defenders and political opponents under laws such as the Suppression of Terrorism Act of 2008 and other security

¹¹⁷ A/HRC/33/14 and A/HRC/33/14/Add.1

legislation, and to ensure that proposed amendments to these acts bring them in conformity with international human rights standards.

The Special Rapporteur has sent a number of communications to eSwatini, most recently regarding the detention, conviction and solitary confinement of human rights lawyer Thulani Maseko. In July 2014, Maseko, a member of Lawyers for Human Rights (Swaziland) and the Southern Africa Human Rights Defenders Network, and Bheki Makhubu, an editor of The Nation magazine, were sentenced to two years for "contempt of court" after The Nation published two articles authored by Maseko which were critical of the State judiciary. Maseko and Makhubu were imprisoned for 15 months. The Special Rapporteur reiterates his concern that the convictions constituted a violation of the right to freedom of expression under the Constitution and international human rights law, and occurred in the context of wider, systematic use of domestic legislation against individuals critical of the King and State institutions. As expressed in his 2016 report on communications, the Special Rapporteur was gravely concerned that during his period of arbitrary detention, Mr. Maseko was reportedly held in solitary confinement for extended periods, and faced reprisals for publishing a letter on the anniversary of his detention.¹¹⁸

4. Issues and Trends

Human rights defenders in eSwatini face severe barriers to carrying out their work. Exercising their rights to freedom of expression, assembly and association also involves risking their personal safety and security. Journalists and pro-democracy activists, in particular, face heightened levels of threat and reprisals in response to their work in the defence of human rights.

The Special Rapporteur is deeply concerned by the treatment of human rights defenders by State authorities and urges eSwatini to bring national legislation in line with both the provisions of the Constitution and international human rights treaties to ensure that defenders are able to exercise their rights without facing threats, intimidation or arrest for doing so. Specifically, the Special Rapporteur calls on eSwatini to revise the Suppression of Terrorism Act, 2008, to ensure that it is not used to limit or punish the legitimate work of human rights defenders. He strongly recommends that the State strengthen the independence and functioning of the national human rights institution and facilitate the prompt and impartial investigation of human rights violations, including by State actors, to ensure that perpetrators are held to account.

Malawi

1. National Context and Human Rights Defenders

Civil society organisations and human rights defenders play an important role in Malawi, particularly in monitoring Government activities. Yet, as noted by several sources, those critical of the Government have been subjected to hostility, and labelled as an "opposition" force. Defenders are also commonly affected by excessive use of force by the police, who enjoy high levels of impunity. Lack of access to justice, undue limitations on the right to hold

¹¹⁸ A/HRC/31/55/Add.1

peaceful demonstrations and political intolerance are among the challenges reported by defenders, who often experience threats, harassment, arbitrary arrests and intimidation in the course of their work. As Malawi approaches scheduled presidential and parliamentary elections in 2019, an increase in threats and intimidation towards human rights defenders has been reported.

Malawi was not included in the 2006 Global Survey on the Situation of Human Rights Defenders.

2. Legal and Policy Framework

Malawi is party to most major human rights treaties, with the exception of the Optional Protocol to the Convention against Torture, the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty, and the International Convention on the Protection of the Rights of All Migrant Workers. Malawi has not accepted individual complaints and inquiry mechanisms, with the exception of individual complaints under the Optional Protocol to the ICCPR, and the inquiry procedure under the Convention against Torture. Malawi is a member of the African Union and is party to the African Charter on Human and Peoples' Rights. It is also a member of the Southern African Development Community. In 2015, Malawi issued a standing invitation to all UN special procedures mandate holders.

The Constitution of the Republic of Malawi, adopted in 1994, provides for substantial protection of human rights and freedoms, including freedom of expression, freedom of the press, freedom of assembly, and freedom of access to information. In a welcome recent development, the Access to Information Bill, allowing individuals to request information about elected officials and Government institutions, was signed into law in 2017, 12 years after its initial drafting. In May 2012, a section of the criminal code allowing the Minister of Information to ban newspapers was repealed. However, there is a growing concern among civil society organisations that a number of laws in place and in development effectively curtail the freedoms outlined in the Constitution.

The Penal Code includes offences that create undue restrictions on freedom of speech, in particular the offence of "sedition", which allows for the imprisonment of those who insult the head of state. Further, the Police Act, 2010, gives police the power to search a property without a warrant. Concerns have also been raised regarding the 2017 draft amendment to the NGO Act, which governs civil society organisations. Human rights groups have warned that the amendment, if implemented, will introduce broad, excessive and arbitrary controls on the activities of NGOs, and could be used to silence critique. These include affording powers to an NGO Board to approve civil society organisations' funding applications to donor agencies and demand that they fall in line with Government policy.

The Malawi Human Rights Commission is the national human rights institution, and is accredited "A" status in accordance with the Paris Principles. However, civil society organisations have expressed concern about the Government's recent 10% cut to the Commission's budget. In 2012, the Police Act was used to harass then Chairperson of the Malawi Human Rights Commission, John Kapito, who was arrested, detained and accused of possessing seditious material.

In 2014, the Human Rights Committee of the ICCPR reported concern regarding reports of journalists and human rights defenders being harassed and/or arrested by police.¹¹⁹ It noted that the Malawi Human Rights Commission was at that time not fully independent and adequately funded, and expressed concern regarding the reluctance of the Commission to engage in issues related to the rights of lesbian, gay, bisexual, transgender and intersex persons. It also noted the absence of adequate mechanisms for the effective consideration of the Commission's recommendations.

3. Implementation of the Declaration

The State does not have a policy explicitly addressing the protection of human rights defenders or their rights as articulated in the Declaration. Some progress on the implementation of the Declaration on Human Rights Defenders can be observed in Malawi, however this is limited in light of the ongoing harassment and targeting of human rights defenders by both State and non-State actors, including threats, violence, defamation, and excessive use of force by the police. The Special Rapporteur is concerned by reports that the environment in which defenders work has become increasingly hostile, and that occurrences of threats and intimidation have become more frequent ahead of the 2019 elections. Although freedom of the press has improved and the number of abuses against reporters has fallen, journalists critical of Government policies and actions have been subject to intimidation and violence. Those working for the State media have resorted to self-censorship for fear of reprisals.

The Special Rapporteur is particularly concerned by a recent attack which took place in August 2018 on the offices of the Centre for Human Rights and Rehabilitation (CHRR) in Lilongwe, by a group of men reportedly looking for its Executive Director, Timothy Ntambo. Ntambo is also the Chairperson of the Human Rights Defenders Coalition of Malawi and Vice-Chairperson of the Southern African Human Rights Defenders Network (SAHRDN). During the incident, a petrol bomb was thrown at his office causing a fire. Other members of the Coalition and SAHRDN have also been intimidated and threatened. Charles Kajoloweka, founder and Executive Director of the NGO Youth and Society (YAS), received death threats after YAS issued an anti-corruption press statement in August 2018. Kajoloweka had previously received death threats, however, despite making a complaint to the police no protective measures were put in place for him.

In 2015, defenders and civil society groups were threatened and harassed for organising and participating in a demonstration regarding governance issues. Organisers included MANERELA+, a network of religious leaders established to reduce stigma and discrimination related to HIV/AIDS, and the Centre for the Development of People (CEDEP), a human rights organisation dedicated to supporting and promoting the rights of groups at risk in Malawi. The national coordinator of MANERELA+, MacDonald Semberka, and the Executive Director of CEDEP, Gift Trapence, both received a large number of anonymous threatening phone calls; their offices were broken into, and they were vilified on State media outlets. As raised in his 2015 communication regarding their case, the Special Rapporteur was especially concerned by the role of Government ministers in the harassment and public threatening of NGOs with

¹¹⁹ CCPR/C/MWI/CO/1/Add.1

de-registration for engaging in peaceful protest; no response to the Special Rapporteur's communication was received from the State.¹²⁰

Freedom of assembly was also significantly curtailed in 2011, when heightened attacks against civil society took place in the context of anti-Government protests. Threats, harassment, acts of intimidation, excessive use of force and arbitrary detention of human rights defenders were reported. In July 2011, security forces violently dispersed demonstrations which were held in protest of high living costs, fuel prices, corruption, human rights violations and attacks on defenders, leading to the deaths of at least 18 protestors. An arson attack was also carried out in the same year at the offices of MANERELA+ national coordinator MacDonald Semberka, however, no investigation into the attack was subsequently carried out.

The Special Rapporteur has sent a number of communications to Malawi raising concerns about the threats, harassment, attacks, intimidation, and arbitrary arrests experienced by human rights defenders in Malawi. As noted in his communications report of February 2018, he remains seriously concerned by the violence observed against indigenous human rights defenders, land, and environmental defenders, including the judicial harassment, threats against, and arbitrary arrest and detention of the eight Tanzanian defenders in 2016.¹²¹ The defenders were arrested while on a learning mission to Malawi, with the knowledge of the Malawian authorities, to gather information on uranium mining and its adverse impacts. Held in detention for months, they were found guilty and sentenced in April 2017 and released on suspended sentences; their convictions were eventually overturned in October 2017 by the High Court. The Special Rapporteur welcomes their release, but deplores their initial wrongful conviction in connection to their legitimate human rights work.

Malawi has participated in two UPR cycles, most recently in 2015. It has received three recommendations regarding human rights defenders, all of which it supported.¹²² Among these were recommendations to issue a standing invitation to all UN special mandate holders, which has been fulfilled, and to fully investigate violations against human rights defenders with a view to bringing perpetrators to justice.

4. Issues and Trends

Human rights defenders in Malawi continue to experience significant restrictions in their work, in particular with regard to restrictions on freedom of assembly and expression. While recognising certain advances in the situation of human rights defenders, such as increased freedom of the press, and welcoming the standing invitation issued to all UN special procedures mandate holders, the Special Rapporteur remains concerned by the situation of civil society organisations and human rights defenders, including journalists in Malawi.

The Special Rapporteur calls on Malawi to address the situation of ongoing attacks, threats and harassment carried out by both State and non-State actors towards defenders, as well as arbitrary arrests and judicial harassment. He reiterates the responsibility of the State to protect defenders, to ensure that attacks and threats against them are thoroughly and impartially investigated, and to create a safe and enabling environment for their work. He

¹²⁰ A/HRC/31/55/Add.1

¹²¹ A/HRC/37/51/Add.1

¹²² A/HRC/30/5 and A/HRC/30/5/Add.1

also calls upon the State to establish measures to empower and protect defenders who face greater risk in their work, including indigenous human rights, land, and environmental rights defenders. The Special Rapporteur further urges the State to take concrete steps to address the increased threats and intimidation experienced by human rights defenders in the lead-up to the 2019 general election and to ensure that the enjoyment of all human rights and fundamental freedoms is upheld during this time.

Mauritius

1. National Context and Human Rights Defenders

Human rights defenders in Mauritius are largely free to carry out their work without interference from the Government. These attitudes are reflected in the local media, which maintains a diverse discourse around the work of human rights defenders. However, homosexuality is illegal in Mauritius and sexual orientation and gender identity are a source of discrimination. A number of organisations and individuals work to protect and advance sexual orientation and gender identity rights in Mauritius, and it has been observed that defenders working on these issues have faced harassment and threats in connection to their work.

An entry for Mauritius was included in the 2006 Global Survey, however detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time.¹²³ The Special Representative did, however, express concern that police permission was required to hold a demonstration or mass meeting, and that this permission could be denied, posing a clear limitation to freedom of assembly.

2. Legal and Policy Framework

Mauritius is party to most major international human rights treaties, with the exception of the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty, the Convention for the Protection of All Persons from Enforced Disappearance, and the International Convention on the Protection of the Rights of All Migrant Workers. Mauritius has not accepted individual complaints and inquiry procedures, with the exception of the individual complaints procedure under the Optional Protocol to the ICCPR, those under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and the inquiry procedure under the Convention against Torture. Mauritius is a member of the African Union and is party to the African Charter on Human and Peoples' Rights. It is also a member of the Southern African Development Community.

While there is no specific domestic law or policy on the protection of human rights defenders, the 1968 Constitution guarantees a number of rights of relevance to the work of defenders, including freedom of expression, freedom of assembly and freedom of association. However, some domestic legislation has been criticized for its potential to undermine these freedoms, in particular the Public Gatherings Act of 1991, which regulates public gatherings and meetings, and which allows the Commissioner of Police the power to impose any condition

¹²³ E/CN.4/2006/95/Add.5

on the holding of gatherings. Mauritius also has strong anti-defamation laws, which, according to various sources, have been used against individuals who have criticised those in power. The State has discussed implementing a Freedom of Information Act for a number of years, however little progress has been observed in this regard. Defenders have advocated for freedom of information legislation, including through the 2013 UPR process, to ensure that public access to information does not depend on the discretion of Government agencies and officials, providing an important mechanism to facilitate Government transparency and accountability.¹²⁴

The Commission nationale des droits de l'homme is the national human rights institution, which is accredited "A" status in accordance with the Paris Principles. In 2017, the Human Rights Committee of the ICCPR expressed concern that the process for the selection and appointment of the members of the National Human Rights Commission and of its divisions is not sufficiently transparent and participative.¹²⁵ It also noted lack of clarity regarding the guarantee of tenure of mandate holders, the possible overlap of missions of the Commission's divisions and the lack of sufficient staff to enable the Commission to fully discharge its mandate.

3. Implementation of the Declaration

While human rights defenders enjoy a broadly enabling environment in Mauritius, the State has not yet taken steps to instigate protections for human rights defenders in domestic law or policy. The work of human rights defenders is generally respected in Mauritius, however a decline in freedom of expression has been observed and journalists have at times experienced harassment. In September 2017, three *L'Express* journalists were arrested for publishing a story implicating a former justice minister in alleged money laundering. In 2014, two arrests were reported in connection with the release of an audio recording deemed defamatory toward the Jugnauth family. In addition, sexual orientation and gender identity rights organisations and defenders, such as Collectif Arc-en-Ciel and the Young Queer Alliance, report harassment by third parties, including death threats and physical violence. In 2018, the Mauritius Gay Pride parade was cancelled following security concerns.

The Special Rapporteur has not sent any communications to Mauritius. The State has participated in three cycles of the UPR, most recently in 2018. Civil society submissions highlighted that defenders working on sexual orientation and gender identity rights had experienced threats and harassment in connection with their work.¹²⁶

4. Issues and Trends

The Special Rapporteur commends Mauritius for its achievements in supporting an enabling environment for human rights defenders, however, the harassment experienced by sexual orientation and gender identity rights defenders is a key concern. Mauritius must take steps to ensure that sexual orientation and gender identity rights defenders are protected and able to conduct their work in an environment free of threat. Freedom of expression should be monitored to ensure that journalists are able to conduct their work without fear of reprisals. The Special Rapporteur encourages the State to adopt freedom of access to information

¹²⁴ A/HRC/WG.6/17/MUS/3

¹²⁵ CCPR/C/MUS/CO/5

¹²⁶ A/HRC/WG.6/31/MUS/3

legislation, as well as to develop a human rights defenders protection mechanism to ensure the protection of human rights defenders in their work.

Namibia

1. National Context and Human Rights Defenders

Namibia maintains a vibrant and diverse civil society, however human rights organisations are primarily based in and around the capital, Windhoek, which means that human rights mechanisms can be inaccessible to those living in remote areas. Women, including women human rights defenders, face discrimination and socio-economic inequality due to discriminatory customary law and other societal practices, however, significant efforts have been made by the Government towards increasing gender equality in public office. Same-sex relations between men are criminalised under colonial-era laws, though these are not enforced. Sexual orientation and gender identity rights defenders face discrimination and at times also violence.

Namibia was included in the 2006 Global Survey, however detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time.¹²⁷

2. Legal and Policy Framework

Namibia is party to most major human rights treaties, with the exception of the Optional Protocol to the Convention against Torture, the Convention for the Protection of All Persons from Enforced Disappearance, and the International Convention on the Protection of the Rights of All Migrant Workers. Namibia has not accepted individual complaints and inquiry procedures, with the exception of the individual complaints procedure under the Optional Protocol to the ICCPR, the inquiry procedure under the Convention against Torture, and those under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities. Namibia is a member of the African Union and is party to the African Charter on Human and Peoples' Rights. It is also a member of the Southern African Development Community.

Though there is no national protective mechanism in place for human rights defenders, the Constitution guarantees basic rights including the right to freedom of speech and expression, freedom of the press, freedom of peaceful assembly, and freedom of association. Civil society submissions to the 2016 UPR process raised concerns that Namibia has no Access to Information legislation, and reported that in practice public information is difficult to access by journalists and members of the public.¹²⁸ Despite pledges by Government to introduce a law that guarantees freedom of access to information, none has put in place. Concerns have also been raised with regard to the 2009 Communications Act, which allows broad powers to the Government to monitor telephone calls, e-mail, and internet usage without a warrant.

The national human rights institution is the Office of the Ombudsman, which is accredited "A" status in accordance with the Paris Principles. The Office of the Ombudsman is mandated to

¹²⁷ E/CN.4/2006/95/Add.5

¹²⁸ A/HRC/WG.6/24/NAM/3

investigate allegations of rights violations. However, after a visit to Namibia in October 2012, the Special Rapporteur on extreme poverty and human rights noted that concerns had been raised with regard to the low number of human rights complaints received and the low level of compliance by the Government with its recommendations.¹²⁹ She also noted concern that the Ombudsman's mandate was limited to civil and political rights, meaning that economic, social and cultural rights violations may go uninvestigated. In 2016, the Human Rights Committee of the ICCPR expressed concern that the Office of the Ombudsman was insufficiently resourced and recommended that the Office should be granted the power to recruit its own staff to be fully compliant with Paris Principles.¹³⁰

3. Implementation of the Declaration

Human rights defenders are largely free to operate in Namibia, and rights to public assembly, association and freedom of expression are usually upheld. However, explicit protections for the rights of defenders as elaborated in the Declaration have not been incorporated in national law and discrimination against women, indigenous people and minorities poses a barrier to participation in the defence of human rights, as well as to reporting on human rights violations.

Namibia enjoys a relatively free and diverse press, and journalists are generally able to work without risk of violence; the State ranked first in Africa in the 2017 World Press Freedom Index, dropping to second place in 2018. However, there are concerns surrounding the treatment of journalists who criticise the authorities, who are at times subject to threats, insults and intimidation from Government officials and political leaders. Public order and security legislation have also been used to restrict the freedom to information. Recent remarks by President Geingob and the Information Minister have been seen as attempts to intimidate journalists. Though independent media remains critical of those in power, self-censorship is observed to be common among journalists working for State media outlets. In August 2014, it was reported that a radio producer for Namibia's public broadcaster, the Namibian Broadcasting Corporation (NBC), was verbally and physically attacked in an NBC studio by a senior ruling party official, who accused her of being an opposition supporter. The NBC remained silent on the incident. In 2010, journalist John Grobler was attacked by four men he later identified as prominent businessmen with close ties to the ruling party. Charges were initially brought against the men, but subsequently dropped.

In 2017, an annual LGBT Pride March which took place as part of We Are One advocacy week, was brought forward following a physical attack on a trans woman. Friedel Dausab, director of Out-Right Namibia reported, "The reception by the public was good. We had some good cheers and many curious onlookers. A minority were unhappy but no attacks or violent incidences were reported". While freedom of assembly is generally upheld in Namibia, excessive use of force by police has been observed. In June 2016, police announced a ban on public demonstrations during a visit by the Indian President. The ban was later reversed, and a youth protest against the building of new parliament offices was allowed to take place. In August 2014, Freida Ndatipo was shot dead when police clashed with unarmed protestors who were demonstrating outside the headquarters of ruling party SWAPO.

¹²⁹ A/HRC/23/36/Add.1

¹³⁰ CCPR/C/NAM/CO/2

The Special Rapporteur has not sent any communications to Namibia. The State has participated in two cycles of the UPR, most recently in 2016.

4. Issues and Trends

The Special Rapporteur commends Namibia's record in protecting human rights defenders, however he urges the State to continue to establish formalised protection mechanisms to ensure that defenders, including journalists, are not persecuted for their work. He calls on the State to uphold freedom of the press and to adopt freedom of information legislation in accordance with international standards. The Special Rapporteur further recommends that Namibia take steps to strengthen its protection of human rights defenders who face heightened risk and discrimination, including indigenous, environmental and land rights defenders, women human rights defenders and defenders of sexual orientation and gender identity rights.

South Africa

1. National Context and Human Rights Defenders

Civil society organisations are able to work relatively freely within the Republic of South Africa, and the sector is vibrant and diverse. Rising hostility between Government and civil society organisations has been observed, particularly with regard to organisations that are advocacy rather than service-delivery oriented. The former also receive far less in the way of public funding. Focus areas for civil society groups and human rights defenders include land and housing, provision of basic services, access to education, labour rights, gender-based violence, sexual orientation and gender identity rights, corporate and Government accountability and transparency, and the impact of extractive industries on local people and the environment.

There is growing concern among local and international organisations regarding the treatment of human rights defenders by State actors, particularly in relation to their rights to freedom of assembly, freedom of expression, and freedom of association. Women in South Africa face high levels of discrimination and physical and sexual violence, sexual orientation and gender identity are a source of discrimination, and negative attitudes, xenophobia and violence toward migrants, refugees and asylum seekers also remain a significant challenge. It has been noted that defenders working on these issues face a heightened level of risk in their activities.

South Africa was not included in the 2006 Global Survey on the Situation of Human Rights Defenders.

2. Legal and Policy Framework

South Africa has ratified most major human rights treaties, with the exception of the Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers, and the Optional Protocol to the Convention against Torture. It has accepted most individual complaints and inquiry procedures, with the exception of those under the ICESCR and the Optional Protocol to the Convention on the Rights of the Child. South Africa is a member of the African Union and is

party to the African Charter on Human and Peoples' Rights. It is also a member of the Southern African Development Community. The State has issued a standing invitation to all UN special procedures mandate holders.

The Constitution of South Africa provides the legal and institutional framework for human rights in the State. Although there are currently no legal or policy frameworks that directly protect human rights defenders, the Constitution guarantees many fundamental freedoms, including the right to freedom of expression, freedom of peaceful assembly, freedom of association, and access to information.

However, while the rights protected by the Constitution are extensive, the South African Government has had difficulty translating these protections into practice. Particular concerns have been raised around the implementation of the Regulation of Gatherings Act (RGA) of 1993, which requires that local authorities are notified of, and given details about, intended protests. While the objective of these provisions is to ensure that protestors receive adequate protection, it has been observed that, in practice, they are often implemented by local authorities as a permission-granting exercise and used to deny protests, thus rendering them "illegal". This in turn has exacerbated police hostility and the use of excessive force.

Concerns have also grown around freedom of the press in South Africa. Though courts and regulatory bodies tend to judge in favour of media independence, a number of mechanisms currently threaten press freedom, in particular the Protection of State Information Bill (commonly referred to as the "Secrecy Bill"), which has been criticised as potentially unconstitutional. Civil society organisations have also pointed out shortcomings in the Promotion of Access to Information Act of 2000, noting that some of the law's provisions can make information held by the State difficult to access in practice.

The South African Human Rights Commission (SAHRC) is the national human rights institution, accredited "A" status in accordance with the Paris Principles. In its 2018 report, the Committee on Economic, Social and Cultural Rights noted concern that the budgetary resources allocated to the SAHRC were insufficient to effectively carry out its mandate.¹³¹ It also expressed concern at reports of human rights defenders, particularly those working to promote and defend rights in the mining and environmental sectors, being threatened and harassed. It also noted the overly broad and vague definition of "public violence", which may have a deterrent effect on participants in peaceful protests and expressed concern at the high number of rejections of protest applications due to deliberate restrictions or inadequate understanding of legislation by public officials. The Human Rights Committee of the ICCPR noted in its 2016 report concern about reports of threats, intimidation, harassment, excessive use of force and physical attacks, some resulting in deaths, by private individuals and police forces against human rights defenders, in particular those working on corporate accountability, land rights and transparency issues, as well as lesbian, gay, bisexual, transgender and intersex persons and HIV activists.¹³² It also noted reports about the lack of due diligence of law enforcement officers in protecting human rights defenders, including registering and investigating allegations of human rights violations, and in securing accountability for such violations.

¹³¹ E/C.12/ZAF/CO/1

¹³² CCPR/C/ZAF/CO/1

3. Implementation of the Declaration

While constitutional provisions entitle human rights defenders to the rights articulated in the Declaration, it has been noted that progress on the implementation of the Declaration has been limited by the absence of specific legislation or policies on the protection of human rights defenders, and by gaps in the capacity and willingness of key actors within the State to uphold their rights. This is amplified by the constraints and risks experienced by human rights defenders in carrying out their work, including at the hands of State actors. Land and environmental rights defenders, labour rights defenders, women human rights defenders, defenders of people on the move (including refugees and migrants themselves), and defenders of sexual orientation and gender identity rights are most at risk in South Africa. Civil society organisations and human rights defenders have reported hostility from the authorities. In 2016, the Minister of State Security publicly stated that some NGOs and individuals were collaborating with foreign forces to destabilise the country.

In its submission to the 2018 Survey, the South African Human Rights Commission expressed concern regarding the ability of civil society organisations and human rights defenders to do their work. Particular concerns include the inappropriate use of force and threats against them, persistent challenges in the pursuit of access to justice, and the compounded violations experienced by human rights defenders who are members of vulnerable groups. Obstacles placed in the way of registering protests at a local level have led to a rise in unregulated, unprotected gatherings, which are left to an inadequately trained and ill-equipped police force to deal with. Hostile police responses to protestors have resulted in the loss of lives.

Defenders of press freedom have noted that while South Africa continues to have a diverse media environment, there has been a decline in some areas of freedom of expression, with increased Government pressure on both State-run and independent media outlets. The South African Broadcasting Corporation has been accused of self-censorship, and the ability of defenders to access information from the State has been restricted. In May 2016, amid demonstrations across the country against poor service delivery and lack of economic opportunity, the South African Broadcasting Corporation (SABC) announced that it would no longer cover public protests. Following the announcement, the SABC suspended and dismissed eight SABC journalists for contravening the order. In July 2016 the Labour Court ordered the reinstatement of seven of the journalists (those under contract). The SABC reversed the ban the same month, after the Independent Communications Authority of South Africa ordered it to do so. It has been reported that journalists covering protests have been threatened with violence by the police as well as by members of the public.

While the right to protest peacefully is protected under the Constitution, this right is undermined by an observed increase in the use of excessive force against protestors by the police. In 2012, 34 striking mine workers were killed by police in what is now known as the Marikana massacre. This event marked the most lethal use of force by South African police officers since 1960.

Human rights defenders in South Africa are also frequently targeted in their work by unknown third parties, and attacks and threats on defenders often go poorly investigated and unpunished. In November 2017, Sibonelo Patrick Mpeku, a member of Abahlali baseMjondolo, a grassroots organisation which advocates for the rights of shack dwellers, was stabbed to death. Less than a month later, fellow members Soyiso Nkqayini and Smanga Mkhize were shot by unknown men; Nkqayini was killed and Mkhize seriously injured. In May

2018, Abahlali baseMjondolo chairperson S'fiso Ngcobo was shot and killed. The killings are believed to be part of a wider campaign of violence and intimidation against the organisation.

Defenders working on sexual orientation and gender identity rights face a particularly hostile environment. The Special Rapporteur is particularly concerned by reports of harassment and sexual and physical violence experienced by these defenders, including a high frequency of "corrective" rape. In April 2011, Noxolo Nogwaza, a lesbian woman human rights defender, was raped and murdered; she is just one of a number of individuals who have been subject to extreme violence for their work.

The Special Rapporteur has received a number of communications concerning the situation of human rights defenders in South Africa. Most recent communications have concerned the situation of land and environmental rights defenders expressing opposition to mining operations. In 2016, the Special Rapporteur expressed grave concern at the assassination of Sikhosphi Rhadebe, an environmental rights defender and founder of Amadiba Crisis Committee; his killing appeared to be directly related to his efforts in the protection of the rights of the Xolobeni community and his opposition to the mining operations in the area. No response was received from the State. The Special Rapporteur reiterates his concern about the situation of the numerous individuals who have been victims of repeated acts of intimidation, violence and assassinations in connection to their expressed opposition to mining operations.

The State has participated in three cycles of the UPR, most recently in 2017.

4. Issues and Trends

Human rights defenders in South Africa face a number of obstacles to their ability to carry out their work. Defenders, particularly those working on indigenous, land and environmental rights, sexual orientation and gender identity rights, and defenders who exercise their right to freedom of assembly, experience violations including harassment, intimidation and violence by both State and non-State actors. High levels of violence within the State exacerbate the risks they face. The Special Rapporteur calls on South Africa to implement concrete steps to protect the rights of human rights defenders, including freedom of expression, association and peaceful assembly.

The Special Rapporteur urges the State to ensure that police officials receive adequate training regarding the protection of human rights defenders and strengthen efforts to reduce the use of excessive force, including by impartially investigating and holding law enforcement officials accountable for violations. He recommends that South Africa take steps to improve the effectiveness and implementation of legislation concerning mining resources and extractive companies, and to ensure that companies comply with international and national standards relating to, among others, human rights, labour and the environment. To strengthen the protection of defenders from vulnerable groups from violence and discrimination, South Africa must continue efforts to combat racism, racial discrimination, xenophobia and related intolerances. The State must thoroughly and impartially investigate all attacks on the life, physical integrity and dignity of human rights defenders and bring perpetrators to justice.

Zimbabwe

1. National Context and Human Rights Defenders

Robert Mugabe, former President of the Republic of Zimbabwe, held power from February 1980 until his resignation in November 2017 following a seizure of power by elements of the military. Former vice-president Emmerson Mnangagwa secured a narrow victory in the presidential elections held in July 2018. On 1 August 2018, as the country awaited the final election results, soldiers and police used live ammunition to disperse demonstrations against alleged electoral fraud. Six protestors were killed.

Excessive use of force by the police, State restrictions on freedoms of expression, association and assembly, and arbitrary arrests and detentions were observed to be common for human rights defenders under Mugabe, and little evidence for change has yet been observed under President Mnangagwa. Though Mnangagwa has appointed a Commission of Inquiry, led by former South African president Kgalema Motlanthe, to investigate the post-election killings, civil society groups have raised doubts about the independence and impartiality of some of the local members of the commission.

Journalists and democracy defenders continue to face threats in Zimbabwe, as do women human rights defenders, environmental rights defenders and those advocating for sexual orientation and gender identity rights.

Zimbabwe was included in the 2006 Global Survey.¹³³ The Special Representative praised the organised and active presence of the human rights defender community in Zimbabwe, but raised concerns about legal restrictions to freedom of expression, assembly and association, and highlighted the critical level of risk faced by defenders. She noted that there was systematic targeting of defenders and a prevalence of cases of detention, arrest and torture alleged to be perpetrated by the State, including in response to peaceful demonstrations. There were also significant restrictions on journalists. Government suppression of criticism and attempts to discredit the role of defenders had created a difficult and dangerous environment for defenders.

2. Legal and Policy Framework

Zimbabwe has ratified most major human rights treaties, with the exception of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers, the Convention for the Protection of All Persons from Enforced Disappearance, and the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty. Zimbabwe has not accepted individual complaints or inquiry procedures, with the exception of those for the Convention on the Rights of Persons with Disabilities. Zimbabwe is a member of the African Union and is party to the African Charter on Human and Peoples' Rights. It is also a member of the Southern African Development Community.

Zimbabwe introduced a new Constitution in 2013. This laid the groundwork for the establishment of the Constitutional Court, and was well received by the international community for its human rights provisions. However, subsequent changes to national law to

¹³³ E/CN.4/2006/95/Add.5

realise the rights to freedom of expression, association, assembly and information have not materialised. The Constitution, along with national legislation, does not contain provisions regarding human rights defenders. The national human rights institution is the Zimbabwe Human Rights Commission (HRC), which is accredited "A" status according to the Paris Principles.

Key instruments used to selectively impose severe restrictions on defenders remain unreformed since the Constitution's introduction. Particular concerns have been raised regarding the Private Voluntary Organisations Act, 2002, which makes registration challenging for associations, and the Public Order and Security Act (POSA), 2002, which gives far-reaching powers to the police, including to restrict and prohibit public gatherings. Under the Criminal Law (Codification Reform) Act, 2004, defenders have also been frequently subject to arbitrary arrest and detention. The Broadcasting Services Act, 2001, and the Access to Information and Protection of Privacy Act (AIPPA), 2002, place restrictions on journalists and freedom of expression.

Despite some provisions being repealed, AIPPA was used as recently as 2016 to impose a registration process on journalists. Numerous individuals who have published articles critical of the Government have been observed to face arrest and criminal charges under the Criminal Law (Codification and Reform) Act for "publishing false statements prejudicial to the State". Additionally, there is a growing concern among civil society organisations that, if the new Cybercrime and Cybersecurity Bill put forward by the Government passed, it would pose a serious threat to the work of defenders and to freedom of expression online.

3. Implementation of the Declaration

Despite the positive advances contained in the 2013 Constitution, Zimbabwe has failed to take adequate steps towards implementing the Declaration on Human Rights Defenders, nor has it accepted any requests by the Special Rapporteur to extend an invitation for a country visit. Lack of freedom of assembly and association and freedom of expression remain of particular concern for defenders, who commonly face arbitrary arrest and detention. Threats against defenders, enforced disappearances, physical attacks and instances of torture have also been reported.

Pro-democracy defenders in Zimbabwe have faced severe reprisals in recent years, in particular during the last years of Mugabe's Government, but also since President Mnangagwa's transition to power. It has been reported that, during 2016, widespread peaceful protests were met with violence by State authorities, with at least 683 people arrested. Police imposed bans on protests in central Harare under the Public Order and Security Act, some of which were overturned following legal challenges.

Prominent human rights defender Pastor Evan Mawarire, leader of the #ThisFlag campaign, has experienced repeated judicial harassment. Commenting on the protests, Mawarire said, "We are getting to a place where we are now expressing that we have had enough. What we are doing is about one action, one voice concerning our frustration. Enough is enough". He fled to the United States in 2016 after receiving threats to his life from people he believed to be State security agents. On his return to Zimbabwe in February 2017, Mawarire was immediately arrested and charged with "subverting a constitutional Government". The charges were subsequently dropped. In March 2015, Itai Dzamara, a democracy defender and journalist, was abducted two days after he spoke at a rally in Harare calling for Mugabe's

resignation. Dzamara had previously been abducted, detained and violently beaten by State security agents. The Special Rapporteur sent communications to Zimbabwe about Dzamara's disappearance in 2015, and remains deeply troubled by the case. He urges the Government to conduct a thorough investigation into Dzamara's fate and whereabouts.

Women of Zimbabwe Arise (WOZA), one of Zimbabwe's leading women's rights groups, has also suffered continued judicial harassment, with members frequently facing police brutality, arbitrary arrest and detention while attending protests. In February 2013, 189 WOZA members were arrested following peaceful Valentine's Day demonstrations in Bulawayo and Harare. Despite the risks faced, Jenni Williams, one of WOZA's co-founders said of her work, "I have seen how successful our protests are and how many people have changed when they can march and express themselves... Being in this position has made me a better person able to stand up for my rights and others' rights... I found my confidence and dignity in myself in the struggle".

Serious concerns have also been raised regarding sexual orientation and gender identity rights advocates, who face significant threats and hostility from the broader public and State media. Homosexual conduct is criminalised in Zimbabwe under the "public indecency" and "sodomy" clauses of the Criminal Law (Codification and Reform) Act. The civil society organisation Gays and Lesbians of Zimbabwe (GALZ) has reported considerable levels of police harassment; in 2012 their offices were raided twice and 44 members were arrested and detained overnight before being released without charge. In 2014, the Special Rapporteur sent a communication regarding the ongoing harassment of Martha Tholanah of GALZ and Abel Chikomo of the Zimbabwe Human Rights NGO Forum. He welcomed a decision by the courts to quash charges brought against Tholanah of running an 'unregistered' organisation.

It was reported in the most recent UPR cycle that at least 38 civil society organisations had been targeted by State actors through raids, visits or searches of offices, and/or seizure of property. Several recommendations on human rights defenders were made to Zimbabwe in the first and second UPR cycles (2011 and 2017).¹³⁴ Of these, no recommendations from the first cycle were accepted; in the second cycle, three of six recommendations were accepted, however recommendations pertaining to the implementation of legislation to protect defenders and to extend an invitation the Special Rapporteur for a country visit were not. The Special Rapporteur has sent several communications to Zimbabwe, of which a number have received no State response.

4. Issues and Trends

Despite operating in a hostile environment and experiencing severe repercussions in relation to their work, the community of human rights defenders in Zimbabwe remains an active part of Zimbabwe's vibrant civil society. Journalists, democracy activists, women and sexual identity and gender orientation rights activists face particularly high risks in their work. The Special Rapporteur is deeply concerned by reports of the State's role in reprisals against those who speak out in the defence of human rights, and calls upon Zimbabwe to ensure that the peaceful and legitimate actions of human rights defenders are not met with violence, arbitrary arrest, detention or other forms of harassment, in particular by State actors but also by third parties.

¹³⁴ A/HRC/19/14 and A/HRC/34/8

The Special Rapporteur recommends that Zimbabwe urgently reform domestic legislation in line with both the human rights provisions of the 2013 Constitution and with its obligations under international law, specifically the Private Voluntary Organisations Act, 2002, the Broadcasting Services Act, 2001, the Access to Information and Protection of Privacy Act, 2002, the Public Order and Security Act, 2002, and the Criminal Law (Codification Reform) Act, 2004, to create an enabling environment for human rights defenders. Further, he recommends that any future legislation on cybercrime and cybersecurity be carefully considered so as not to inadvertently or purposefully impose restrictions to defenders' freedom of speech online. The mandate of the Human Rights Commission of Zimbabwe should also be extended to include investigating offences committed before 2009, in particular with regard to the hundreds of people killed during election violence in 2008.

AMERICAS

Central America and the Caribbean

Costa Rica

1. National Context and Human Rights Defenders

The presidential election campaign earlier this year was fought on the issue of same-sex marriage with the main candidates taking opposing views. One, a pastor, vowed to take Costa Rica out of the ACHR to avoid the obligation to permit same-sex marriage, and the other, a liberal from the centre-left, supported same-sex marriage. The latter won convincingly.

An entry for Costa Rica was included in the 2006 Global Survey, however, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Rapporteur at the time. The Survey reported on two communications in the period regarding repeated death threats made to defenders working at an NGO, and noted that although Costa Rica had a positive reputation regarding defenders, there had been concerns that both the State and the media portrayed human rights defenders as revolutionary activists and enemies of the country.

2. Legal and Policy Framework

Costa Rica is party to eight of the main international treaties, except for the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and is a member of the Organisation of American States. Human rights are established and protected in Costa Rica and freedoms of association, peaceful assembly and expression are all covered by the constitution. Crimes against human rights defenders are mentioned specifically in the penal code.

The 2017 report of the Convention on the Elimination of All Forms of Discrimination against Women, acknowledged the measures adopted by the State to eliminate gender stereotypes that discriminate against women, but remained concerned by stigmatising and derogatory political statements and public campaigns targeting women in political and public life, including women human rights defenders.

The State does not have a national human rights plan nor does it formally recognise defenders or the defence of human rights through specific legislation.

The State national human rights institution, Defensoría del Pueblo, accredited “A” status, in accordance with the Paris Principles.

3. Implementation of the Declaration

Costa Rica's commitment to human rights is widely acknowledged and the State stands as an example for others in the region. The promotion of civil and political rights, as well as economic and social rights, has been the focus of successive governments. The Special Rapporteur congratulates Costa Rica on becoming the first shelter city in the Americas, offering temporary relocation to defenders at risk in the region, and also commends the Costa Rican Ombudsman for being awarded the Franco-German Prize for Human Rights and the Rule of Law.

Costa Rica has a lively press and broadcasting scene and it also has the best record of respecting freedom of expression in the region. Nevertheless, there have been cases of harassment of journalists by the authorities, especially during the presidential campaign that began in late 2017.

Despite Costa Rica's peaceful reputation and strong commitments to human rights and the environment, the Special Rapporteur has nevertheless issued communications to the State during the reporting period concerning raids on, and thefts from, the offices of defenders' organisations.

Costa Rica's Federation for the Conservation of the Environment (Fecon) has recorded 66 crimes against environmental defenders in the country since 2002, including murders. Diego Armando Saborio was murdered after speaking out against illegal hunting; Kimberley Blackwell was shot dead after filing complaints about poaching; and Jairo Mora Sandoval, an environmental defender working on protecting sea turtles, was brutally killed. An increase in the number of poachers and drug dealers at turtle nesting sites (eggs can be used as currency for drugs) has led to defenders taking the protection of these sites into their own hands. This surveillance of protected areas to protect them from poachers and criminal activity puts defenders at great risk and the police have been accused of not taking the danger to environmental defenders seriously. Didiher Chacón, director for Latin American Sea Turtles, said recently that, "we are conservationists, not police. Someone needs to protect us so we can protect the environment." The cases of 10 environmentalists murdered since 1989 remain unsolved.

According to various sources, violations against indigenous rights defenders are of great concern and the lack of response from government officials and police forces makes the situation of indigenous peoples in Costa Rica even more vulnerable. While there are laws to protect the LGBTQI* community, transexual defenders continue to face discrimination.

4. Issues and Trends

The Special Rapporteur congratulates Costa Rica on its continued commitment to the principles of democracy, rule of law, peace and human rights in a region beset by violence, corruption and authoritarianism.

The Special Rapporteur is, however, concerned that despite the State's strong record of protection there is a developing pattern of violence against those who defend the environment. The Special Rapporteur acknowledges that the State has taken the murders of environmental defenders seriously, but suggests that the State recognise that these cases

form a pattern. While the State has said that it believes a Truth Commission to look into the deaths of environmental defenders is unnecessary, the Special Rapporteur believes that such an initiative would be valuable.

Cuba

1. National Context and Human Rights Defenders

After decades of sanctions President Obama became the first US president to make an official visit to Cuba in 2016. However, initiatives to normalise relations between the countries have been reversed by the new American government and the future relationship between Cuba and the United States remains a key issue affecting the politics and economy of the country (and the region more generally).

An entry for Cuba was included in the 2006 Global Survey, however, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Rapporteur at the time. The Special Rapporteur was concerned that human rights treaties had not been ratified and that national legislation was being used to restrict the freedoms of expression, association, assembly and movement. The Special Representative expressed regret at not receiving an invitation to visit the country, and also at investigative missions of international human rights NGOs being denied.

Monitoring of human rights is not recognised as a legitimate activity by the government and human rights groups cannot be registered. The legal framework of the State not only prevents defenders from carrying out their work, it puts them at great risk. Journalists and human rights defenders face travel restrictions, threats, harassment, intimidation, criminalisation and violence, and many have been subjected to short-term arbitrary arrest and detention. The Cuban Commission for Human Rights and National Reconciliation (CCDHRN), an independent human rights group that lacks official authorization and the government considers to be illegal, recorded 5,155 arbitrary detentions in 2017. The Commission is not recognised by the State.

Cuba was excluded from the Organisation of American States (OAS) until 2009 when a resolution was passed to allow to the State to participate following dialogue.

2. Legal and Policy Framework

Cuba is party to eight of the international human rights treaties. It has not signed the Convention on Migrant Workers, the Optional Protocol of the Convention against Torture or the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty. It has signed but not ratified ICESCR.

The legal framework of the State restricts rather than guarantees human rights. The Constitution limits the rights of assembly and association, and peaceful protests are often met with force. The freedoms of expression and opinion are repressed with any dissent or criticism of the government punished. Defenders are unable to work with others as they are

prevented by law from forming organisations that are not state-supervised. Organisations that do exist have been raided, with items confiscated and staff arrested. The State does not have a national human rights plan nor does it formally recognise defenders or the defence of human rights through specific legislation.

To the contrary, the law is regularly used to prevent human rights defenders from carrying out their work. The often used charge of *pre-criminal danger to society* which can lead to a 4-year prison sentence was recently used as a threat against Dulce Amanda Durán. It was not the first time the editor of the CCDHRN monthly reports has been threatened by the security forces.

3. Implementation of the Declaration

Cuba does not recognise the defence of human rights as a legitimate activity and denies legal status to human rights groups. Freedom of expression is limited. According to numerous sources, human rights defenders and political activists continue to be harassed, intimidated, dismissed from state employment and arbitrarily detained to silence criticism.

Those who draw attention to abuses are threatened to prevent information on human rights abuses from reaching a wider audience. Members of the Ladies in White group have been arrested to prevent them from highlighting historical human rights abuses committed by the government.

Cuba has been reviewed three times under the UPR process. Key recommendations made to the State are to guarantee the rights to assembly, association, movement and expression, without the risk of harassment, intimidation or persecution, and to cease the short-term detentions, harassments and other repressive measures against human rights defenders and journalists. It was also recommended that the State allow United Nations special rapporteurs to visit.

Since the last survey in 2006, Cuba has received communications from Special Rapporteur every year (2007-2017), except in 2016. Although the State has replied to several communications, not all of them have received a response, which is of concern to the Special Rapporteur. The State has responded that some allegations of harassment, intimidation, insults and attacks are false, and a creation of foreign adversaries (particularly the United States).

In his most recent communications the Special Rapporteur has sent reports of allegations of intimidation and death threats, of the use of excessive force against participants in marches organised by the White Ladies as well as their arbitrary arrest and detention, and of harassment and reprisals against human rights defenders, in particular when cooperating the mechanisms of the United Nations. The Special Rapporteur notes with regret that those mentioned in the communications are not recognised as human rights defenders and that the authorities consider the allegations too unfounded and from unreliable sources. The Special Rapporteur is worried about the retaliation that defenders such as those working for the Cubalex Legal Information Center¹³⁵ face for participating with international and regional

¹³⁵ A/HRC/36/31

human rights mechanisms, including the UN. The Special Rapporteur once again expresses his hope that the State will respond favourably to his request to visit Cuba.

4. Issues and Trends

The situation for human rights defenders in Cuba continues to be precarious as they are intimidated, harassed and detained. The freedom to meet and assemble peacefully is being forcibly repressed and those exercising their right to freedom of expression are imprisoned. Human rights defenders have been criminalised and imprisoned on false charges.

The Special Rapporteur urges the State to end the intimidation and harassment of human rights defenders, especially the arbitrary detentions and travel restrictions, to recognise the work of defenders as a legitimate activity, and to ensure their safety.

The Special Rapporteur recommends that the State lift all restrictions on the rights to freedom of expression, peaceful assembly and association, and cease the constraints on forming organisations.

The Special Rapporteur urges the State to allow UN special rapporteurs and independent human rights monitors access to Cuba.

El Salvador

1. National Context and Human Rights Defenders

A bitter civil war in the 1980s left tens of thousands dead. The search for those who disappeared continues and a post-war reconciliation process has started investigations into violations of human rights.

Today violent street gangs mean that El Salvador has one of the highest murder rates in the world. A peace accord between the two most prominent gangs orchestrated by Roman Catholic clerics in 2012 resulted in a huge drop in the murder rate but was short lived. The prevalence of gangs results not only in murders but in internal displacement and migration as many people try to escape the violence. Of those who leave El Salvador many now remain in Mexico following the United States of America's decision to no longer allow temporary protected status (TPS) to Salvadorans. The UN refugee agency (UNHCR) has expressed alarm at the spike in the number of people fleeing violence in Central America, calling on the international community to grant [those fleeing] protection and help the countries address the root causes.

El Salvador was included in the Global Survey of 2006. The Global Survey noted that non-government sources had expressed concern that a lack of resources meant many allegations of human rights violations could not be followed up and human rights training could not take place. The Global Survey also reported claims that the State showed a lack of support for

human rights defenders and that the Human Rights Ombudsman was not sufficiently funded to comply with their mandate.

The Special Rapporteur would like to thank the national human rights institution in El Salvador for their submission to this report.

Although some positive steps have been taken since the 2006 report, such as the *El Salvador Seguro* (Safe El Salvador) plan and the *Ciudad Mujer* (Women's City) programme, the general situation in El Salvador has not improved. The Defence Ministry estimates that in a country of 6.5 million more than 500,000 Salvadorans are involved with gangs. While murder rates have declined El Salvador continues to have one of the highest rates of violence in the region with the highest murder rate for people under the age of 19 anywhere in the world. Only 10% of murders result in conviction. High levels of corruption allow gangs to thrive as the political class protects them. Measures taken to control the gang violence has led to an increased presence of the military in public security. According to civil society organisations 7,900 members of the military were participating in public security tasks in 2014, and that figure has reportedly doubled to 14,000.

The State national human rights institution, la Procuraduría para la Defensa de los Derechos Humanos, is accredited "A" status, in accordance with the Paris Principles and the GANHRI Statute. The State is a member of the Organisation of American States (OAS).

2. Legal and Policy Framework

El Salvador has ratified eight of the nine main international human rights treaties but has yet to ratify the Optional Protocol to the Convention against Torture.

There is no national law or policy on human rights defenders and no policy of protection. The State does not recognise the legal right to defend human rights and in a worrying development the Legislative Assembly has approved a reform of the Penal code which establishes the work of promoting and protecting human rights and fundamental freedoms as aggravating circumstances.

The Foreign Law (Ley de Extranjería) establishes that foreigners who participate directly or indirectly in internal politics lose the right of residency and promoting human rights could be constituted as internal politics.

The Constitution protects the rights to freedom of expression and thought, as well as the freedom of association and freedom of assembly. However, the Special Law Against Acts of Terrorism has been used to deter or punish those participating in assemblies and excessive force has been used to break up demonstrations.

A number of organisations have proposed a law to protect human rights defenders – Ley Integral de Protección a Personas Defensoras de Derechos Humanos – which would recognise the right of all people, collectively or individually, to promote, protect and realise human rights. The creation of a National System of Protection for Defenders is being considered as part of the same project.

The national-level Law for Not-for-Profit Associations and Foundations regulates the establishment, operation and dissolution of CSOs. The Registry of Not-for-Profit Associations and Foundations (RAF) has the power to deny registration if a CSO's objectives are contrary to "public order, morals, and good customs". Such vague terminology, RAF exceeding its authority and excessive costs are all barriers to establishing CSOs. However, when the RAF refused to register an association monitoring the human rights of lesbian, gay, bisexual, transgender and intersex individuals on the grounds that it contravened public order, law and morals, the Constitutional Court of El Salvador reaffirmed the right of associations to register for lawful purposes and ordered that the association's request for registration be considered regardless of the gender identity or sexual orientation of those concerned.

3. Implementation of the Declaration

The deep structural problems of violence, discrimination and violations of human rights affect the majority of the population of El Salvador and undermine their ability to exercise the freedom to defend human rights. The lack of a human rights culture that recognises the contribution of human rights defenders, the persistence of stereotypes, particularly towards women and LGBTI people, and the public contesting of the work of human rights defenders increases their vulnerability and the discrimination that they face.

The State's commitment to human rights has been questioned as violations of human rights continue with no visible measures to combat impunity. The rights of the Declaration are continually under threat, particularly the rights to be protected and to an effective remedy. The recommendation, or demand, made most often by defenders and civil society organisations in El Salvador, by the UN and by NGOs is that the State must establish protection for defenders from the threats and harassment they face. The work of defending human rights must be recognised and the security of those doing this work assured.

As noted in recent (2018) discussions before the Human Rights Committee, violence and intimidation is experienced by defenders and journalists in El Salvador and there is a lack of protection measures. Certain defenders are particularly at risk: defenders of the rights of women (in particular their sexual and reproductive rights), of sexual orientation and gender identity rights, of the rights of indigenous people, of sexual and reproductive rights, and those who document extrajudicial killings or crimes from the past. Restrictions on the right to freedom of assembly and the right to freedom of association arise as a result of the addition of "illegal groups, associations and organisations" and the crime of "public disorder" to the Criminal Code. The State is asked to guarantee protection for defenders, and where crimes are committed against defenders, to investigate and prosecute.

In 2017, the Committee on the Elimination of Violence against Women recommended that El Salvador expedite the investigation and prosecution of acts of harassment, discrimination, violence and assassination of women defenders and also that the State take the necessary measures to provide protection for women defenders. The Committee against Torture (CAT) has also expressed (in 2014) concern about reports of acts of harassment and death threats aimed at defenders, and about the fact that such acts remain unpunished. The State was asked to adopt effective measures to prevent further violence. The CAT previously

recommended in 2009 adopting measures to combat cases of harassment and death threats suffered by human rights defenders.

The UN Special Rapporteur issued an increasing number of communications to the State of El Salvador during the reporting period. These communications concerned threats made to defenders, intimidation, physical abuse, raids on premises, arrests for “acts of terrorism”, and the violent repression of peaceful protests. The Special Rapporteur was particularly concerned to hear about the murders of human rights defenders, including environmental defender Recinos Sorto and labour rights defender Ramiro Rivera in 2011. An urgent communication was sent to the State in 2011 concerning death threats to the Human Rights Ombudsman and his family.

Recent years have been marked by the criminalisation and delegitimisation of the work of human rights defenders, especially those defending the environment, land, communities and the right to water. The threats to defenders come from public officials and also businesses. Defenders of the right to water in communities in Tacuba have been subject to constant threats and intimidation through the abuse of power and coercion of local mayors.

Gender based violence makes El Salvador one of the most dangerous countries in the world to be a woman. Women defenders are subjected to violent attacks, arbitrary arrests, online stigmatisation, and their work is discredited. The number and frequency of attacks on women defenders has risen with many experiencing defamation, particularly through social media. Human rights lawyer Bertha de León was the victim of one such campaign when altered photographs were circulated implying she was having a sexual relationship with a judge who had ruled favourably in one of her cases.

Defenders working on land and environmental issues in connection with extractive industries, construction and development face great risks including violations of their physical integrity, attempted killings, killings, attacks, assault and ill-treatment, as well as the excessive use of force by the police during demonstrations. At least five environmental defenders have been murdered since 2006. Journalists reporting on land and environmental affairs encounter the same issues.

Those defending sexual orientation and gender identity rights are also at risk, suffering threats, attacks and even murder. Karla Avelar was forced to flee El Salvador following threats to her life, her organisation and her family. Francela Mendez, a transgender defender, was killed in May 2015 becoming the tenth transgender woman killed that year.

While popular media is largely sympathetic to human rights issues the freedom to inform has lost ground since the 2014 election with several journalists murdered or physically attacked in recent years. Popular press has covered environmental defenders and in particular the fight against environmental damage caused by mining.

NGOs mainly operate freely although those working on human rights face threats from criminal gangs. Civil society actors have been able to mobilise and protest against water pollution caused by mining, and even won a victory when metal mining was prohibited. Civil society groups have also successfully pressed for judicial reforms.

Despite steps to dismiss and prosecute some officials impunity persists. Investigations into human rights violations are not completed and convictions are rare. Between June 2014 and May 2015 the Human Rights Ombudsman received 2,202 complaints of human rights violations; 92% of these were allegedly committed by the police and the military.

A further concern for human rights defenders is the invisibility of the dangers defenders face. Crimes against defenders are not identified as such and are almost always dismissed as gang related. Alejandra Burgos, a woman human rights defender, has stated: "Human rights defenders in some regions have to negotiate with gangs simply to be able to do their work. It becomes very difficult to show that an attack on an activist was a consequence of their human rights defence and not simply a criminal attack. This becomes even more complicated when it is taken into consideration that those who want to attack human rights defenders often employ gang members to carry out attacks disguised as casual crimes. Furthermore, before an investigation has taken place, the authorities often come out to say 'we believe this victim was linked to organised crime'."

4. Issues and Trends

Defending human rights in El Salvador is increasingly dangerous and even those under police protection have been killed. Defenders face threats from State authorities, organised crime, religious fundamentalists and private business and need more protection to allow them to defend human rights. Defenders such as Alejandra Burgos have demanded that the State "guarantee our protection so that we can defend human rights without it costing our lives".

The Special Rapporteur is concerned that human rights defenders in El Salvador continue to be defamed and stigmatised, at times by politicians and the media, which makes their lives even more dangerous. The perception of defenders must be changed, by emphasising the positive role they have and explaining why they must be protected, and legislation should be introduced to recognise the right to defend human rights according to the Declaration.

The Special Rapporteur recommends that El Salvador urgently take more effective steps to bring an end to the cycle of impunity by investigating promptly and exhaustively the violations committed against human rights defenders and journalists and by bringing to justice those responsible.

Guatemala

1. National Context and Human Rights Defenders

An armed conflict of 36 years between left-wing guerrillas and the State ended in 1996 with more than 200,000 people dead or missing. Rural and indigenous people were displaced, tortured and raped and over 600 massacres took place, most perpetrated by the army.

Guatemala was included in the 2006 Global Survey. The State, the UN Resident Coordinator in Guatemala, the national human rights institution and civil society organisations all

responded to the survey. A key concern of the report was the worsening situation for human rights defenders. The number of attacks had doubled from 2004 to 2005 and yet the climate of impunity continued. The UN Special Representative had sent 79 communications in the reporting period concerning 143 defenders. One third of these related to women defenders, or defenders of the rights of women.

The hostile environment for defenders in Guatemala has changed little since the 2006 Global Survey, in fact the situation is worse. The violence, corruption, human rights violations and impunity continue. Threats, harassment and murder of defenders increase each year, as does the stigmatisation and criminalisation of defenders and their work, often by those at the highest level of government. The UN High Commissioner, Members of European Parliament and the human rights organs of the Organisation of American States have all recently expressed concern at the increasing violence characterised by the murders, threats and stigmatisation of journalists and human rights defenders.

The situation is grave for all human rights defenders in Guatemala with defenders of the environment, land rights and indigenous rights most at risk. More than 40% of those attacked are women human rights defenders. Union workers and defenders working on issues related to truth, justice and reparation as well as the general struggle against impunity and corruption are also at serious risk.

Some media is sympathetic to the defence of human rights but many are openly hostile. Private operators dominate the media and have been criticised for being pro-government and anti-human rights. Defenders are accused of being terrorists and environmental defenders are labelled armed fanatics. Human rights are said to be perverse and must be destroyed at the root. The UN is described as corrupt.

2. Legal and Policy Framework

The Guatemalan government is party to all major human rights treaties at the international and regional level and is a member of the Organisation of American States.

Human rights defenders are formally recognised by the State through articles in the Constitution and congressional law, a Human Rights Ombudsman and Commission of Human Rights, and the Presidential Co-ordinator of Human Rights.

A treaty-level agreement signed by the UN and Guatemala in 2006, led to the creation of the International Commission against Impunity in Guatemala (CICIG). The objective of the Commission is to investigate difficult cases, and to confront illegal and organised crime groups that commit human rights violations.

The constitution and national law provide for the freedom of peaceful assembly, freedom of association and freedom of expression. Under the constitution international law takes precedence over national law with respect to human rights.

In recent years reforms to the law have undermined human rights, criminalised the actions of human rights defenders and reduced the penal consequences of attacks on defenders. An

amendment to the law governing NGOs has seen the State pursue rigorous control over the finances of NGOs. The Law Against Terrorism criminalises defenders for freedom of expression and thought. The National Reconciliation Law seeks amnesty for perpetrators of human rights violations committed during the armed conflict. The terms of the Traffic Circulation and Obstruction of Roads Act can be used to criminalise peaceful protests. Protocols have been created whereby individuals or organisations wishing to protest must give prior warning to the authorities. The objective of these measures is to safeguard those protesting and to keep the peace, however, protection is always given to those who oppose the protest and excessive force has been used against demonstrators.

The International Commission of Jurists suggests that criminal law is being used in Guatemala to repress and delegitimise the work of human rights defenders. The Special Rapporteur has also raised alarm over restrictive legislative attempts to curtail the work of human rights defenders.

The State national human rights institution, Procuraduría de los Derechos Humanos, is accredited “A” status, in accordance with the Paris Principles and the GANHRI Statute.

3. Implementation of the Declaration

All rights of the Declaration are recognised in legislation in Guatemala and in theory are protected by the State. In reality the State is aggressive, chauvinistic and authoritarian and the main obstacle to the security of defenders. All of the rights of the Declaration are violated, sanctioned or denied in order to favour economic powers and illicit economic-political networks.

The Committee on the Elimination of Violence against Women in 2017 noted women human rights defenders were increasingly subject to attacks, sexual violence, intimidation, stigmatisation, criminalisation of their activities, illegal detention and defamation campaigns and noted with concern the overall impunity for perpetrators of gender-based violence as well as alleged cases of collusion between law enforcement officials and perpetrators. The Committee against Torture reported a persistently high number of threats and attacks particularly against those defending the rights of indigenous peoples and those working on issues related to the right to land, labour rights and the environment. The Committee noted with concern the murder of defenders and the limited convictions for these crimes. The Committee on the Elimination of Racial Discrimination expressed great concern at the continued threats and attacks against journalists and defenders, particularly indigenous defenders and indigenous journalists and noted the misuse of criminal trials in connection with social protests.

The Special Rapporteur is extremely concerned by the large amount of communications sent to Guatemala each year since the last survey. Many have been of the most serious kind concerning extrajudicial killings, death threats, murder and attempted murder of defenders and their families.

Communications sent by other special rapporteurs corroborate reports of an unprecedented increase in human rights violations and chronic widespread impunity.

The Special Rapporteur for human rights and the environment has considered many cases dealing with defenders and large-scale development projects. Guatemala received one of the largest numbers of communications on this topic and almost one third related to allegations of killings and attempted killings.

In May 2018 the Special Rapporteur on the rights of indigenous peoples indicated her serious concern about the murders of indigenous leaders. Between May and July 2018 eleven defenders who were working to protect indigenous communities' rights were killed.

Guatemala is among the states of greatest concern to the Special Rapporteur and the frequency and intensity of attacks on defenders prompted him to make an academic visit in February 2018. The Special Rapporteur noted that the situation is deteriorating and impunity for violations against defenders is endemic. In August 2018 the Special Rapporteur and other UN human rights experts again raised the alarm over the increase in killings, attacks and acts of intimidation against human rights defenders in Guatemala. The Special Rapporteur is encouraged by the announcement in June 2018 by the Attorney General's office of a new protocol for investigations on crimes against human rights defenders. The protocol was developed in collaboration with human rights defenders and adopts international standards for the purpose of guaranteeing due diligence in investigations.

There is no safe and enabling environment for human rights defenders in Guatemala who work in increasingly hostile and dangerous circumstances, risking their lives to carry out their work. In 2017 there were 493 registered attacks on defenders. As at 8 June 2018 there had been 135 attacks including 76 cases of criminalisation, 13 murders and 2 attempted murders. Women human rights defenders were the victims of 32 of the attacks.

Defenders of Indigenous rights, land rights and territory are at great risk. In January 2017 Laura Leonor Vazquez Pineda, a defender with the peaceful resistance movement against the mining project at San Rafael was shot and killed. In January 2018 Sebastian Alonso Juan, indigenous defender of land rights in Huehuetenango was killed during a peaceful protest against hydroelectric projects. Eighteen indigenous defenders were murdered in the first eight months of 2018.

The work of individuals and communities fighting to protect their access to water and land are stigmatised and their work is delegitimised through public statements and false rumours. Communities are forcibly evicted from their homes or face the risk of eviction without due process. Between 2012 and 2016, 12,249 people were evicted and 300 defenders currently face eviction orders.

Environmental rights defenders face similar risks as they come into close contact with extractive companies and with economic elites who wield great power through obtaining extraction licences, a power they abuse. The extractive industries are increasingly using private security guards who act arbitrarily and with excessive force.

Defenders of truth and justice, who seek reform of the justice and security system and an end to impunity face some of the greatest risks, especially in cases of transitional justice where

the main violators of human rights are current or former military personnel. Defamation and slander, delegitimisation, hate speech, incitement to attack defenders, and threats on a massive scale, in particular through social media, have created an environment of intense insecurity for those defending the right to truth and justice.

Guatemala is also one of the most dangerous countries in the world for the media as journalists continue to be targets of harassment and violence. Journalists face aggression by state actors such as the police and local authorities. Those working on community radio have been charged with the crime of theft of radio frequencies – a crime not recognised in law. In June 2017, TV journalist Carlos Rodríguez survived a gunshot to the head. In June 2016, radio journalist Álvaro Aceituno was killed, and in March 2015, journalists Danilo López and Federico Salazar were assassinated. Investigations implicated the police and a mayor in two of these murders. The intimidation of journalists has led to self-censorship.

Of all human rights defenders women and those working women's rights or gender issues are the most likely to be killed in the region. Defense of the human rights of women is increasingly criminalised and this affects policy makers and civil servants who advocate for rights of women. Criminalisation is carried out by state and non-state actors who warn of threats to peace and moral security, label women defenders "Feminazis", and accuse them of terrorism and many other crimes. Women human rights defenders face specific risks of sexual violence during States of Prevention when the Law of Public Order allows the Government to introduce military control. In one such state of prevention in the community of Santa Fe Ocaña, members of the police were accused of raping two women.

The single biggest issue facing human rights defenders in Guatemala is the phenomenon of impunity. There is a fundamental lack of prompt, independent investigations into violations of human rights and prosecutions rarely reach a conviction. Aggressors are able to murder human rights defenders and journalists in Guatemala, knowing that they do so with total impunity.

While perpetrators of human rights violations enjoy impunity, human rights defenders face unfair and unfounded criminal proceedings in order to silence them and obstruct their work. They are prosecuted and tried without evidence for carrying out their work to defend human rights. In 2016 Daniel Pascual, leader of the Campesino Unity Movement, was prosecuted for libel and slander. Others have faced similar lawsuits. Barbara Díaz Surin is an indigenous defender who fought for land and water rights. In 2014, she was arrested, accused of murder and imprisoned following a death during a protest.

The dangerous situation for defenders is made worse by the stigmatisation and criminalisation of defenders by the State and in the media. The State has increased the risks defenders face through a discourse of hate, portraying them as criminals, defaming them and devaluing the work of those defenders who have been killed. This obscures the legitimacy of their work and leaves them vulnerable.

Defenders who have collaborated with the UN have also been criminalised. Indigenous organisations and representatives of communities affected by cement works in San Juan Sacatepéquez presented a report to the 76th session of CERD. They were subsequently vilified

online, called “terrorists”, the “Taliban of Guatemala/Groups of Al-Qaida” and “bad Guatemalans”.¹³⁶ A recent open letter to the President by representatives of civil society organisations expressed deep concern at the criminalisation of environmental defenders, stating, “We are not criminals, we are defenders of the rivers and the mountains.”

The Special Rapporteur has sent a large number of communications to the State outlining many of the issues noted above. In the past year, the Special Rapporteur has sent communications concerning the legislative developments noted above, the use of the criminal justice system against human rights defenders, and acts of violence (including murder) committed against defenders in the State.

4. Issues and Trends

The situation for human rights defenders in Guatemala is becoming progressively more dangerous as acts of violence, threats, intimidation and killings of defenders increase with no sign of abating. The State has discussed protection but this is rarely implemented and in some cases has increased the risk to defenders. Despite the dangerous rise in attacks there continues to be a lack of investigation and prosecution with a rate of 98% impunity in cases of violations against defenders.¹³⁷ The Special Rapporteur recommends the State urgently implement the recently adopted protocol to investigate and prosecute crimes committed against human rights defenders and pledge to regularly review and evaluate its impact with civil society.

The Special Rapporteur recommends the State undertake a campaign to promote the work of human rights defenders and the right to defend human rights to help improve the safety of defenders. The State should take steps to end the defamation of defenders by State officials and employees and internal mechanisms should be put in place to stop the judicial system criminalising defenders.

The Special Rapporteur urges the State to consult with defenders to develop a public policy to protect defenders and to urgently change the situation that puts them at risk in first place. There must be an end to violence, impunity and corruption.

Haiti

1. National Context and Human Rights Defenders

Haiti’s location makes it vulnerable to natural disasters. The 2010 earthquake and aftershocks killed more than 100,000 people and affected millions. In 2016 Hurricane Matthew hit Haiti. The hurricane, subsequent flooding and an outbreak of cholera caused thousands of deaths and left 1.4 million people in need of humanitarian assistance. Political instability and natural disasters have left Haiti the poorest country in the Americas and the only low-income country in the region with more than 59% of the population living in

¹³⁶ A/HRC/14/19

¹³⁷ A/HRC/10/12/Add3

poverty. Many Haitians do not have access to water, power, sanitation or healthcare and half of those over 15 are estimated to be illiterate. Haiti has consistently ranked among the most corrupt countries in the world on the Corruption Perceptions Index.

In the 2006 Global Survey, the Special Rapporteur noted that human rights defenders in Haiti continued to work in a difficult and tense situation. The UN Security Council described the situation in the State as “a threat to peace and international security in the region”. Despite the dangers involved in their work, human rights defenders in Haiti play a fundamental role in denouncing and documenting human rights violations and in the preparation of legal files to be presented to the courts.

Human rights defenders in Haiti frequently face threats and harassment and are at times subject to detention and killings at the hands of authorities. Those who speak out against corruption and impunity face death threats and false criminal charges. In 2014 the coordinator of the Platform for Haitian organisations for the Defense of Human Rights (POHDH) Daniel Dorsainvil and his wife were killed. POHDH had been openly critical of the government.

2. Legal and Policy Framework

Haiti is a member of the Organisation of American States and is party to some of the core international human rights treaties. Haiti has not signed the Convention Against Torture or its Optional Protocol of the Convention against Torture.

Comments made by the Human Rights Committee with respect to Haiti’s obligations under the ICCPR included demands that the government address restrictions to freedom of opinion and expression, freedom of assembly and freedom of association. The report referred to the fact that current restrictions on the right to freedom of expression and on the freedom of the press violate Haitian and international human rights laws. It was also highlighted that enforced disappearance was used in Haiti to eliminate political opponents, human rights defenders and others considered a threat to the power and interests of the State.

The State national human rights institution, Office for the Protection of Citizens, is accredited “A” status, in accordance with the Paris Principles and the GANHRI Statute. The Office of the Ombudsman headed by the Protecteur du Citoyen, is responsible for protecting every individual against all forms of abuse by the public administration. According to the Independent Expert on the situation of human rights in Haiti, “the Protecteur du Citoyen, of which little is known, should have played a decisive role but suffers from a lack of credibility. This is because he has not been actively involved in most cases of serious human rights violations, and partly because of the questionable conditions of his appointment.”

The State does not explicitly recognise or protect defenders or the defence of human rights through specific legislation.

3. Implementation of the Declaration

Human rights defenders in Haiti work in a context of pervasive corruption, unlawful killings by government officials, attacks on journalists and widespread impunity. Reports from both UN agencies and stakeholders in the UPR process have reported violations against defenders' rights to association, peaceful assembly and freedom of expression. One submission noted cases of excessive use of force by police at peaceful protests during the last elections and added that political activists were arrested arbitrarily. The Human Rights Committee also expressed concerns about allegations of threats, harassment and intimidation by security forces and political authorities against human rights defenders, journalists and opposition members.

In 2013 the Special Rapporteur sent communications to the State regarding allegations of death threats and intimidation against three lawyers and human rights defenders. The Special Rapporteur received no reply to the communications.

Women defenders such as Malya Villard-Appolon, are harassed and threatened for their work. Ms Villard-Appolon is a prominent women's rights leader and director of the country's foremost non-governmental organisation providing psycho-social and legal services for sexual violence victims. Due to the increased visibility of her work after the earthquake, Ms Villard-Appolon has faced numerous threats and acts of violence. She has testified publically in several international forums, including the UN Human Rights Council and the Inter-American Commission on Human Rights. Despite receiving the CNN Heroes award, the continued threats and attacks on Ms Villard-Appolon and her family have forced her to relocate several times.

Journalists often face criminal charges and are increasingly being imprisoned for defamation. They also receive threats, are placed under police surveillance, and at least eight have been reported killed since 2000. The latest, freelance photographer Vladjimir Legagneur, reported on social issues and NGO work and was reporting on one of the poorest areas of the capital when he went missing in March 2018. The National Association of Haitian Media (ANMH) has expressed concern at the lack of response from the authorities to the disappearance.

Defenders of the rights of displaced people, particularly those facing eviction from camps, face police harassment, intimidation, threats and criminal charges. Patrice Florvilus, a human rights lawyer, has been subjected to police harassment and intimidation since taking up the case of two Camp ACRA residents from Port au Prince who had been victims of police brutality, one of whom died in police custody. Florvilus received information from trusted sources indicating that his life could be in serious danger. He was also followed on several occasions by a police vehicle, which had previously been seen stationed outside his office. Florvilus was summoned to appear before an investigating magistrate to answer charges of arson and conspiracy to commit a crime. Others working for the same organisation, Defenders of the Oppressed, have also received threats, being told "Those before you were strong. Now they're all dead. Stop what you are doing, or the same will happen to you."

Women human rights defenders in Haiti are also regularly threatened with violence. The Haitian government, however, has done little to investigate, follow up, or hold the perpetrators accountable for these threats. Those defending victims of rape are subjected to violence and extortion because of their work. In some instances, grassroots leaders have filed

complaints with police, but the police refused to assist, providing such reasons as the human rights defenders' work "has caused too much trouble."

4. Issues and Trends

The Special Rapporteur is particularly concerned for the safety of human rights defenders in Haiti, specifically women, journalists and those defending displaced peoples. He urges the State to protect human rights defenders, lawyers, journalists and all those who defend the rights of others. All human rights violations should be investigated and punished to bring about an end to the impunity enjoyed by the perpetrators.

Honduras

1. National Context and Human Rights Defenders

Honduras is a representative democracy in which the President is both the head of state and head of the government. Honduras is a low middle income country with great inequality of wealth. Nearly half the population lives below the poverty line.

Years of military rule and corruption have caused Honduras to be one of the most volatile countries in Central America and although the situation has greatly improved, corruption remains widespread and gang violence and drug related crime have resulted in the State having the highest murder rate per capita in the world.

The Constitution's ban on presidents serving more than one term was recently lifted and the current president was re-elected. Demonstrations against perceived electoral fraud in this election and against continued pervasive corruption resulted in clashes between security forces and protesters with the State allegedly using an illegal and excessive use of force.

Honduras was included in the 2006 Global Survey however the State did not make a submission. In this report the Special Representative expressed grave concern for the safety of human rights defenders, and in particular for environmental defenders and for indigenous leaders who defend the rights of their communities. The report noted that members of the security forces had been implicated in attacks on defenders.

Extraordinary levels of violence, the world's highest homicide rate, inequality, drug trafficking, endemic corruption, a climate of impunity, organised crime, and street gangs mean that Honduras is an extremely dangerous place for anyone, but even more so for human rights defenders. In addition to the dangers faced by all citizens, defenders also have to contend with extrajudicial executions, enforced disappearance, torture and ill-treatment, arbitrary arrest and detention, death threats, attacks, surveillance, harassment, stigmatisation, displacement and enforced exile.

Human rights violations are committed by law enforcement authorities, criminal gangs and private security guards, with most receiving impunity. Many defenders have been awarded protection but this has not prevented them being threatened, attacked and even killed.

2. Legal and Policy Framework

Honduras has ratified most of the main international human rights treaties and has also ratified various human right treaties at regional level, however, the State is not party to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child. According to the constitution the treaties form part of internal law and the State has laws which provide for freedom of expression, of association and of assembly.

While the rights of the Declaration are covered by the constitution this is not the case in practice. Rights are not just disregarded, criminal law is actively used to sanction and restrict the freedoms of opinion and expression and the rights to peaceful assembly and to protest. In February 2017 an amendment to the penal code was approved in relation to terrorism offences. The code's vague definitions mean it can be used to limit the right to protest and freedom of association.

The authorities have used criminal charges including sedition, usurpation and unlawful demonstration against protestors and the crimes of slander and defamation have been used to criminalise freedom of expression. At the time of her death the appeal of defender Gladys Lanza against a sentence of 18 months' imprisonment for defamation was still pending. Names and pictures of human rights defenders and social leaders have been published with accusations of vandalism, looting and having links to organised crime. In 2015 the IACHR reported that in less than four years, 3,064 cases of criminalisation with the aim of intimidating human rights defenders were reported in Honduras.

The national human rights institution (Comisionado Nacional de los Derechos Humanos) is partially compliant with the Paris Principles and the GANHRI Statute.

3. Implementation of the Declaration

The State introduced an Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials in 2015 which was subsequently passed into law. It has yet to be fully implemented or adequately resourced and has not prevented the rise in attacks and the prevalence of impunity.

Despite the 2015 legislation, in Honduras there is little respect for the rights of the Declaration. The continuing failure to protect has resulted in the deaths of many human rights defenders and the situation continues to deteriorate. Many of those killed had been granted protection under precautionary measures from the IACHR. Land defenders Berta Cáceres and Nelson García were both murdered despite being under protection of the State; so too were defenders of the land rights of small farmers, José Ángel Flores and Silmer Dionisio George.

As noted by Karen Mejía, lawyer, sexual and reproductive rights: "Living as a human rights defender in Honduras is very difficult because we are dealing with follow ups by military or

police and with the persecution for our ideas. You are under attack all the time with no reason. People that I know now are dead.”

In the protests that followed the 2017 presidential elections, demonstrators were subjected to excessive force by the police, leaving more than 30 people dead and many injured. The OHCHR received information indicating that the perpetrators of one of the killings were wearing national police uniforms. No charges were brought. Relatives of some of the victims reported surveillance and threats after the killings. During the protests, four human rights defenders, Hedme Castro, Tommy Morales, Carlos del Cid and Ariel Díaz were subjected to acts of intimidation and excessive use of force.

Freedom of expression continues to be not just controlled but forcibly repressed, making Honduras one of the most dangerous countries in the world for media workers. An increase in violations of the right to freedom of expression, including smear campaigns, threats, harassment and physical attacks against media workers and activists has led to a situation of self-censorship. The IACHR and the OHCHR have both expressed concern about restrictions of freedom of expression and of the press.

Many of the treaty bodies for UN human rights treaties have reported their concern at the perilous situation of human rights defenders in Honduras.

In 2017 the Committee on the Elimination of Discrimination against Women expressed concern about increasingly repressive measures, attacks, sexual violence, harassment, intimidation, reprisals and defamation campaigns against women human rights defenders, especially those defending land, environmental or indigenous rights, or the rights of those of African descent. The Committee referred to the deaths of defenders Margarita Murillo and Berta Cáceres, killed despite repeated denunciations of the risks they faced and despite the request for protective measures. The Committee recommended protection for defenders; investigation, prosecution and punishment of cases of violence against women; decriminalisation of defenders; and an end to persecution.

The Committee on Migrant Workers in 2016 also expressed concern at the violence, harassment and death threats suffered by human rights defenders. The Committee urged the State to provide protection, end impunity and guarantee rights.

The Committee against Torture in 2016 condemned attacks against defenders and journalists, and also the lack of progress in investigating attacks, in particular the murder of Berta Cáceres. The Committee was deeply concerned about reports of State officials increasing the risk of harm to defenders by discrediting their work.

The Committee on the Rights of the Child in 2015 was concerned about defenders of children’s rights and cited the case of José Guadalupe Ruelas who was beaten and jailed by the military police. Once again the State is urged to protect defenders.

The Committee on the Elimination of Racial Discrimination in 2014 regretted that defenders, especially indigenous and Afro-Honduran leaders, continue to be assaulted and that the authorities repeatedly fail to take action.

The State has been reviewed twice under the UPR process in the reporting period. Submissions from civil society groups condemned the persecution of and attacks on defenders and urged the State to punish perpetrators and compensate the victims. Others expressed concern at legislation which aims to silence defenders and prevent them from carrying out their work.

The situation of human rights defenders in Honduras has also been highlighted in many of the Special Rapporteur's thematic reports. The Special Rapporteur's 2016 report on the situation of environmental human rights defenders was dedicated to defenders who carried out their work despite the dangers, who spoke truth to power and were murdered in cold blood. The report describes how the renowned environmental campaigner Berta Cáceres and her colleague Nelson García from the Civic Council of Popular and Indigenous Organisations of Honduras were murdered one after another in March 2016, for having opposed hydroelectric dams in the sacred Gualcarque river basin.

The Special Rapporteur's 2014 report on the elements necessary for defenders to work in a safe and enabling environment urged the State to make sure the rights of the Declaration are incorporated into domestic legislation.

In her 2013 report the Special Rapporteur looked at the relationship between large-scale development projects and the activities of human rights defenders. Country visits had made clear the danger to the lives of defenders protesting against such projects in Honduras and in 2012 the Special Rapporteur was told of violations committed by both the authorities and private security firms against defenders working for the rights of indigenous communities.

The 2012 report on the specific risks and challenges faced by selected groups of defenders noted that Honduras received the second highest number of communications in the region regarding human rights violations committed against journalists and media workers with journalists working on land and environmental issues at particular risk.

The 2011 report on women human rights defenders and those working on women's rights or gender issues stated that Honduras was one of the countries that received communications from the Special Rapporteur regarding killings and attempted killings of women defenders. Sexual assaults, including instances of gang rape in detention of LGBT activists, were also reported in Honduras.

The 2009 report on the right to freedom of association urged the State to protect those exercising this right and to punish those violating it.

In recent Special Procedures reports other UN mandate holders have also conveyed concern regarding the situation of human rights defenders in Honduras.

The Special Rapporteur for extra-judicial killings reported on the murders, disappearances and kidnappings of human rights defenders, noting that 22 defenders were killed between 2010 and 2015, including 14 who had been awarded precautionary measures by the IACHR. The Special Rapporteur reiterated that Honduras has become the most dangerous country in the world for land and environmental defenders.

The 2016 report of the UN Special Rapporteur on the rights of indigenous people confirmed the increased risk of violence incurred by becoming a human rights defender and was extremely concerned that indigenous leaders and defenders were being killed despite IACHR requests for protective measures and despite the 2015 law on the protection of human rights defenders. The Special Rapporteur was worried by the strong presence of the army and the military police in the country and the evidence of the collusion of the police and the armed forces with private or business interests, including organised crime groups, in indigenous territories.

The Special Rapporteur on violence against women reported in 2015 that human rights defenders, particularly those working on issues linked to land claims, environmental protection and the rights of minorities, face numerous challenges, including harassment, intimidation and reprisals related to their activities.

The Special Rapporteur on the situation of human rights defenders has made two official visits to Honduras in the reporting period. In 2012 the Special Rapporteur concluded that human rights defenders face many challenges and dangers. Her report highlighted the climate of violence and insecurity and the violations committed against human rights defenders with the authorities responsible for many of these violations. The Special Rapporteur observed that some human rights defenders are at particular risk, including those working on economic, social and cultural issues, defenders of indigenous, Afro-Honduran, environmental and land rights issues, defenders of the rights of women and children, and defenders of sexual orientation and gender identity rights. Others at high risk are journalists, lawyers, prosecutors and judges, and the staff of the National Commission for Human Rights. The Special Rapporteur urged the State to protect defenders and to end impunity.

In 2018 the Special Rapporteur visited Honduras in what he referred to as a climate of “extreme violence”. The Special Rapporteur reported receiving testimonies of arbitrary arrest, ill-treatment by the police and army, the deaths of protesters, and mass arrests and detention, and was particularly concerned about the widespread criminalisation of defenders.

In the last five years almost half of the Special Rapporteur’s communications have been sent to the Americas with Honduras receiving more than any other State in the region. Many of the communications concern the killing of defenders. Each time the Special Rapporteur has expressed concern at the dangerous environment in which human rights defenders work and has condemned the killings, attacks, harassment and defamation of defenders which take place in a climate of growing violence and insecurity. In the communications the Special Rapporteur has asked the State to review and improve protection, to investigate attacks, and to deal with the continuing impunity.

The annual report of the UN High Commissioner for Human Rights on the human rights situation in Honduras urged the State to provide a safe and enabling environment for human rights defenders and women defenders, to investigate and prosecute attacks on defenders, to consider requesting support from regional or international mechanisms in the investigation of the murder of Bertha Cáceres, and to refrain from sanctioning the work of defenders through criminalisation.

The UN Assistant Secretary-General for Human Rights visited Honduras in July 2017 and expressed deep concern for the violence facing human rights defenders. He emphasised the urgency with which protection must be put in place.

All human rights defenders in Honduras face violence, intimidation and threats but perhaps none more so than those who fight for land, indigenous and environmental rights. Nowhere are defenders and community leaders more likely to be killed for opposing the destruction of the environment than Honduras and the violence faced by these defenders is overwhelming. Those who have protested against dams, mines, logging or agriculture have been threatened, attacked, accused of being terrorists or criminals, imprisoned and even murdered. The perpetrators of some of these violations are landowners, large corporations, State forces and security guards. Defenders with the Lenca Independent Indigenous Movement for Peace (MILPAH in Spanish) have been challenging the consultation process for the construction of a hydroelectric plant. Five of its members have been killed in the last few years and many, including pregnant women and children, have been assaulted by police and armed civilians. Others have been threatened, arbitrarily detained and unjustly prosecuted.

Gustavo Castro, human rights defender and friend of Berta Cáceres, noted emphatically: "... (Berta Cáceres) is not the only one, there are so many. Imprisoned, tortured, persecuted, threatened, they've had to leave their families, resisting and defending their land. They're fighting against these projects that are an accumulation of capital and land. It's the most dangerous work there is."

Defenders of sexual orientation and gender identity rights also have to contend with violence and attacks. In addition, discrimination means they are the victims of hate crimes, persecuted, prohibited from meeting and live in constant fear of attack. The Special Rapporteur was informed in 2010 that human rights activist Walter Tróchez, who worked to promote and protect the human rights of the LGBTI community, was murdered. René Martínez of Comunidad Gay Sampredrana, Sherlyn Montoya a volunteer with Grupo de Mujeres Transexuales, Paola Barraza and Erick Martínez Ávila are all defenders of sexual orientation and gender identity rights who have been murdered. David Valle, of the Centre for LGBTI Cooperation and Development, survived an attempt on his life following numerous death threats.

The Special Rapporteur has previously noted that women defenders are more at risk of certain forms of violence and violations than male defenders, mainly due to the fact that women defenders are perceived as challenging accepted sociocultural norms, traditions, perceptions and stereotypes about femininity, sexual orientation and the role and status of women in society, which often serve to normalise and perpetuate forms of violence and oppression.

The situation for the media has worsened steadily for the past decade and Honduras is now one of the most unsafe countries for journalists in the Western Hemisphere. Journalists face great risks if they report on human rights violations, corruption and impunity, or if they criticise those in power. Journalists are harassed, threatened, criminalised and physically attacked, and legal proceedings result in many journalists being sent to prison. Journalist

Félix Molina survived an attempt on his life after reporting on the murder of Berta Cáceres. Carlos William Flores was shot and killed after a television programme he directed criticised businesses linked to deforestation. Ariel Armando D'Vicente was sentenced to three years in prison and banned from practising journalism for three years after reporting on police involvement in criminal groups. 25 journalists were murdered between 2014 and 2016 and no one has been punished for 91% of killings of journalists since 2001. This endemic impunity unsurprisingly leads to self-censorship.

In the words of Itsmania Platero, human rights defender, rights of children and young people: "Our freedom of expression in Honduras is completely repressed. We have been the constant victims of a systematic campaign of persecution, not only for our ideas but also for the work we do. People have been stigmatised for the way they dress, the way they behave, even the way they think. As journalists we are unable to disclose or to say everything we wish to."

4. Issues and Trends

In 2018 Honduras remains the most dangerous country in the world to be a human rights defender, especially for those working to protect land, territory and the environment. The rights of the Declaration are not guaranteed and defenders are targeted by both state and non-state actors, criminalised, subjected to smear campaigns to discredit their work and regularly face intimidation, threats, attacks and murder. Most attacks against defenders are not investigated and go unpunished.

The Special Rapporteur urges the State to protect human rights defenders and to provide them with a safe and enabling environment in which to carry out their legitimate work. The Special Rapporteur also recommends that the role of human rights defenders should be promoted and not criminalised and in particular this should be communicated to the security forces.

The State is also urged to address the continuing impunity received by those committing violations against human rights defenders. Threats, intimidation, harassment, attacks and murders must be investigated, prosecuted and punished.

Jamaica

1. National Context and Human Rights Defenders

Jamaica gained independence from Britain in August 1962 and is part of the Commonwealth. It is a constitutional monarchy, and legislative power belongs to the Parliament of Jamaica. The Jamaica Labour Party has held power under Prime Minister Andrew Holness since March 2016. Immediately after independence there was steady economic growth and although this has waned in recent years, Jamaica is an upper-middle income country.

Key social challenges include poverty, a high murder rate, police violence, homophobia and transphobia, homelessness, rape, and other forms of sexual violence and abuse. Sexual activity between men is criminalised by a law created under colonial rule and both men and

women presumed to be homosexual face violence and harassment. Severe and widespread homophobia means defenders of sexual orientation and gender identity rights are vulnerable.

Jamaica was included in the 2006 Global Survey, however, information was drawn from the Special Representative's 2003 visit as the State did not provide a response to the survey. The Special Representative observed that there was vibrant public debate, free media and well-established NGOs in Jamaica. However, there were high rates of violent crime and the Crime Management Unit (CMU), which had been created to investigate the most violent crimes, had itself been accused of extrajudicial killings.

2. Legal and Policy Framework

Jamaica is party to seven core human rights treaties but has yet to sign the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and International Convention for the Protection of All Persons from Enforced Disappearance. Treaty bodies have not made any comments in regard to human rights defenders during the reporting processes.

Jamaica is a founding member of CARICOM, which has a charter on civil society, protecting the rights of groups including indigenous people, people with disabilities, women and children. It also protects the rights to freedom of assembly, association and expression. Jamaica is also a member of the Organisation of American States.

There is no national human rights institution in Jamaica though work is underway for one to be established. Jamaica does not have a policy or law on human rights defenders or a national protective mechanism.

3. Implementation of the Declaration

There are many examples of good practice around defending human rights in Jamaica. Freedom of expression is respected and the media is one of the most open and free in the world. The popular press discusses human rights defenders openly and tends to cover the same stories as the international press. The defamation law was overturned in 2013. While women and members of the LGBTQI* community face discrimination, there have been some positive steps. In 2017 Jamaica refused to allow Pastor Steven Anderson into the country due to his homophobic and other offensive comments, and impressively Jamaica has the highest proportion of women managers in the world.

Despite these positive features, many defenders do not feel that they are protected by the police. Indeed, they are harassed and intimidated when they campaign against police brutality and violence. Widespread homophobia means defenders of sexual orientation and gender identity rights face harassment, stigmatization and hostility.

During the reporting period there has been only one communication between the Special Rapporteur and Jamaica. The State has been reviewed twice under the UPR process. Civil society organisations recommended that a national human rights institution be established and that the State respond to the Special Rapporteur's request for a country visit.

The last country visit from the Special Rapporteur took place in 2003. In 2012, the Special Rapporteur requested another visit but regrets that he is still awaiting a response from the State.

4. Issues and Trends

Since the previous Global Survey, Jamaica has retained a positive record in many ways. The State has had almost no communication with the Special Rapporteur, ratified two more core treaties, has not featured extensively in annual reports from international human rights organisations, and the press operates freely and safely. The Special Rapporteur urges Jamaica to ensure all human rights defenders are able to operate in a safe and enabling environment. A key step in the further development of good practice in Jamaica will be the establishment and sufficient resourcing of a national human rights institution in accordance with the Paris Principles and with the situation of human rights defenders as a key feature of its mandate.

Mexico (the United Mexican States)

1. National Context and Human Rights Defenders

Mexico is a federal presidential republic, with 129,499 million inhabitants. It is composed of 32 federal states, including, since 2017, the capital, Mexico City, which hosts the federal powers. Legislative, executive and judicial powers are divided along federal and state lines.

Mexican politics were dominated for 70 years by the Institutional Revolutionary Party, or PRI. Elections held in 2000 marked the first time since the 1910 Mexican Revolution that an opposition candidate - Vicente Fox of the National Action Party (PAN) – had defeated the PRI. In July 2018, presidential elections were held, in which the candidate of the coalition “Juntos Haremos Historia” (Together We Will Make History), was elected president.

Mexico is the fifteenth largest economy in the world, and the second largest in Latin America. It is an upper middle income economy and yet over 40% of the overall population lives in poverty. Poverty and high unemployment have led to the decomposition of the social fabric of Mexico and to some of the poorest and most disaffected joining paramilitary groups in the service of the State.

Mexico was included in the Global Survey of 2006. The Survey reported that human rights defenders had faced death threats, intimidation, surveillance, harassment by former police officers, rape, kidnapping and assault. The Special Representative also expressed concern about reported cases of human rights violations against staff of the NHRI.

The Special Rapporteur would like to thank the State and the national human rights institution in Mexico for their submissions to this report.

Since the Global Survey of 2006, the level of violence in Mexico has increased alarmingly. The “war on drugs” has led to the loss of more than 200,000 lives, tens of thousands of

disappearances and massive displacement. The State's response to the violence has been to increase the role of the armed forces which has resulted in even more violence and gross human rights violations including unlawful killings, disappearances, torture, arbitrary arrest and detention, intimidation and death threats. Many of these violations have been carried out by the authorities with complete impunity.

In this climate of insecurity, harassment, threats and corruption human rights defenders face increasing levels of aggression. Those most at risk are community defenders, indigenous and Afro-Descent leaders, women human rights defenders who are exposed to threats and attacks of a sexual nature, defenders of sexual orientation and gender identity rights, protesters, lawyers, journalists, defenders working on enforced disappearances, extrajudicial executions and torture, environmental defenders, and those defending the rights of migrants and their families.

2. Legal and Policy Framework

The State is party to all nine core international human rights treaties and to nine of the twelve human rights treaties on the Inter-American System, including the American Convention on Human Rights. The State has not signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights or the Optional Protocol to the Convention on the Rights of the Child.

Three laws restricting the right to freedom of expression were repealed in 2017 although the "Crime against Honour" is still in many states' penal codes.

Article 102-B of the Mexican constitution provides the legal foundation for the creation of human rights protection agencies by the Federal Congress. It also considers independence for these agencies, and guarantees management and budgetary autonomy.

In 2012, Mexico enacted the Human Rights Defenders and Journalists Protection Act which led to the Mechanism to Protect Human Rights Defenders and Journalists. The aim of the Mechanism is to implement prevention and protection measures that guarantee life, integrity, freedom and security of human rights defenders and journalists. There is a Special Prosecutors Office for attacks committed against defenders.

In 2017 the Forced Disappearance Law was approved to address the consequences of disappearances and to meet the needs of victims and their families. A national search commission will be established and a national registry of disappeared people created. Harsh penalties have been introduced for those involved in the crime of forced disappearance.

The national human rights institution (Comisión Nacional de los Derechos Humanos) is fully compliant with the Paris Principles and the GANHRI Statute. Mexico is one of the 51 founding members of the United Nations. It is also a member of the Organisation of American States (OAS), and has been part of the Inter-American System of Human Rights since 1981, when the State became party to the American Convention on Human Rights.

3. Implementation of the Declaration

In Mexico the Declaration is recognised on paper but in reality the rights of the Declaration are not always upheld by the State. The rights to freedom of expression and opinion are limited and the right to protest is repressed. Criminalisation is a strategy often used to undermine the work of defenders who face killings, enforced disappearances, kidnappings, torture, threats, assaults, harassment, intimidation, surveillance, communication interception, inadequate implementation of the protection mechanism, laws that criminalise defenders, and attacks from state and non-state actors,

The State accepted all recommendations made during the UPR of 2009 which included ensuring protection and recognition of human rights defenders, proper investigation and prosecution of attacks or threats, and prevention of attacks on defenders.¹³⁸ In the UPR of 2013, the State reported that the Human Rights Defenders and Journalists Protection Act had entered into force in June 2012. The Human Rights Defenders and Journalists Protection Mechanism had been established and had received 87 applications (35 from journalists and 52 from human rights defenders), between November 2012 and June 2013. The launch of an early warning system for threatened attacks was also reported.¹³⁹

The Special Rapporteur conducted a country visit to Mexico in January 2017 to assess the situation of human rights defenders. He met with more than 800 defenders from 24 states, from indigenous communities and from across civil society, including lawyers, journalists, and representatives of NGOs.¹⁴⁰ In his subsequent report, he highlighted widespread violence, criminalisation, intimidation, harassment, stigmatisation, and widespread and persistent impunity, as the main obstacles for the work of human rights defenders in Mexico. The Committee against Torture's report of 2015 highlighted similar violations in the form of intimidation and harassment.

After its introduction in 2012 the Protection Mechanism for Human Rights Defenders and Journalists made good progress with the introduction of bodyguards, panic buttons, and other protective measures and between 2012 to 2017 accepted 513 requests for protection. However, the mechanism lacks sufficient personnel and financial resources. Protective measures are not properly implemented, such as panic buttons with no response capacity, and the protection measures assigned are not always appropriate for the risks defenders are facing, for example using the police to protect defenders when they are often the reason the person needs protecting. Coordination of protection between the different levels of the State remains a challenge. In August 2017 Cándido Ríos Vázquez was the first journalist to be murdered despite being under the protection of the mechanism. Defenders have also noted that the protective mechanism is not well-equipped to ameliorate the underlying causes of risk.

Many states in Mexico have introduced legislation to regulate public protests, including allowing the police to use force to break up demonstrations. Recent structural reform in some

¹³⁸ A/HRC/11/27

¹³⁹ A/HRC/25/7

¹⁴⁰ A/HRC/37/51/Add.2

states has increased poverty which in turn has led to a strong social movement that has exercised the right to protest. The State has responded with a strategy of political repression and social control through terror. The Special Rapporteur on the freedoms of peaceful assembly and association has urged the State to ensure a safe environment, free of harassment of any sort.

Unless it is through government institutions and processes, it is difficult for defenders to develop or discuss new ideas about human rights. The Special Rapporteur on freedom of expression has noted that attacks on defenders in Mexico has the effect of silencing dissenting views and expressions by those who exercise their right to freedom of expression or freedom of peaceful assembly and association. The right to freedom of opinion and expression is limited when discussing human rights violations in general but the mention of specific officials or the armed forces will usually be followed by threats, aggression and even execution. These violations almost never result in investigations, even though it is well known that this is the modus operandi of the authorities.

The danger to human rights defenders was exacerbated in 2016 by a targeted smear campaign in the media. Human rights defenders and civil society organisations were accused of fraud and corruption, of being defenders of criminals and of fabricating claims of torture. National and international organisations involved in the case of the forcibly disappeared students of Ayotzinapa have also had their work discredited.

In another worrying development, evidence has emerged that spyware purchased by the State to investigate criminals and terrorists was used in surveillance of journalists and human rights defenders, including the lawyers investigating the disappeared students.

The situation is becoming increasingly dangerous for human rights defenders in Mexico. 285 attacks on defenders were reported during the first 10 months of 2017, including instances of harassment, assault, robbery and crime. Civil society data indicate that 730 human rights violations were committed against human rights defenders from January to May 2017.¹⁴¹ documented At least 120 journalists were killed in Mexico between 2000 and 2016. Photojournalist Ruben Espinosa was killed in August 2015 with four others, one was the human rights defender Nadia Dominique Vera Perez. All had been tortured before being killed by a single gunshot to the head.

Their work in the context of extractive, energy or infrastructure mega-projects makes defenders of indigenous, land and environmental rights extremely vulnerable. Fifteen makingfourth. FifteenLocal NGOs report that 40% of attacks on defenders are on indigenous defenders.

As highlighted in the Special Rapporteur's recent report on the situation of defenders of people on the move, defenders of the rights of migrants and refugees face risk from organised crime, gangs, and drug traffickers. Private security firms hired by the State to protect the railways have committed human rights violations against those defending migrants making perilous train journey to the US. The Special Rapporteur has received a number of

¹⁴¹ A/HRC/37/51/Add.2

communications concerning the situation of human rights defenders. In recent years, these communications have raised many of the concerns outlined above, including the murder of human rights defenders, ongoing legislative developments noted above, and the particular difficulties faced by defenders of indigenous, land and environmental, sexual orientation and gender identity, and labour rights.

Despite the Law of Forced Disappearance, the relatives of the executed and the disappeared who fight for justice, truth, memory and reparation do so at great risk to their own lives.

Perhaps the most serious obstacle to the implementation of the Declaration in Mexico is the staggering level of impunity. An estimated 98% of all crimes remain unsolved with the great majority of them never properly investigated. Mexico ranks sixth on the Global Impunity Index, just below Somalia and Syria. Attacks on human rights defenders are not investigated or prosecuted and when perpetrated by the State defenders may suffer forced disappearance and extrajudicial execution. High collusion rates between the authorities and organised crime groups means many violations go unreported due to a lack of trust and the fear of retaliation.

Nevertheless there have been some examples of good practice. In 2017 the Programme of Grievances to Journalists and Civil Defenders of Human Rights (Programa de Agravios a Periodistas y Defensores Civiles de Derechos Humanos) attempted to raise awareness through conferences and training of public servants as part of a campaign entitled “So that one day we do not have to be human rights defenders.” Unfortunately this work was not endorsed by State.

4. Issues and Trends

There is an overall consensus nationally, regionally, and internationally on the severity of the human rights situation in Mexico. The former United Nations High Commissioner for Human Rights has said that the fear, greed and chronic impunity in Mexico have created misery impossible to comprehend with many of the enforced disappearances and extra-judicial killings alleged to have been carried out by federal, state and municipal authorities, including the police and the army.

The State should publicly recognise that defending human rights and victims of violations of human rights is not only legitimate but fundamental work. The Special Rapporteur recommends the State undertake an extensive campaign to decriminalise and destigmatise the work of defenders, and to raise awareness among the general population and public servants of the important work of human rights defenders.

The rise in attacks on human rights defenders and the prevalence of impunity despite protection laws show that laws alone are not enough. Their implementation must be adequately resourced and they must be supported by the State. The State is urged to solve the enforced disappearance case of the 43 students from the Ayotzinapa teacher-training college. This could have a positive impact on similar cases if it is solved as a result of a comprehensive investigation and the perpetrators convicted. The Special Rapporteur continues to be impressed by the resilience of human rights defenders and their courage in seeking truth, justice and reparation.

Nicaragua

1. National Context and Human Rights Defenders

The introduction of changes to the social security system by the State in April 2018 led to demonstrations which were violently repressed with the loss of hundreds of lives. This political unrest has escalated over recent months with police and armed gangs loyal to the State clashing with anti-government protesters. The violence and loss of life has resulted in thousands fleeing to neighbouring States, in particular Costa Rica.

The State blames protesters for the conflict, claiming they are trying to destabilise the country and bring about a coup d'état. It accuses the demonstrators of being manipulated by gangs and of having the backing of the United States. The protestors demand the end to what they see as an increasingly dictatorial government, led by a president who has consolidated his influence through nepotism. Many fear that the current uprising may return Nicaragua to civil war.

Nicaragua was included in the 2006 Global Survey, although the State did not make a submission. A key point from the report was that the relationship between defenders and authorities was inconsistent. Some areas of government were reportedly open to dialogue and consultation, while others were accused of defaming defenders, portraying them as rebels, terrorists and defenders of criminals.

2. Legal and Policy Framework

Nicaragua is party to the core international human rights treaties but has not ratified the Optional Protocol to the Convention on the Elimination of Discrimination against Women. Nicaragua is a member of OAS. Nicaragua does not have legislation addressing the situation of human rights defenders.

The national human rights institution (Procuraduría para la Defensa de los Derechos Humanos) has been criticised as ineffective and politicised and has recently been downgraded to partially compliant with the Paris Principles and the GANHRI Statute.

Nicaragua does not have a national law or policy on human rights defenders or a national protective mechanism.

3. Implementation of the Declaration

Defending human rights in Nicaragua has been criminalised and stigmatised for many years in what has been highlighted as a climate of intimidation, violence, repression and insecurity resulting from the systematic erosion of human rights. The recent crisis has made the situation for human rights defenders so dangerous that many have been forced to flee the country. Human rights violations documented include the disproportionate use of force and extrajudicial killings by the police, disappearances, widespread arbitrary detentions and

torture, and violations of the right to freedom of opinion and expression, and of peaceful assembly.

The 2016 report from Committee on Migrant Workers reminded the State to ensure defenders are protected. The Committee against Torture report of 2009 noted allegations of systematic harassment of defenders, including death threats, with women defenders particularly targeted, and expressed concern at the constraints that limit the right to freedom of association. Submissions to the 2014 Universal Periodic Review noted that the environment for defenders remained hostile, and alleged that government-supported media campaigns had sought to discredit defenders.

Women human rights defenders and organisations are particularly vulnerable. They have suffered death threats, arbitrary detention and attacks with the complicity of State officials. Indigenous and environmental defenders have also been victims of death threats, intimidation, harassment and attacks, in particular those who have opposed the construction of the canal. According to defender Carme Clavel Arcas, “there’s a stigmatisation or criminalisation of women defenders. Especially women defenders of land and territory... they’re the most threatened, the most criminalised, the most often murdered.”

Lottie Cunningham Wren is a land rights defender and a defender of the rights of indigenous peoples, a founder of the Center for Justice and Human Rights of the Atlantic Coast of Nicaragua (CEJUDHCAN) and a leading human rights lawyer. Her work defending the land rights of indigenous peoples has resulted in her being attacked, receiving death threats and intimidating phone calls. Francisca Ramirez Torres, a rural community leader and defender of land rights, has also received death threats, both to her and to her family. Ramirez said, “it’s been a sad struggle, because we’ve faced imprisonment and death threats, and they’ve taken away our means of making a living. They’ve locked us up, they try to buy us off ... We’ve faced serious risks to our lives. But we also know that if we didn’t raise our voices and risk our lives, no one else would.”

Journalism in Nicaragua is stigmatised, with journalists often suffering harassment, arbitrary arrest and death threats. Radio stations have been closed and various forms of repression and intimidation have led to self-censorship. Journalists reporting on the current protests face particular danger and suffer the same risks as the demonstrators. To avoid censorship and the restrictions on freedom of information some journalists have resorted to using social media to report. Earlier this year Angel Eduardo Gahona was shot in the head and killed while reporting on a protest using Facebook Live as local broadcasting had been closed down. His wife has since received death threats to dissuade her from pursuing the case.

Civil society organisations face significant administrative hurdles, foreign funding has been restricted and unannounced audits obstruct legitimate work, thus creating problems in guaranteeing the right to freedom of association. The space for civil society has become more and more limited and continuing intimidation has created a climate of fear. While the constitution provides for freedom of opinion and expression the State has limited the exercise of these rights, for example by criminalising dissent as libel and slander. The right to access funding is restricted by controls on funding from foreign donors and by the requirement for NGOs to have National Assembly accreditation to receive donations.

The Nicaraguan Centre for Human Rights (CENIDH) is a member of the Latin American Human Rights Network whose president has worked in the field of human rights for more than 50 years and is a former president of the Central American Commission for Human Rights. She has been intimidated and threatened by the State but has managed to maintain the independence of the organisation. The Special Rapporteur is concerned to hear that CENIDH has been forced to close its offices due to death threats to staff.

The current situation in Nicaragua has made life even more dangerous for all human rights defenders. This includes paramedics who help injured protesters, bishops and priests attempting to prevent the violence, journalists reporting on the protests, and students involved in the demonstrations. The UN High Commissioner has urged the State to recognise the seriousness of the situation and to take steps to prevent further loss of life.

Almost every year between 2007-2017, the Special Rapporteur sent communications to Nicaragua. The most recent have concerned allegations that excessive force was used to break up peaceful protests against the construction of the Grand Inter-oceanic Canal with defenders arbitrarily detained and accused of terrorism. Defenders are concerned by the State's response to their legitimate work in protesting against the canal. Mónica López Baltodano, a lawyer for the peasant farmers' movement, has said, "the only response from the government has been criminalisation, repression, intimidation of leaders... And little by little, the rest of the country is realising that this canal concession really tramples all citizens' most basic human rights."

4. Issues and Trends

The Special Rapporteur is extremely worried about the current crisis that is affecting all Nicaraguans, and is especially concerned about reports of torture, enforced disappearances and extrajudicial killings, and by death threats to human rights defenders including priests who have condemned the violence. The State is urged to guarantee the right to protest, freedom of expression and peaceful assembly and to ensure protesters and those treating the injured are protected.

The Special Rapporteur calls upon the government to bring an immediate end to the harassment, intimidation and criminalisation of human rights defenders, to stop unlawful arrests and to release all those who have been arbitrarily detained. He recommends that the government urgently addresses impunity and seeks justice for victims.

Panama

1. National Context and Human Rights Defenders

Panama was included in the 2006 Global Survey, although the Special Representative did not receive sufficient information for a full evaluation. At the time, laws restricting freedom of expression had been abolished, but some journalists had still been the victims of libel and slander.

Human rights defenders in Panama fare better than in other countries in the region but many are still the victims of harassment, intimidation and threats. The excessive use of force by the police and security services has led to many demonstrators being injured and some killed. Indigenous, land and environmental rights defenders protesting against construction projects face great danger.

Journalists are generally safer in Panama than other States in the region but risk legal action if covering corruption or criticising the government.

The national human rights institution (Defensoría del Pueblo) is fully compliant with the Paris Principles and the GANHRI Statute.

2. Legal and Policy Framework

Panama is party to six of the core international human rights treaties but has not ratified the Conventions on torture or migrant workers. Panama is a member of Organisation of American States and party to the American Convention on Human Rights.

Freedom of assembly, association and expression are all constitutionally permitted, but caveats mean that in practice they are restricted. For example, the right to freedom of association can be restricted if associations are deemed “contrary to morality or law”, and a law protecting the “reputation or honour of individuals” restricts freedom of expression.

The Special Rapporteur welcomes plans by the Human Rights Ombudsman to introduce a system or mechanism of protection for human rights defenders to ensure they can work without risk.

3. Implementation of the Declaration

A key concern for defenders in Panama is that while the rights of the Declaration are covered by the constitution, other legislation allows these rights to be withheld. The right to protest has repeatedly been repressed as current and previous governments have applied excessive police force to suppress public gatherings, especially of indigenous populations. There have been credible allegations of rape and sexual assault of women and girls detained following indigenous peoples’ demonstrations. Large scale development projects were the source of many allegations of violations of rights by indigenous people.

Human rights defenders and journalists in Panama face smear campaigns, policy brutality, restrictions on freedom of association and expression, and death threats. Labour rights defenders have reported harassment, persecution and repression and defenders of the rights of asylum seekers have been accused of sheltering drug traffickers.

Human rights defenders most at risk in Panama are those defending land and environmental rights from the threats caused by large-scale construction projects, logging, intensive farming and hydroelectric projects. Environmental defenders have been victims of imprisonment, intimidation, harassment and death threats. Woman human rights defender Ligia Arreaga was threatened with murder in 2016 and fled the country as a result. Large companies are

intimidating defenders of land rights by taking out lawsuits against them. In 2016, Larissa Duarte was sued for \$10million by a hydroelectric company for her opposition to their project. Magaly Castillo of the Citizens' Alliance for Justice (Alianza Ciudadana Pro Justicia) calls this judicial harassment: "The new form of harassment of human rights defenders in Panama is judicial harassment. It's a case of people facing lawsuits, some for millions of dollars, for their environmental activism or defence of human rights."

In the most serious cases, defenders have lost their lives. Three environmental defenders were killed while protesting against the Barro Blanco dam, and a further two were murdered for opposing concessions to foreign mining companies. In October 2017 the anti-extractive group *Movimiento Mesoamericano contra el Modelo Extractivo Minero* (M4) recorded a long list of cases of persecution of defenders in the previous eight years and concluded that where extractive projects are carried out the area becomes militarised, social protest is criminalised and people's demands are ignored.

Indigenous rights protestors have been attacked and their right to peaceful assembly repressed. As in other Central American countries, it is often indigenous women who lead their communities in the fight against development, mining and other projects which threaten the environment. In 2012 indigenous women protesting against the Barro Blanco dam reported rape, sexual abuse, rape of minors, and physical, psychological and sexual torture by the authorities. Indigenous human rights defenders have also accused the police of using deadly force, torturing community leaders, destroying property, land and homes, and physical and verbal abuse.

Journalists in Panama have been prosecuted and convicted of libel and defamation for criticising politicians and exposing cases of corruption.

The work of civil society organisations is made more difficult by high costs, over-complicated processes and excessive government discretion. They are further challenged by restrictions supposedly to prevent terrorism and money laundering, and by smear campaigns and false accusations.

Several communications were sent to the State in 2011. The Special Rapporteur was particularly concerned by the intervention of security forces in a demonstration by plantation workers in which five protesters died and 150 were injured. There was no response to the communications. Ten cases were reported to IACHR in 2017, representing a systematic increase in the intimidation of human rights defenders.

4. Issues and Trends

The Special Rapporteur recommends that the State improve consultation processes with indigenous people affected by development projects, and give greater consideration to environmental rights and human rights when considering new projects. The Special Rapporteur also recommends that the targeting and persecution of indigenous defenders is halted, and their right to protect the environment is respected. The State is urged to guarantee its citizens all the rights of the Declaration, in particular the right to protest, and the right to freedom of opinion and expression.

North America

Canada

1. National Context and Human Rights Defenders

In 2015, a new government was elected headed of Prime Minister Justin Trudeau. Trudeau's Liberal Party was elected on the basis of a platform that included a renewal of Canada's commitment to human rights in Canada and abroad.

Officially bilingual, Canada has pursued a policy of "multiculturalism", leading to a broad popular consensus about the social and economic importance of immigration. The lengthy history of European settlement in and subsequent international immigration to Canada has led to the disenfranchisement and social and economic marginalisation of indigenous peoples. In recent years, the government has committed itself to achieving reconciliation through a "renewed nation-to-nation relationship with Indigenous Peoples".

Canada is home to a large, well-organised and vibrant civil society. A number of civil society organisations focus on the situation of human rights defender, though most commonly outside of Canada. Defenders in Canadian media are generally portrayed sympathetically, with the removal of Aang San Suu Kyi from a Canadian human rights museum after her leadership during humanitarian crisis facing her country's Rohingyas making it to national Canadian newspapers. The State has recognised the protective value of a human right awards, though in recent years the use of such prizes has been marred by political in-fighting between political parties over the naming of such awards.

However, while there is significant coverage and support of human rights issues abroad, human rights defenders working within Canada often lack visibility and are rarely described (or describe themselves) as human rights defenders. It is generally safe to be a human rights defender in Canada, and there are constitutional guarantees protecting the defence of human rights. However, defenders from socially marginalised groups, defenders working against the traditions of their community, and defenders pursuing untraditional tactics can face criticism and isolation. Environmental human rights defenders have also faced harassment and arrest.

Canada was not included in the 2006 Global Survey.

2. *Legal and Policy Framework*

Canada is party to most core international human rights treaties, with notable exceptions including the Optional Protocol to the Convention Against Torture and the Convention on the Rights of Migrant Workers and Members of their Families. In 2017, the State became party to International Labour Organisation Convention 98 (The Right to Organize and Collective Bargaining Convention) protecting labour rights defenders anti-union discrimination and job termination for participating in union activities.

Although, as a member of the OAS, Canada is subject to the American Declaration of the Rights and Duties of Man, it has not become party to the American Convention on Human

Rights. UN treaty bodies and the UPR process have continuously highlighted the adverse situation of Indigenous peoples. In 2015, the Inter-American Commission on Human Rights held an inquiry into the murders and disappearances of Indigenous women and girls. The Committee on the Elimination of Racial Discrimination has suggested that the State should implement policies to combat hate crimes and rhetoric, particularly against African-Canadians, Muslims and Jewish individuals.

The Charter of Rights and Freedoms guarantees freedom of conscience and religion; freedom of thought, belief, opinion and expression, including freedom of the press, freedom of peaceful assembly and freedom of association.

Anti-terrorism legislation introduced by the State has restricted the effective freedom of expression of defenders and reduced their right to privacy. For example, the Anti-terrorism Act, 2015 (also known as Bill C-51) broadened the authority of Canadian government agencies to share information about individuals and groups and significantly extended the scope of activities of the Canadian intelligence agency. Defenders have expressed concern that the legislation will silence defenders expressing controversial points of view and be used to discriminatorily target defenders of indigenous rights, environmental defenders, and members of the Muslim community.

Canada adopted guidelines on human rights defenders in 2016 which outline how the State should support defenders at risk abroad. As indicated by the department issuing the guidelines, Global Affairs Canada, the operative guidance focuses exclusively on defenders abroad. Having said that, the Guidelines importantly detail what should happen when the challenges facing defenders directly impact other Canadian interests and entities, such as when the defender is Canadian; when the case involves a Canadian entity; or when a defender leaves his or her home country and seeks asylum or relocation in Canada. Unfortunately, the recommendation contained in the Guidelines that defenders “register with UNHCR” is unhelpful to defenders at risk in their country of citizenship (and would generally require an unhelpful delay of assistance for those at risk).

Some defenders have a whistle-blower protection through the Public Servants Disclosure Protection Act (PSDPA). However, defenders have suggested that, while well intentioned, the legislation fails to offer protection in practice and is in need of reform.

The State national human rights institution, the Canadian Human Rights Commission (CHRC), is accredited “A” status, in accordance with the Paris Principles. The current operational plan for the CHRC sets as a priority addressing the situation of “human rights defenders across Canada” in the most “vulnerable circumstances.” Most provinces and territories also have human rights commissions, though few of these explicitly seek to address the situation of human rights defenders.

3. Implementation of the Declaration

The rights articulated in the Declaration are generally enjoyed by defenders in Canada, though defenders from several marginalised groups face barriers to the full enjoyment of their rights. Indigenous defenders, defenders of the rights of persons with disability, defenders of the rights of racial and ethnic minorities and defenders of people on the move all face obstacles to the full enjoyment of their rights. Defenders working against the traditions of their community, including women human rights defenders and defenders of sexual orientation

and gender identity rights, and defenders pursuing untraditional tactics can similarly face obstacles, criticism and isolation. Environmental human rights defenders have also faced harassment and arrest.

The social barriers that exclude and marginalise communities from mainstream society have the same effect on defenders of the rights of those communities and defenders from those communities. Indigenous peoples and communities of colour face longstanding discrimination as have Muslim communities. In relation to indigenous defenders, “Project SITKA” investigated and categorised dozens of indigenous defenders based on the perception that they were a threat to national security, highlighting ongoing concerns surrounding the blurring of indigenous land defence and environmental protests with domestic extremism and eco-terrorism. In relation to defenders of the Muslim community, a prominent example was the racially-charged debate over the issue of the public wearing of the niqab during the 2015 election.

According to a variety of sources, freedom of expression of defenders is restricted by the State through its application of charity law. Civil society organisations seeking exemption from taxation and the ability to raise tax-deductible donations are precluded from engaging in significant “political activities” (eg. spending more than 10% of their resources conducting advocacy on “a law, policy or decision of any level of government inside or outside Canada”) restricting their ability to advocate for rights. Canada Without Poverty, an Ottawa-based charity dedicated to the elimination of poverty in Canada, challenged this rule as unconstitutional. While the government has committed to repealing the rule, it has also appealed the decision holding it to be unconstitutional.

Freedom of association is generally respected, through the formal registration processes for civil society organisations vary from province to province. Organisations supporting human rights defenders associated with the State, much like the State’s own human rights awards, have been the venue for significant political infighting. In 2012, the International Centre for Human Rights and Democratic Development (Rights & Democracy), a non-partisan organization created by the Canadian Parliament, was ordered closed by the government after a period of controversy, arising initially from the support by the organisation of civil society organisations and positions in international fora against government policy.

A number of sources reported that defenders of indigenous and environmental rights have faced exclusion from public consultation. Several hydroelectric and extractive industry projects have been given approval by the State without meaningful scrutiny and oversight. A recent example of this troubling practice was the May 2018 decision by the federal government to acquire the Trans-Mountain pipeline as a Crown Corporation, and seek outside investors to complete the expansion (who would also be indemnified for any delays) – thereby insulating the project from challenge by provincial and municipal levels of government. The initial approval of the environmental review of the Trans-Mountain pipeline was recently overturned by the Federal Court of Appeal because of the absence of meaningful consultation with indigenous peoples.

While peaceful demonstrations are legally permitted and generally allowed, there have been notable instances where they have been met with heavy handed police response. Protests related to indigenous land, the meeting of the G-20 protests and student protests have all

resulted in injuries and the arbitrary arrest of protesters. Journalists documenting protests have also been subjected to detention and assault by the police.

Canada is home to a large number of multinational corporations operating abroad in sectors associated with human rights violations, including the extractive and garment industries. In 2014, it introduced an Enhanced Corporate Social Responsibility Strategy to Strengthen Canada's Extractive Sector Abroad and more recently in 2018 created an Ombudsperson for Responsible Enterprise and an Advisory Board on policy. There is no evidence yet that these policies have been implemented in a systematic and transparent manner, including the earlier directive in the Guidelines that embassies deny trade support to companies associated with threats against defenders. Software developed by a Canadian company is being used by governments around the world to block access to independent media outlets, certain religious and political viewpoints, and LGBTQI* related content – infringing the rights of defenders elsewhere.

In recent years, Canada has provided important support to the international refugee regime, including through a substantial public and private commitment to refugee resettlement. However, it remains party to the Safe Third Country Agreement with the United States of America (USA) which precludes asylum seekers from seeking asylum at a land crossing between the two countries. The implementation of the Agreement can deny asylum to defenders seeking asylum without legal status in the USA or force defenders into more dangerous, remote crossings of the border. Canada's Immigration and Refugee Board, a global leader in refugee status determination, also has not issued guidance on nor does its publically reported case law include jurisprudence affirming the qualification of defenders for protection.

The State has been willing to voice concern about the situation of defenders abroad. Recent calls by the State for the release of Samar Badawi, on behalf of family members in Canada, and other women human rights defenders in Saudi Arabia were widely reported by the media in Canada and largely supported by the public. Canada persisted in expressing its concern despite a strident response from the Saudi government, including the expulsion of the Canadian ambassador and the threat of trade sanctions.

4. Issues and Trends

The rights articulated in the Declaration are legally protected and generally enjoyed in Canada. The national human rights commission is currently committed to addressing the situation of human rights defenders. The Special Rapporteur also welcomes the interventions by Canada in international fora, in bilateral discussions, and in its public rhetoric in support of human rights defenders.

The Special Rapporteur commends the State on the development of its guidelines on human rights defenders and its more recent creation of the Ombudsperson. He hopes that the practice of these policies and institutions will reflect the high hopes and commitment to the Declaration that motivated their creation. The Special Rapporteur urges the State to commit to a process of monitoring and review in consultation and collaboration of with human rights defenders within and outside Canada. The State should also more closely monitor the situation of defenders within Canada and discontinue its attempt to uphold a charity law that illegitimately limits the rights of defenders.

The Special Rapporteur notes that the situation of indigenous peoples continues to be difficult and that as it pursues its policy of reconciliation the State should pay particular attention to the rights of defenders of indigenous rights, especially defenders who are themselves indigenous persons. The State must fully commit to recognising the rights of these defenders, including of participation and protest, in relation to decisions concerning large scale development projects and environmental impact assessments. The State should ensure that any review of the Safe Third Country Agreement pays particular attention to the rights of defenders to seek asylum in Canada.

United States of America

1. National Context and Human Rights Defenders

In its most recent national election in November 2016, President Donald Trump was elected; his Republican Party also currently controls both chambers of the legislative branch of government.

The United States of America (USA) is home to a large, well-established and vibrant civil society. Many civil society organisations are well-known to the public, including some domestic and international human rights organisations. In recent years, social movements (often initiated online) have had a significant social and political impact in the USA and around the world, including the Occupy, Black Lives Matter (BLM) and Me Too movements. The peaceful actions of domestic human rights defenders have also been widely reported and are part of popular discussions, including recently the support of athletes for BLM by refusing to stand for the national anthem. Although human rights are often discussed in a more domestic vernacular (as “civil rights” and “Constitutional guarantees”) and the term human rights defender is seldom invoked, the work of human rights defenders has a long and well-known history in the USA and is highly valued and supported by the American public.

Human rights defenders in the USA are generally safe and enjoy strong legislative and judicial protection of the rights. However, public condemnation of some defenders by officials of the State, including President Trump, have effectively restricted the rights of some defenders, including most notably journalists. For example, on 17 February 2017 President Trump tweeted that the “fake” news media is the “enemy of the American people.”

The State has also questioned the legitimacy of peaceful protests and the right to freedom of expression; questions of legitimacy are raised by the State exclusively of defenders opposed to its policies. Journalists, defenders of people on the move, environmental defenders, indigenous rights defenders, and defenders of sexual orientation and gender identity rights are most at risk of their rights being infringed.

The USA was included in the 2006 Global Survey. The Global Survey expressed concern about anti-terrorism laws restricting the right to freedom of assembly and expression and police over-reaction to peaceful demonstrations, such as the firing of rubber-bullets at peaceful demonstrators. Concern was also expressed about the lack of access of defenders to some detention centres and facilities, including those in Guantanamo Bay (Cuba). The Global Survey noted that recent communications with the Special Representative highlighted the impact of these restrictions on anti-war protesters opposed to the Iraq War.

The USA is a member of the Organisation of American States and is home to its Inter-American Commission on Human Rights. In June 2018, the State signaled that it would be withdrawing from the UN Human Rights Council.

2. Legal and Policy Framework

The USA is party to the International Covenant on Civil and Political Rights, Convention on the Elimination of Racial Discrimination, and the Convention Against Torture; it has signed four additional core international human rights treaties but has not ratified them. It has multiple reservations to many of the treaties limiting their implementation. The doctrine of “non-self-execution in American law means that most human rights treaty obligations are not directly enforceable in the USA without authorising legislation.

The Constitution of the USA protects many of the rights articulated in the Declaration. The Constitution’s Bill of Rights guarantees freedom of expression, the press, association and assembly, along with the right “to petition the government for a redress of grievances”. These constitutional guarantees are enforceable by an independent judiciary.

In January 2017, the new administration of the State declared that “[protecting] and supporting human rights defenders is a key priority of U.S. foreign policy.” The State has articulated a range of strategies for supporting defenders abroad through its diplomatic missions, including technical and financial support and public accompaniment of defenders. Its list of strategies includes arranging for “international protection” for defenders at risk though it is unclear how many defenders have benefited from this strategy in light of the State’s recent controversial policies restricting access to visas and its significantly reduced commitment to refugee resettlement. While committing to support defenders abroad, President Trump has also been vocal in its support of the use of violence against defenders by other States, including in the Philippines and the Democratic Peoples’ Republic of Korea.

An unsettling recent trend is for national and sub-national legislation restricting important rights of defenders, including most notably the right to peaceful assembly. The PATRIOT Act first introduced in response to the events of 9/11, increases the ability of the State to place human rights defenders under surveillance and criminalises a very wide range of activities as terrorist (or supporting of terrorism), including the good faith provision of humanitarian assistance. While much recent national security legislation is not targeted at human rights defenders, it is drafted in overly broad terms and has a chilling effect on the ability of human rights defenders and their organisations.

The US Protest Law Tracker of the American civil society organisation International Centre for Not-for-Profit Law has noted that in the past year 31 states have considered 64 pieces of legislation that would restrict the right to protest. At the federal level, the HR 6054 (Unmask Antifa Act of 2018) would impose significant criminal penalties on any protester who wears a mask or other disguise while protesting in a “threatening” or “intimidating” way and recent Executive Orders from President Trump would allow for transfers of surplus military equipment to police departments, further militarising policing and increasing the risk of heavy handed police responses to protests.

The USA does not have a national human rights institution, citing “multiple protections and mechanisms” the rationale for its absence. The State also notes the presence of state, local and tribal human rights institutions.

3. Implementation of the Declaration

While human rights defenders are generally able to operate safely and enjoy the rights of the Declaration, the “war on terror” and the divisive political rhetoric of recent years have combined to restrict the effective enjoyment of rights by defenders. According to numerous sources, journalists, Afro-American defenders, defenders of people on the move, environmental defenders, indigenous rights defenders, and defenders of sexual orientation and gender identity rights are most at risk of their rights being infringed.

Journalists have, under the administration of President Trump, faced a campaign of attacks on their legitimacy by the State. President Trump has labelled the media as being the “enemy of the American people”, “very dishonest” or “fake news,” and accused the press of “distorting democracy” or spreading “conspiracy theories and blind hatred”. The State has also increased its prosecutions of journalists (often resulting in acquittal or the dropping of charges after lengthy delays). Over the past year, there has been a rise in attacks on journalists, including the deadly attack on the offices of the Capital Gazette.

Whistleblowers seeking to expose the rights violations committed by the State face prosecution under legislation, including the Espionage Act, in which no “public interest” exception is allowed. There is no federal “shield law” guaranteeing reporters’ right to protect their sources. Journalists and their devices continue to be searched at the border and some foreign journalists are denied entry into the State after covering sensitive topics abroad and being critical of American policy

In a similar pattern of rhetoric, BLM and environmental and indigenous rights defenders have been labelled as terrorists. In a famous series of remarks, President Trump equated Neo-Nazi protesters with other peaceful protesters.

Afro-Americans (or Black Americans) continue to face racism and racial profiling by the State. The High Commissioner for Human Rights has recently expressed concern about ‘structural racial discrimination’ in the USA, resulting in a lack of guarantees for black people to fully enjoy their human rights. The shooting deaths of Afro-Americans by the police have frequently prompted mass demonstrations, often met with heavy handed police responses. In this context, defenders of the rights of Afro-Americans (including Afro-Americans themselves) have faced police brutality, arbitrary arrest and detention, and the lack of access to independent complaint mechanisms.

Defenders of people on the move face high risks, particularly if they are non-citizens or without immigration status. The policies of President Trump with respect to migration have sparked fierce and often divisive popular, political and legal debate. Defenders without immigration status have been specifically targeted as a result of their activism, including Eliseo Jurado and Maru Mora-Villalpando who were arrested as a result of newspaper coverage of their activism. In June 2017, the U.S. Border Patrol raided a humanitarian aid group’s base camp along the U.S.-Mexico border, arresting four men who had crossed into the U.S. and were receiving medical treatment from the group. The Special Rapporteur on the right to freedom of association noted after a country visit that, defenders working on labour rights, especially those of migrant workers faced restrictions on the right of workers organise, particularly in those states that have enacted “right to work” laws.

Defenders of sexual orientation and gender identity rights have faced harassment and stigmatisation. On January 2017, the State introduced a “global gag rule” that prevents

American funding from being used by any organisation that performs or actively promotes abortion as a method of family planning” overseas – regardless of whether the funding in question was linked with abortion. As the largest funder of sexual and reproductive health in the world, the rule in effect limits the resources available to defenders working overseas based on their willingness to adopt the State’s view on abortion.

Indigenous and environmental defenders have faced restrictions on their right to protest. Defenders opposed to the construction of the Dakota Access Pipeline (in Standing Rock) and the Keystone XL have been characterised as “extremists” and violent criminals and law enforcement authorities have warned of potential “terrorism”. The protests at Standing Rock were met by repeated mass arrests and a litany of charges, but hundreds of charges were eventually dismissed due to lack of evidence. Policing of the protests has been marked by the use of water cannons (including in winter weather conditions), tear gas grenades, bean bag rounds and a wide array of other weapons.

The State has not lived up to the possibilities afforded by its own laws and policies with respect to its support of defenders outside the State. The Department of State has signed off on aid to Honduras, supposedly tied to the condition that civil society can “operate without interference” despite the fact more defenders have been killed in Honduras per capita than anywhere else in the world over the past decade. As a result of legislative pressure, a portion aid currently on hold due to ongoing congressional concerns about human rights violations, impunity and the presidential election process. The State has created an informal interagency working group (IAWG) within the Department of State to monitor violence against environmental defenders around the world and engage a broad range of stakeholders to inform policy focused on reducing this violence. While the effectiveness of the IAWG would be enhanced by greater human and financial resources, it represents a hopeful development and a good practice that should be considered by other States.

The Special Rapporteur has sent some communications to the State concerning the situation of human rights defenders since the 2006 Global Survey. In recent years, these communications have concerned the situation of transgender defenders, defenders of people on the move, and environmental defenders; these communications made allegations of intimidation and threats, unfair prosecution, and the excessive use of force.

4. Issues and Trends

The State was founded upon human rights, with its Declaration of Independence famously asserting “that all men are created equal, that they are endowed by their Creator with certain unalienable Rights.” There remains a deep consensus in the State about the role of civil society, including human rights defenders, in the political and social life of the State. While the term defender is seldom used to describe domestic activists, every American can name and is familiar with the lives of defenders of years past who resisted social convention and governmental policy to advocate for the rights of others. The Special Rapporteur recognises and expresses appreciation for sub-national levels of government and non-state actors who have recognised the significance of the Declaration and the importance of human rights defenders and have sought to implement the Declaration at the state, municipal, tribal and local level.

In this context, the deterioration of the situation of human rights defenders in the USA, and the similar decline in the State's effective support for defenders elsewhere, is troubling. Many of the concerns expressed in the 2006 Global Survey remain and have been supplemented by a growing number of new concerns. Although the Special Rapporteur applauds the State's formal support of the Declaration, he reminds the State that the rights of the Declaration apply not just to defenders elsewhere, but also those within the State. The Special Rapporteur calls on the State to review its legislation, particularly recent laws enacted on national security and on protest, and ensure that it complies with international standards. The Special Rapporteur calls on the State to publicly affirm its commitment to defenders as crucial elements of the global human rights project and to cease its rhetoric that undermines this commitment, including comments praising other States for their violation of the rights of defenders. The State must fully respect the right to protest of defenders and refrain from the use of excessive, and too often deadly, force in its policing. While addressing social marginalisation of any kind is a long term project, the Special Rapporteur calls on the State to more fully acknowledge and respond to the discrimination faced by Afro-Americans (and other communities of colour) and to fully respect their right to protest this discrimination.

South America

Argentina

1. National Context and Human Rights Defenders

The state was included in the 2006 Global Survey, and the focus of that report was the situation of human rights defenders working on past human rights abuses committed during the military regime of 1976-1983. Argentina re-initiated trials against perpetrators in 2003 after a failed campaign to prosecute them in 1983. Although threats to defenders, especially lawyers, working on past crimes persisted, the trials had continued with many perpetrators receiving life sentences.

From 2006 until now, the two key issues facing human rights defenders in Argentina have been the criminalisation of social protest and the excessive force used by the police. As well as lawyers working on past human rights abuses, vulnerable groups include environmental and indigenous defenders, defenders of sexual and reproductive rights, and defenders of sexual orientation and gender identity rights.

Argentina is a member of the Organisation of American States, the Union of South American Nations, the Community of Latin American and Caribbean States, and the Organisation of Ibero-American States. In April 2018, the State announced the suspension of its membership in the Union of South American States.

2. Legal and Policy Framework

Argentina is party to all of the major international human rights treaties and the State regularly reports to the treaty bodies. Reporting to ICESCR in 2016, the State specifically mentioned human rights defenders when it asserted that all citizens are protected from

violence and insecurity as they have access to protective legal instruments, both national and international, which also guarantee their right to freedom of assembly and association. Argentina is also party to the American Convention on Human Rights.

In July 2018, the President introduced a decree giving the military permission to act in the capacity of national security despite this being forbidden by law in Argentina since 1983. The President justified the reform as necessary to counter possible terrorism, drug trafficking and cyber crime but many took to the streets to protest believing increased militarisation could be a threat to the security of human rights defenders.

Amendments to the law in 2011 saw the introduction of counter-terrorism legislation. At the time the State responded to the concerns of human rights defenders by adding a clause to prevent the bill's use against "an exercise of human and / or social rights or any other right."

A controversial law that counts pre-trial detention as double time was used for the first time in 2017 in the case of human rights violations, effectively reducing sentences. Following a public outcry a law was signed to prevent this being used in cases of crimes against humanity in the future.

In 2017 the Advisory and Participatory Council of Indigenous People of Argentina was created by decree to protect and promote indigenous rights.

The National human rights institution (Defensoría del Pueblo) is fully accredited (level A) as complying with the Paris Principles.

3. Implementation of the Declaration

Human rights are generally respected in Argentina and the State continues to make progress in protecting human rights defenders. In particular the State has shown commitment to strengthening human rights mechanisms and has launched of a National Action Plan on Human Rights. Nevertheless, despite comprehensive human rights laws, it has been noted that barriers to implementing these laws means human rights defenders remain unable to carry out their legitimate work safely and freely.

The right to assembly was severely undermined in December 2016, when a new protocol was introduced which allows the police to use firearms and other less lethal weapons, such as rubber bullets, to disperse protests. In December 2017, protests against pension and welfare reforms in Buenos Aires were met with excessive use of force from the police. Rubber bullets were fired indiscriminately into the crowd, resulting in at least one hundred people being injured, including four people who each lost an eye. Over one hundred people were detained, some on spurious charges.

Freedom of expression is guaranteed by law. In 2009, libel and slander laws were overturned, and the State's relationship with the press has continued to improve, particularly since the 2015 election of President Macri. However, anti-Government media is sometimes the target of defamation cases which can result in significant financial problems for these outlets.

Defenders working on human rights abuses which occurred during the dictatorship are perhaps the most frequently targeted group of defenders. In recent years, human rights lawyers such as Viviana Beigel and Laura Figueroa have faced harassment, intimidation, break-ins to their homes and workplaces, and threats. The Special Rapporteur has issued communications almost every year since 2006, with the majority concerning the threats and harassment directed at lawyers and other defenders working on bringing justice to the victims of abuses which took place during the dictatorship.

Indigenous defenders are another vulnerable group and in 2017 the Committee on the Elimination of Racial Discrimination raised concerns about threats and intimidation made to indigenous defenders, and the criminalisation of their work. Although the constitution guarantees indigenous people's right to their ancestral land, in practice there are no other laws to protect this right. This has put defenders who fight to protect their land at risk. In 2009, Javier Chocobar was shot and killed while peacefully defending his territory. The murderer has still not been brought to justice. In 2010, Felix Diaz of the Qom indigenous community instigated a protest to stop construction on land to which the community claimed ancestral rights. Violence erupted following the State's attempt to break up the protest, and as a result 23 members of the Qom community were charged. Diaz and members of his family have since been harassed and violently attacked, and his nephew died in suspicious circumstances. Police have continued to react with excessive force to land rights protests led by Diaz and other indigenous groups. In 2017 defender of indigenous rights Santiago Maldonado disappeared and was later found dead after a government military force entered the Pu Lo fen Resistencia community.

Milagro Salas is the leader of the community group Túpac Amaru, which has almost 150,000 affiliates and defends the rights of working class and indigenous people. In January 2016 she was arrested for staging a protest in front of the offices of the Executive of Jujuy province. She was arbitrarily detained for 692 days and had spurious charges levied against her. Despite the intervention of the IACHR she remains under house arrest on charges of illicit association, fraud and extortion.

Women's rights defenders campaigning for the legalisation of abortion face harassment and violence. A twelve-year-old girl was attacked by a pregnant, pro-life woman for wearing a green bandana which signified her pro-choice beliefs. In August, police raided the homes of feminist activists without grounds, as part of an on-going campaign of intimidation towards defenders. Defenders of women's rights, in particular those part of the "Ni una menos" movement are also the subject of smear campaigns in national and international press, particularly religious media, who regularly brand them as violent, angry mobs.

As reported by various sources, defenders of sexual orientation and gender identity are also vulnerable. In October 2015, defender Diana Sacayan was murdered in a case of "transvesticide" by her alleged boyfriend. He was convicted and given a life sentence in June 2018. On 13 May 2017 Claudia Vasquez, the president of the NGO OTRANS, which defends the rights of trans people, was attacked in her home in what she describes as an attempted murder.

The Special Rapporteur has received several communications concerning the situation of human rights defenders in the State. In recent years, communications concerned the arbitrary arrest and detention of a human rights defender and the denial of entry visas to defenders seeking to meet and protest during the WTO meeting in Buenos Aires in December 2017.

4. Issues and Trends

Since the last Global Survey in 2006, lawyers and other defenders working on bringing to justice perpetrators of crimes committed between 1976-1983 remain vulnerable to threats and harassment. Other defenders who are at increasing risk are indigenous and environmental defenders, defenders of sexual and reproductive rights, and defenders of sexual orientation and gender identity rights.

The Special Rapporteur is concerned by policy changes in 2016 and 2018 which have given extra powers to State security forces and the subsequent excessive use of force used to break up protests. The Special Rapporteur urges the State to reconsider these policies, which are at present seriously undermining defenders' ability to carry out their legitimate work safely and freely. Security forces should be trained and have clear guidelines for the use of force, in line with international standards, to ensure that the right to peaceful protest is fully respected.

Regarding indigenous and environmental defenders, the Special Rapporteur welcomes the creation of the Advisory and Participatory Council of Indigenous People and encourages the State to maintain open and productive dialogue with the indigenous community. He urges the State to take further positive steps by offering adequate protection to environmental defenders at risk and recommends that the State ratify the Escazu Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean.

Bolivia

1. National Context and Human Rights Defenders

Like many other countries in Latin American, and particularly the Andean region, environmental defenders continue to face high risks. Bolivia is rich in natural resources, and as such large multinational corporations have an interest in establishing themselves in the region, leading to extractivism and deforestation.

The State was included in the Global Survey of 2006. Key points addressed by the Special Representative were that there was a diverse community of human rights defenders that was not only composed of NGOs, but also included social movements, indigenous leaders, journalists and trade unionists. A state body had yet to be set up to deal with the protection of human rights defenders, and there was no specific legal regulation to protect human rights defenders. The Special Representative had raised concerns about the situation for land and environmental rights defenders in rural areas, and had noted with concern that they faced threats, aggression, intimidation and harassment.

Bolivia is a member of Organisation of American States, the Union of South American Nations, and Andean Community of Nations, among other regional bodies.

2. Legal and Policy Framework

Bolivia is party to all of the core international human rights treaties. The State is also party to the American Convention on Human Rights.

There is no national law or policy protecting human rights defenders. The rights to association, assembly and expression are constitutionally protected, however, other laws undermine this in practice. For example, Supreme Decree No. 26140 (Regulation of the Operations of Non-governmental Organisations working with Peasants, Indigenous, and Ordinary Peoples and Settlers) permits the State to closely monitor rural civil society organisations that focus on land rights, limiting their capacity to operate freely and independently.

The national human rights institution (Defensor del Pueblo) is accredited (level A) as fully compliant with the Paris Principles.

3. Implementation of the Declaration

Freedom of association is constitutionally protected in Bolivia, including for specific groups such as youth and those living with HIV / AIDs. However, concerns have been raised that in practice there are legal and policy obstacles to forming civil society organisations and to freely carrying out civil society work. The government has the power to monitor and evaluate the activities of civil society organisations, and to determine how far they are contributing to improving the socio-economic status of Bolivia, which is a legal requirement. The State can dissolve any organisation which it decides is not meeting requirements. There are reports of smear campaigns against some civil society organisations and State officials have also accused organisations of being part of international conspiracies (linked to the US), which aim to undermine Bolivia.

The press is rated partly free. However, freedom of expression is not completely guaranteed. Journalists are advised to refrain from criticising the President and his administration, particularly as government funded advertising is only given to pro-government publications. In 2016, following the referendum, the State created the General Directorate of Social Networks, whose remit is to counteract and respond to anti-government activity on social networks. Like civil society organisations, journalists who are critical of the State have been accused of being involved in international, US-led conspiracies against the State. The Bolivian Press Association has documented several cases of verbal and physical aggression against media-sector employees as well as the arbitrary detention of journalists. In October 2012, journalist Fernando Vidal was set on fire, after reporting on local corruption.

There are no legal restrictions on freedom of assembly, however, in recent years peaceful protests have met with harsh repression, particularly in cases of land and workers' rights.

Over 62% of the population in Bolivia is indigenous, and since coming to power the government of President Morales has initiated profound political, legal and institutional reforms with the aim of reversing the situation of exclusion and marginalisation of the indigenous population. However, despite these reforms and new constitutional protections for indigenous people, land and environmental rights defenders are still at risk of discrimination, harassment, and violence, including murder. On 5 July 2012, José Mamani Mamani was shot and killed during a peaceful demonstration against mining activity in the Mallku Khota zone in Potosí. The same year, Abel Rocha Bustamante, Michael Sosa, Eliseo Rojas, Ambrosio Gonzáles, Héctor Choque, Óscar Omar Cruz Mallku and Oscar Ricardo Gómez Bertón were all killed defending land and environmental rights during separate protests against multinational companies. In 2016, the National human rights institution, Defensoría del Pueblo, claimed that the State was complicit in attacks against indigenous people who were defending their land rights.

The Isiboro National Park (TIPNIS) has been at the centre of increasing concerns as the Government moves forward with plans to construct a major highway there, which would cause large scale deforestation. In Chaparinas in September 2011, up to 74 people were beaten, attacked with tear gas and detained by police during a 60-day march protesting the planned highway. Nobody has been charged as a result of the aggressions, and in 2013 Morales blamed hostile indigenous groups for financing the march, rather than promising justice for the victims. Defenders claim the military is now present in the territory.

Indigenous environmental defenders have been arbitrarily detained, such as those involved in TIPNIS protests, as well as defenders in the Guaraní Takovo Mora indigenous community. The NGO *Centro de Documentacion e Informacion de Bolivia* (CEDIB) and its members were harassed throughout 2017 for their role in supporting the indigenous residents of the Tacana II community, who had begun recording the negative environmental impact resulting from the presence of petrol companies in their region. After the community presented their complaints to the authorities, with the backing of human rights organisations including CEDIB, the NGO was harassed and threatened, and eventually had its bank accounts frozen in 2017. Members reported being threatened and monitored.

In terms of other defenders at risk, Emma Bolshia Bravo Cladera and members of staff at her organisation have received death threats for their work on denouncing incidences of violence and torture carried out by the military and police.

The Special Rapporteur has sent few communications to the State since the last Global Survey. However, in 2014 two communications were sent regarding threats and harassment of defenders. In 2009, an urgent communication was sent regarding the attempted murder of land rights defender Miguel Esteben González Bonilla. The Special Rapporteur regretted that no reply was received.

4. Issues and Trends

The same concerns around threats to defenders of environmental rights raised the last Global Survey in 2006 remain. The Special Rapporteur is worried that risks to these defenders are in fact increasing, as extraction intensifies. Peaceful protests against mining and other extractive

processes have been met with excessive force from State security forces, and, according to various sources, numerous protestors have been killed in recent years.

The Special Rapporteur urges the State to respect the rights of environmental defenders to protest against harmful and destructive extractivism and to recognise the legitimate work of defenders of land, territory and the environmental rights. The Special Rapporteur calls on the State to properly investigate cases of excessive use of force in curtailing protests, particularly where State security forces have been implicated in the deaths of protestors, and to fully respect the right to peaceful protest and freedom of expression, ensuring that security forces are effectively trained and have clear guidelines for the use of force, in line with international standards. The Special Rapporteur further recommends the State ratify the Escazu Agreement (Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean

The Special Rapporteur is concerned by the recent constitutional amendment which removes limits to presidential terms, particularly as this was enacted despite opposition expressed in the referendum. The State also appears to be increasing its powers to limit freedom of association and expression. The Special Rapporteur urges the State to allow civil society to operate independently and freely, in order to retain a productive and active civil society space.

Brazil

1. National Context and Human Rights Defenders

Brazil was included in the 2006 Global Survey. The Special Representative was grateful for civil society responses to her request for information but regretted that the State had not provided any information. The Survey states that civil society had grown considerably during the fight against dictatorship (1964-1985), and that by the 1990s, defenders had become more assertive in their demands that the State adopt concrete public security policies in relation to human rights. They had also expanded the scope of their mandate to incorporate a wide range of human rights causes, particularly in relation to economic, social and cultural rights and to discrimination based on ethnicity, perceived sexual orientation and gender. Many defenders were part of grassroots organisations, and defenders came from a diverse range of backgrounds and social groups. Beginning in 2003, the State had been in discussion with civil society to create a permanent policy for the defence and protection of human rights defenders, and the National Program for the Protection of Human Rights Defenders (PPDDH) was launched in 2004. The Global Survey reported initial concerns from civil society that the Programme had been launched prematurely and was problematic in that it was not independent of the State.

In 2005-06, the Special Representative sent 22 communications to the State on 34 individual defenders, including seven women. Most of the communications related to harassment and death threats against human rights defenders and their relatives. Eleven cases related to the reported killing of human rights defenders. There was no response from the State to the communications. The Special Representative expressed concern about high levels of

criminalisation of defenders, particularly rural leaders, and leaders and supporters of social movements. The police ombudsman, judges and civil servants had also been targeted.

International human rights groups report that the climate for defenders has worsened since the last Global Survey and call for urgent action. Instability since the impeachment of Rousseff, weakened security and augmented violence have left defenders even more vulnerable. They face harassment, intimidation, threats, stigmatisation, surveillance, death threats and murder. Between January - September 2017, at least 62 defenders were murdered, one of the highest numbers in the world. While all defenders are at risk, the most vulnerable group is environmental defenders, including indigenous and land rights defenders. Defenders face further risks based on their race, with Afro-Brazilian and indigenous defenders especially at risk. Women defenders face threats of sexual and gender-based violence. Sexual orientation and gender identity defenders are also at risk as Brazil has the highest rate of homophobic murders in the world.

The Special Rapporteur would like to thank the State for its submission to this report.

The State is a member of the Organisation of American States and the Union of South American Nations, amongst other regional organisations. In April 2018, the State announced the suspension of its membership in the latter organisation.

2. Legal and Policy Framework

Brazil is party to all of the major international human rights treaties. However, since the last Global Survey, it has only reported to four treaty bodies and is overdue in some of its reporting requirements.

The role of human rights defenders is recognised in legislation, however, in recent years several legislative changes have put defenders at increased risk. These include a counter-terrorism law, the relaxing of environmental laws to pave the way for mega projects, and the privatisation of nature and traditional knowledge. In 2017, up to 200 proposals to amend the law or the constitution put human rights at risk.

To uphold the State's commitment to international human rights treaties and following pressure from civil society organisations a decree to protect people threatened for defending human rights led to the creation of the Brazilian Programme for the Protection of Human Rights Defenders (PPDDH) in 2004. There was no progress until the programme was hurriedly implemented in 2005 following the high-profile murder of environmental defender Sister Dorothy Stang. While the programme has provided significant support to some defenders it has suffered from being under-resourced, from having limited commitment from authorities and from lacking a legislative framework. As individual states are not required to adopt federal policy, as of 2016 only four states had ratified the PPDDH. In some states the Programme has been interrupted and in others suspended.

The Brazilian Committee for Human Rights Defenders (CBDDH) is a network of civil society organisations that has identified various difficulties and challenges with the PPDDH protection mechanisms.

Brazil does not have a national human rights institution recognised by GANHRI.

3. Implementation of the Declaration

Hundreds of human rights defenders have been killed in Brazil since the last global survey and agrarian conflict remains one of the main causes of the violence suffered by defenders. Defenders of land, indigenous and environmental rights, union leaders, human rights lawyers and journalists are subject to threats from those whose interests are affected by the work of defenders – state officials, large landowners, criminal organisations and businesses. Between 2002 and 2013, 49% of murders of environmental defenders recorded globally took place in Brazil, a threefold increase to the previous decade. Defenders in the northern state of Pará are especially vulnerable. In 2014, 138 indigenous defenders were murdered as a result of land conflicts, and in 2016 the number was similar at 118. Indigenous defenders are also subject to violence including having their hands chopped off. The violence and murders take place in the context of deforestation and land grabbing on a huge scale; the State, security forces and multinational corporations are all complicit and the attacks and murders take place in a climate of almost total impunity.

Land and environmental rights defenders face increased risk based on gender and race, which is true for all defenders in Brazil. Women defenders face the threat of gender-based and sexual violence, and of having their complaints ignored, on top of the same threats of violence from the State and large multinational companies. Quilombola (Afro Brazilian) and Indigenous defenders are also vulnerable to racism and to perpetrators of aggressions against them receiving impunity.

In 2018, Paulo Sérgio Almeida Nascimento, a Quilombola and land rights defender, was shot dead outside his home. He was known for campaigning against mining and hydro-electric projects. In 2010, Márcio Amaro was murdered in front of his wife and mother. He was one of the founders of a group of local fishermen in Guanabara Bay who regularly campaigned against the activities of large petrol companies such as Petrobras, whose operations in Guanabara Bay irreparably damaged the ocean. Other members of the same group, the Association of Men and Women of the Sea, were murdered before and after Amaro. The president of the association spent years protected under the PPDDH yet in 2018 reported he was still being threatened.

Isaura Alves Muniz and her husband Raimundo Nonato Muniz and two of their children were murdered in February 2006 after they denounced illegal deforestation. Four other children were present in the home when the murder took place, and were threatened with murder should they recount what had happened. All of these individuals were executed by armed groups who specifically targeted them in their homes. Prior to their murders they had reported being harassed, threatened and intimidated.

In April 2015, indigenous leader Eusébio Ka'apor was murdered after defending his community's land from loggers, and violence and intimidation of the Guajajara and Awá indigenous people has intensified since they created a group to protect their land. Four defenders from the group were murdered in 2016 alone. Maria Trindade da Silva Costa was murdered and sexually assaulted in 2017; she was known for defending Quilombola rights.

Increasing violence, gender inequality, a paternalistic society and repression put women human rights defenders at great risk in Brazil. They are regularly subjected to defamation, threats and violence. Women defenders report the use of jokes and nicknames to discredit their professional performance. Maria do Rosário, former human rights minister, has been pushed, called a slut and told she is “not worth raping” by a congressman in parliament. Debora Diniz, a professor and defender of women’s reproductive rights, has had to go into hiding following repeated death threats. In 2018 the murder of Afro-Brazilian feminist politician Marielle Franco met with international condemnation. Ms Franco had defended the rights of people of African descent, sexual orientation and gender identity rights, and the rights of young people living in poverty. She was also an outspoken critic of the excessive use of force by the security services.

Although the role of human rights defenders is recognised in the constitution the State is accused of focusing on the interests of a wealthy elite rather than on the protection of defenders. Defenders are criminalised as are networks and social movements through harsh rhetoric in the main stream media which is supportive of lethal police action. A lack of State backing for defenders, the unfamiliarity of the population in regard to human rights, and a fear of being on the wrong side means defenders have little support from society.

In recent years, the Special Rapporteur has communicated his concerns about the serious risks faced by land and environmental rights defenders, particularly members of the Landless Rural Workers Movement and the Guarani-Kaiowá indigenous community. Concerns have also been raised over new, vaguely worded anti-terrorism laws, and excessive force used by the State in repressing protests. In 2013, the Special Rapporteur also sent a communication regarding the alleged death threats and false allegations of paedophilia and sexual abuse against defenders of sexual orientation and gender identity rights in Brazil. The Special Rapporteur thanks the State for the responses given but urges that the State to respond consistently to communications.

Brazil has been reviewed three times under the UPR process, in 2008, 2012 and 2017. The State has made regular reference to defenders, for example reiterating the existence of the PPDDH. However, UN bodies and stakeholders remained unconvinced by the protections available to defenders. In 2008, the Special Representative of the Secretary-General on the situation of human rights defenders expressed concern about the numerous accounts of assassinations, attempts on their lives and threats directed at defenders - especially rural defenders - and human rights organisations were concerned that defenders were considered enemies of the state by the government.

4. Issues and Trends

Human rights defenders carry out their work in an increasingly dangerous environment in Brazil. Those defending land and environmental rights face especially high risk; they are systematically murdered, as well as threatened, harassed and intimidated. Indigenous, Afro-Brazilian and women defenders are also at great risk.

The Special Rapporteur welcomes the State’s commitment to hold accountable those individuals who perpetrate violations, including those who are part of the state apparatus, and to punish those responsible for acts which threaten the lives and physical integrity of

human rights defenders. The Special Rapporteur recommends that the PPDDH be structured, resourced and supported so that effective security and protection measures can be put in place to stop the increased killings of all defenders but particularly land and environmental rights defenders. The Special Rapporteur thanks the State for the submission to this survey which confirms increased funding for the PPDDH as well as plans for its implementation in six more states. The State further commits to measures to improve protection including reducing waiting times for assessment, improvements to the early warning system, expansion of networks, and mitigation of conflicts which may lead to violations against defenders. The Special Rapporteur encourages the State to work with civil society organisations in the development and implementation of improved protection measures.

Chile

1. National Context and Human Rights Defenders

An entry for Chile was included in the 2006 Global Survey. During the reporting period the Special Representative had sent six communications to the Chilean government in relation to one civil society organisation and seven human rights defenders, two of whom were women. The majority of civil society organisations had reported that the lack of a legal framework was impeding the work of defenders and objected to their exclusion in the development of human rights legislation and policies. These groups worried that the lack of inclusion was further marginalising human rights defenders from civil society. Concern was raised over allegations of attacks, threats and intimidation – at times by state officials – against indigenous leaders and activists. It was also reported that the Counter Terrorism Law (Ley 18.318) had been used in the arrest and detention of Mapuche leaders defending their ancestral territories against forestry companies.

Indigenous peoples, specifically Mapuche, suffer from systemic discrimination with more than one third of the Mapuche population living below the poverty line and less than 3% have received education beyond secondary school. The highest levels of poverty are to be found among indigenous women. Persons with disabilities lack a guarantee of comprehensive health-care service which can be linked to the absence of a national policy. Migrants and refugees are particularly at risk as the Aliens Act of 1975 does not guarantee migrants' rights and is unsuited to the current migration situation. Lastly, sexual orientation and gender identity minorities have restricted access to health, specifically trans, intersex and persons affected by HIV and AIDS.

Chile is a member of the Organisation of American States and the Union of South American Nations, amongst other regional organisations. In April 2018, the State announced the suspension of its membership in the latter organisation.

2. Legal and Policy Framework

Chile is party to all of the core international human rights instruments. Since the 2006 Global Survey, Chile has ratified the Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities, the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol

to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The State is also party to the American Convention on Human Rights,

The Constitution contains the fundamental rights and freedoms of international treaties and among these rights, particular emphasis is given to freedom of conscience, the rights to personal freedom and individual security, freedom of opinion and the freedom to inform without prior censorship, the right to assemble peacefully without prior permission, and the right to submit petitions to the authorities.

The State has passed a Civic Participation Act (Act No. 20.500) which recognises the right of people to participate in policies, plans, programmes and actions undertaken by the State and outlaws any conduct which excludes them from or discriminates against them in exercising this right.

In 2009, a national human rights institution was created (Instituto Nacional de Derechos Humanos) as an autonomous state organ to protect and promote human rights in Chile. It is fully compliant with the Paris Principles and the GANHRI Statute. The National Human Rights Plan, enacted in 2017, includes over 600 actions that the State is set to fulfil within a four-year timeline.

3. Implementation of the Declaration

Chile introduced its first National Human Rights Plan in December 2017 which will be implemented over four years. More than 600 actions form part of the policy, the first in Chile's history to include all State organs and entities as well as autonomous institutions. The public will be able to monitor and demand its fulfilment ensuring governmental accountability. The National Service for Women (SERNAM) is currently implementing the Equal Opportunities Plan 2011-2020 and is responsible for co-ordinating the National Plan of Action to Combat Domestic Violence. The National Indigenous Development Corporation (CONADI) has set up Indigenous Women's Boards in seven of Chile's regions to address issues. A human rights policy supporting the rights of indigenous peoples known as "Historic rediscovery" has been in place since 2010 and focuses on a dialogue with the nine indigenous peoples in Chile in order to ensure they have access to development while fully respecting their rights, traditions, identity and culture.

In 2008 in Temuco the Citizens' Defence Office was set up within the Presidential Advisory Commission for the Protection of the Rights of Persons, with a focus on the protection of indigenous rights. The ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries was ratified and promulgated in 2008 with the *Re-Conocer* plan setting out specific measures to implement the Convention.

Nevertheless defenders of indigenous rights have continued to suffer arbitrary detention, judicial harassment and acts of intimidation by both the State and non-state actors. In numerous communications to the State the Special Rapporteur has expressed concern for the various cases of legal persecution, stigmatisation and criminalisation of defenders whose work focusses on indigenous rights, specifically those of the Mapuche community. In 2017-18 sixteen indigenous Mapuche, several of whom are community leaders, were put on trial under the Counter-Terrorism Law, avoiding the normal requirements that ensure a fair trial.

The Mapuche community has also reported threats, intimidation, police violence, torture and ill-treatment resulting from their work as human rights defenders. The closure of the investigation into the kidnapping and torture of Mapuche leader Víctor Queipul Hueiquil set a dangerous precedent of impunity and increases the risk faced by indigenous peoples.

Environmental rights defenders also report criminalisation, persecution, censorship and intimidation. Rodrigo Mundaca, Verónica Vilches and other leaders of the Movement for the Defence of Water, Land and the Environment (MODATIMA) in the province of Petorca have received death threats related to their work against damage to the environment and in support of local communities' right to access water. The authorities have brought four criminal cases against Mundaca including charges of defamation.

Despite the guarantee of the right to peaceful assembly found in the constitution there have been allegations of excessive use of force by the police during peaceful demonstrations as well as the detention of two human rights defenders on charges of "public disorder" and "threat to police in service". In May 2016, personnel of the national human rights institution reported being arbitrarily detained, beaten and verbally assaulted by police when they tried to visit detained protestors at a police station in Antofagasta.

The Special Rapporteur has, since the Global Survey of 2006, sent a small number of communications to the State concerning the situation of human rights defenders, raising some of the issues noted above..

4. Issues and Trends

The Special Rapporteur welcomes the National Human Rights Plan but remains concerned that despite these efforts human rights defenders continue to suffer criminalisation and even violence. He urges the State to address the threats, attacks, harassment and intimidation defenders face, and where applicable ensure that there are thorough, prompt and independent investigations into these abuses. The perpetrators must be brought to justice and there should be adequate reparations for the victims.

The Special Rapporteur recommends that the State modify counter-terrorism legislation to ensure that it is not used to obstruct or penalise indigenous rights defenders carrying out their legitimate work or to deny access to a fair trial. The Special Rapporteur also encourages the State to promote public awareness of the work of human rights defenders and the legitimate activities that they carry out to protect and defend human rights. Finally the Special Rapporteur recommends that the State ratify the Escazu Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean.

Colombia

1. National Context and Human Rights Defenders

It is estimated that more than 220,000 people were killed, thousands disappeared and over 7 million were displaced in more than fifty years of armed conflict between the government,

paramilitary groups, guerrillas and organised crime syndicates. In November 2016 the Revolutionary Armed Forces of Colombia (FARC) and the Colombian government signed a peace agreement which allowed FARC to form an official political party and to integrate former fighters into society. Although casualties of the armed conflict dropped during and after the peace negotiations, there has been a rise in attacks against social leaders and human rights defenders.

Colombia is ranked as an upper middle-income economy but has large income inequality with more than a third of the population living below the poverty line. In addition to the millions of Colombians who have been internally displaced, the State is currently receiving large inflows of Venezuelans fleeing the economic and political situation in their country.

In the Global Survey of 2006 concerns were expressed about a growing lack of respect for human rights and a lack of protection for human rights defenders. The context of the internal armed conflict had significantly increased attacks, harassments and slander against human rights defenders and social leaders, and in some areas of the country civil society organisations and defenders had been forced to cease their activities for security reasons.

Human rights defenders and civil society organisations work through regional and national networks in Colombia to defend the rights of victims to truth, justice and reparation, to defend land and environmental rights, and to implement the peace agreement. Defenders most at risk are women human rights defenders, defenders of indigenous and farmers rights, defenders of sexual orientation and gender identity rights, Afro-Colombian human rights defenders, and social leaders.

At particular risk are defenders who work in areas dominated by criminal groups operating in the vacuum left by FARC and in areas where there is resistance to the Peace Accord. These areas often have illicit economies, high levels of violence, endemic poverty and a lack of state presence which make them highly volatile. Economic interests with links to criminal groups affect defenders of indigenous rights, land rights, union workers, and all defenders working on rights threatened by megaprojects.

Colombia is a member state of Organisation of American States and the Union of South American Nations, amongst other regional organisations. The State has announced, in August 2018, its withdrawal from the latter organisation.

2. Legal and Policy Framework

Colombia has ratified the core international human rights treaties, including the ICCPR. However, it has yet to become party to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The State is party to the American Convention on Human Rights.

In accordance with article 93 of the Colombian constitution, international human rights treaties prevail in the internal order and the rights enshrined the constitution and the Constitution itself are interpreted in accordance with these treaties. The rights to freedom of association, assembly and expression are guaranteed under the constitution, as are

economic, social and cultural rights, and environmental rights. The constitution also recognises special rights for indigenous peoples.

Through a series of directives several State institutions have explicitly recognised the importance of the work of human rights defenders and the responsibility of the State to protect them. Decrees have been issued on the protection of human rights defenders and their organisations, on a system of prevention and alerts for rapid reaction to the risks of human rights violations, on the role of local authorities in the protection of social leaders and human rights defenders, and on a Security and Protection Programme for communities and organisations.

In 2017 the State rejected the visit of the Special Rapporteur on the Human Rights of Internally Displaced Persons as well as a visit of the Special Rapporteur on the Rights of Persons with Disabilities. Visits by the Working Group on Mercenaries and the Special Advisor on the Prevention of Genocide of the United Nations were also rejected.

In 2006 the State committed to develop a National Action Plan on Human Rights. As part of the procedures to establish this National Action Plan, civil society organisations demanded the protection of human rights defenders. As a result the State agreed to the creation of the National Unit for Protection in 2011. In 2018 there is still no National Action Plan on Human Rights.

Human rights defenders are protected under provisions of the Peace Accord and their important role is recognised. The State has committed to take action against those who have committed crimes against defenders, to take measures to combat stigmatisation of defenders, and to promote and disseminate their work. The Accord recognises the role of defenders in peacebuilding, and in truth, justice and reparation.

The Attorney General's Office (Procurador General) has stated that it will use its administrative and disciplinary powers to address the stigmatisation of human rights defenders and the lack of action by municipal, departmental and national authorities to protect them. Contrary to the statements of senior government officials, the Office has acknowledged that the murder of defenders is systematic. The Office has also adopted a directive for the investigation and prosecution of crimes against human rights defenders which incorporates international models and practices and which was drafted with the support of the IACHR. While significant progress has been made to identify the perpetrators of crimes against defenders, in most cases the intellectual authors have not been identified. Full criminal accountability for the attacks against human rights defenders is critical to constitute a safeguard for protection and ensure non-repetition.

The Defensoría del Pueblo is the National Human Rights Institution that is charged with overseeing the protection of civil and human rights within the legal framework of Colombia. The Defensoría is fully compliant with the Paris Principles and the GANHRI Statue. The Defensor (ombudsman) operates independently in administration and budget and has the power to present bills on matters related to human and civil rights. The Defensoría also publishes and disseminates information about human rights and proposes recommended

policies. In relation to defenders, the Defensoría organises and co-ordinates meetings and conferences for defenders

3. Implementation of the Declaration

The patterns of aggression against human rights defenders and social leaders combine a series of strategies that include defamation, stigmatisation, judicial criminalisation and physical attacks that can result in death. According to the National Ombudsman 337 social leaders and human rights defenders were killed between the January 2016 and August 2018. In 2017 alone there were 560 aggressions against human rights defenders, including 106 killings, 370 threats, 50 physical aggressions, 23 arbitrary detentions and 9 judicial processes.

There is a strong relationship between economic interests and aggressions against human rights defenders. The vast majority of killings have occurred in rural areas in contexts of extractive industries and illegal economies. Between 2016 and 2017 58 environmental activists were killed in Colombia.

National and international human rights organisations have registered systematic aggressions by State forces against peaceful protesters. During the National Coffee Strike (*Paro Cafetero*) in 2013, the National Agrarian Strike (*Paro Agrario Nacional*) in 2013, the Popular Agrarian Ethnic Minga (*Minga Agraria, Étnica y Popular*) in 2016 and the civic protests in Buenaventura in 2017 protesters were killed, massively detained, injured, tortured and forcefully disappeared. These violations disproportionately affected farmer, indigenous and Afro-Colombian populations. Cases were reported of violations committed by Colombia's armed forces against women, children and people with disabilities.

In 2017 310 attacks against the freedom of press were recorded by the *Fundación para la Libertad de Prensa* (FLIP). Among these were 129 threats, 29 cases of slander, 25 obstructions and the killing of journalist Efigenia Vazquez. In 30% of the cases either public servants or State armed forces were responsible for the attacks.

Indigenous communities have been systematically targeted by illegal armed groups, companies and the State. Among the 378 human rights defenders that were killed between 2002 and 2016 123 belonged to indigenous communities and 24 to Afro-Colombian communities.

In recent years there has been a rise in attacks against women human rights defenders. Women's movements have participated strongly in the peace agreement and its implementation, with significant advances such as the exclusion of amnesty for cases of sexual violence in the context of the armed conflict. In 2017 26% of the aggressions against human rights defenders were directed against women.

There has also been an increase in attacks on human rights lawyers since the Peace Accord and the intimidation, threats and attacks they experience can hamper their capacity to carry out their work. In July 2017 human rights lawyer Rommel Jonathan Durán, community leader Eliecer Alfonso Vergal and journalist María Fernanda Montiel Murillo suffered extreme violence during arbitrary detention. A further form of intimidation of human rights lawyers is the attacks carried out on family members. The brother of human rights lawyer Rommel

Jonathan Durán was murdered in 2016. Two brothers of prosecutor María Ardila Pedraza were murdered. Lawyer and human rights defender Soraya Gutiérrez Arguello received a doll, dismembered and painted red, as a threat to her daughter.

The number of forced disappearances has dropped in recent years, but it still exists as a practice against human rights defenders. More than 70,000 cases of enforced disappearance have been documented by the Attorney General for the period 1970-2015 but the State has not accepted the competence of the Committee against Enforced Disappearance.

Despite the guarantee of protection for human rights defenders in the Peace Accord, security and protection measures are not adequate. Land defenders Hernán Beodya and Mario Castaño were both murdered whilst under protection schemes.

Impunity for crimes committed against human rights defenders remains widespread. There have been convictions in less than 5% of the cases of the 106 defenders killed in 2017. 70% of these cases remain at the inquiry stage. Between 2013-2017 eighteen defenders were murdered by the security forces. Cases are closed with neither the actual perpetrator nor the intellectual instigator of the crime being prosecuted or punished.

The Special Rapporteur has raised a number of the issues noted above with the State in a large number of communications since the Global Survey of 2006.

4. Issues and Trends

Despite some improvements in the situation for human rights defenders in Colombia the slander and criminalisation of defenders by State officials and public servants continue. While defenders lives may no longer be in danger because of armed conflict they are still being killed because their work brings them into contact with mining, drug trafficking, the fight for land, hate crimes and corruption. The State's failure to recognise para-militarism, and the lack of progress in investigations against threats and murders perpetrated by the paramilitaries, increase the risk for defenders who work in areas controlled by these groups. The continued lack of protection for human rights defenders, despite the adoption of a legal framework to protect them, is of great concern.

The Special Rapporteur welcomes the recognition of the role of human rights defenders in the Peace Accord and urges the State to make sure that all the measures specified in the Accord to promote and protect defenders are implemented.

The Special Rapporteur urges the State to broaden security measures for social leaders and human rights defenders by consolidating its presence in areas most affected by conflict, recognising and strengthening the work of human rights defenders, and particularly vulnerable groups such as defenders of Afro-Colombian communities and indigenous defenders. The Special Rapporteur recommends the State implement effective security and protection mechanisms as a matter of urgency to put an end to the attacks on communities, organisations, leaders and defenders, especially in more remote areas.

The Special Rapporteur further recommends that the State put an end to the stigmatisation of defenders by the media and state officials, including the use of the term “internal enemy” by the military, which increases the risk defenders already face. The State should undertake a wide-reaching campaign to publicly recognise and support the work of human rights defenders.

The Special Rapporteur encourages the State to undertake thorough investigations into crimes committed against human rights defenders to find out who has financed and orchestrated the attacks. Prosecution of those responsible will help ensure non-repetition. Measures should be taken against impunity and corruption, especially complicity on the part of public servants and the armed forces.

Ecuador

1. National Context and Human Rights Defenders

The Global Survey of 2006 reported a deterioration in the situation of human rights defenders during 2004. Following a change of government in 2005 the intensity of the persecution of defenders had decreased, however, the repression of indigenous groups had persisted and attacks on human rights defenders continued to go unpunished.

The most prominent human rights defenders in Ecuador are the indigenous peoples who defend their communities, land, the right to water, and the environment against mining, deforestation, and oil exploration. Defenders face persecution and harassment along with continuing restrictions on the rights to freedom of expression and association. The right to free, prior and informed consent of Indigenous Peoples continues to be restricted. Other cases that have raised concern include instances of arbitrary arrest or detention, kidnapping, police brutality, corruption and pro-government bias that affect the right to a fair trial, unlawful interference with privacy, and restrictions on the freedom of expression, including the press.

Ecuador is a member of the Organisation of American States and the Union of South American Nations, amongst other regional organisations.

2. Legal and Policy Framework

Ecuador is party to the core international human rights treaties. Ecuador is party to the American Convention on Human Rights. However, in 2017 the State refused to participate in hearings before the Inter-American Commission on Human Rights nor comply with the Commission’s recommendations.

At the national level, Ecuador updated and enhanced the implementation of its National Plan for the Good Way of Living (*Buen Vivir*), the second phase (2013-2017) of which contributed to further advancement of equality and of the rights of groups who have historically been discriminated against. The third phase is the “Plan Nacional de Desarrollo 2017-2021” which builds upon and continues the advances from the first two phases. The Bill to Prevent and

Eliminate Violence Against Women was pending revision by the National Assembly. In 2014, the Organic Act on National Equality Councils entered into force. The Act establishes an institutional and policy framework to ensure the full enjoyment and exercise of rights by promoting the right to equality and non-discrimination.

The Organic Act on Citizen Participation entered into force in 2011. Its purpose is to facilitate, promote and guarantee citizens' exercise of their right to play a central role in decision-making on matters that concern them.

In 2013, the National Assembly passed legislation providing for reparations to victims and prosecution of serious human rights violations and crimes against humanity that occurred in Ecuador between October 1983 and December 2008. Despite 136 documented cases of violations, including 68 extrajudicial killings and 17 disappearances, progress has been slow.

Although the constitution incorporates the rights and freedoms of the Declaration the law is used widely in Ecuador to repress these rights. The State has used a broad definition of censorship to restrict freedom of expression and the press is further limited by sanctions if journalists do not cover issues of "public interest". Laws have been used to close down civil society organisations that "compromise public peace" and vague charges of terrorism, resistance and sabotage have been used against those exercising their right to protest and to freedom of association.

The Human Rights Ombudsman (Defensoría del Pueblo) serves as the national human rights institution and has been fully accredited (level A) as complying with the Paris Principles. The institution is included in the apparatus of the Ecuadorian State which states: "The Ombudsman's Office shall be a body of public law with national jurisdiction, legal personality and administrative and financial autonomy. Its structure will be decentralised and will have delegates in each province and abroad." The role of the Ombudsman of Ecuador is to promote and protect the rights of the people, communities, nationalities and collectives that live in the country, and of Ecuadorians abroad. In May 2018 the Ombudsman was relieved of his duties for failing to meet the obligations of the office. He was replaced by Gina Benavides, a respected human rights defender. The GANHRI Sub-Committee on Accreditation has initiated a special review of the national human rights institution.

3. Implementation of the Declaration

The recent change in government has seen a sweeping change in the rhetoric regarding human rights defenders. The President has publicly endorsed free speech, indigenous and environmental defenders have been granted amnesty, and human rights organisations dissolved by the previous government have been reinstated. Nevertheless, despite commitments to upholding human rights the policies of the previous administration continue to be upheld; the State does not have a law or policy explicitly recognizing the rights of defenders or establishing a national protective mechanism.

In May 2017 Ecuador's human rights record was examined under the UN Universal Periodic Review. Ecuador accepted recommendations to adopt a national action plan on business and human rights, create an effective consultation mechanism for indigenous peoples, align national laws on freedoms of expression and assembly with international standards, ensure

the protection of journalists and human rights defenders, and guarantee protection from discrimination based on sexual orientation and gender identity. Ecuador pledged to lead on creating an international legally binding instrument on transnational corporations and human rights. Ecuador received a total of 182 recommendations of which it accepted 159, noted 19, and left four for further review.

Throughout 2017, the UN Committees on Migrant Workers, on the Elimination of Racial Discrimination, and on Enforced Disappearances evaluated Ecuador's compliance with UN treaties. They raised concerns, including lack of protection of indigenous peoples in voluntary isolation, lack of measures to prevent violence against rights defenders, insufficient efforts to confront human trafficking, lack of due process and proper judicial remedies for people facing deportation, and slow progress made in prosecuting cases documented by the Truth Commission.

A large number of the communications sent to the Special Rapporteur refer to acts of harassment and death threats against defenders working for the rights of indigenous peoples, and environmental defenders. According to the information received, some representatives and government officials have stigmatised the work of human rights defenders, labelling them "defenders of criminals" and "drug traffickers," and accuse them of "hindering justice." The Special Rapporteur also notes the harassment of members and leaders of the gay, lesbian, bisexual and transgender community and has intervened on several occasions in relation to threats and attacks against gay, lesbian, transgender and bisexual people and their representatives.

Numerous allegations were received by the Special Rapporteur in 2016 about aggressions against women human rights defenders, such as physical aggressions, arbitrary detentions, and acts of stigmatisation by government officials. The Special Rapporteur also noted a pattern of judicial harassment against leaders of rural and indigenous communities who have organised protests, in particular when these protests involve mining companies.

In 2015 communications, the Special Rapporteur expressed concern about allegations received regarding the closure of the Pachamama Foundation, a non-governmental organisation that works peacefully and legitimately for the promotion and defence of human rights.

In 2016 a report by five UN experts criticised the repressive measures taken against leading environmental group Acción Ecológica. The State took steps to dissolve the organisation for supporting violence and posing a threat to national security two days after Acción Ecológica had called for a Truth Commission to investigate attacks against indigenous and environmental defenders of the Shuar indigenous group who were opposing mining on their land. The State also initiated proceedings to close down Fundamedios, an organisation defending to freedom of expression and freedom of the press, for spreading messages with "political aims".

Since President Moreno took office a number of these organisations have been granted permission to re-open. The Confederation of Indigenous Nationalities of Ecuador has also been allowed to return to their headquarters after a sudden and unjustified eviction under

the previous administration. The Confederation has also been granted right of permanence for one hundred years. Although this is seen as a welcome and positive step there is nothing at present to stop a future government withdrawing the permission.

Good progress on press freedom has been made as the President has ended the practice of harassing and threatening journalists and public media is now independent of the State. However, in the UPR of 2017 previous policies were upheld and no changes to the Communications Law have been made.

The right to protest is guaranteed in the constitution but has been repressed with force in recent years. In particular, in 2015 many indigenous groups united to oppose the continued violations of their rights to land and water and to protest against the oil exploration, mining and deforestation taking place in their communities with no consultation. The government declared a state of emergency due to an erupting volcano as an excuse to involve the military and repress the protests. The use of excessive force was widely reported.

There have been frequent calls for the establishment of a national system specialised in protecting and providing psychological and social support to human rights defenders and environmentalists but none is yet in place.

Criminal law is often misused as a way of criminalising human rights defenders and anti-government protestors. The vague and sweeping definitions of terrorism, rebellion and sabotage have been used on numerous occasions against protestors. Carlos Pérez, Federico Guzmán and Efraín Arpi were accused of sabotage and terrorism in 2010 and received prison sentences for blocking roads in protests defending the right to water. The sentences were only a matter of days as the protestors were not considered a danger to society and their motivations altruistic. Ten people known as the Lulucoto 10 were each sentenced to one year in prison for meeting to plan a protest. A teacher was sentenced to 8 years for sabotage for allegedly encouraging students to take part in anti-government demonstrations. Community leader and defender of the right to land Manuel Trujillo, and Manuela Pacheco, community member and defender of right to water and land, were both charged with terrorism. Indigenous leader Jimpikit Agustin Wachapa spent four months in arbitrary detention on charges of inciting public discord. The definitions of terrorism and sabotage were narrowed in August 2014 in a new criminal code but so far this has not lessened the criminalisation of human rights defenders.

Of all the human rights defenders in Ecuador it is the indigenous people who suffer the most human rights violations. In their defence of their land, of the environment, and their right to water against the State, the oil companies and the extractive industry they face harassment, threats, torture, kidnapping and murder. Indigenous leader José Isidro Tendetza Antún was tortured and murdered days before he was due to attend climate talks to protest against mine construction. Indigenous people's rights defenders Yaku Pérez Guartambel, Mario Gonzalo, Fárez Ramon, Víctor Hernández Siavichay and Manuel Gayllas were kidnapped and threatened. They believe the kidnappers work for a mining company.

Patricia Gualinga, a leader of the Indigenous Kichwa Peoples of Sarayaku and environmental defender who campaigns against oil extraction projects has received death threats. So too

has Nema Grefa Ushigua. Salomé Aranda, the Kichwa leader of the Moretecocha community who has protested against oil drilling has been attacked. All have requested protective measures for women human rights defenders.

4. Issues and Trends

In recent months the State has taken positive steps towards improving the situation for human rights defenders in Ecuador. Amnesty has been granted to imprisoned indigenous leaders and human rights organisations dissolved by the previous administration have been given permission to re-open. The President has stated publicly his respect for human rights, encouraged investigative journalism, increased the transparency and independence of the judiciary, and met with human rights defenders to discuss security and protection.

The Special Rapporteur welcomes the recent progress and encourages the State to put these commitments to improving the situation for human rights defenders into action. The State has acknowledged the concerns of indigenous women human rights defenders who have been threatened because of their opposition to extractive projects, and has committed to protecting them but the attacks have not stopped and mining licences continue to be granted. The Special Rapporteur recommends that the State introduce legal reforms to promote and protect fundamental human rights and remove restrictions on the activities of civil society organisations, on freedom of expression, and on the right to peaceful assembly that currently exist in the law.

The Special Rapporteur urges the State to conduct consultations with local communities on all future mining and oil projects to help protect land and environmental defenders. The State should initiate and pursue investigations to identify and bring to justice those responsible for attacks against human rights defenders working on issues related to the environment, territory and access to land. The Special Rapporteur recommends that the State consult with human rights defenders in Ecuador to establish and implement a National Policy for the Protection of Human Rights Defenders.

Peru

1. National Context and Human Rights Defenders

Many human rights violations took place during the war against terrorism in the 1980s and 1990s with atrocities committed by both the guerrilla group Shining Path and by the government. Over 600,000 people were displaced as a result, while many others disappeared. A Truth and Reconciliation Commission began in 2001 as a response to the decades of conflict. This occurred after the resignation of President Alberto Fujimori whose divisive regime generated dissatisfaction in the late 1990s.

Peru is an upper middle income country with an economy that has experienced strong growth in the past ten years on the basis of high market prices for the metals and minerals which account for around half of the country's total exports. Poor infrastructure hinders growth of non-coastal areas. In recent years, Peru has received many refugees from Venezuela. In

addition, the country has many internally displaced persons, generally from the conflict years of 1980-2000, most of whom are indigenous peoples in the Amazon and Andean regions.

Peru was included in the 2006 Global Survey and the main expressions of concern related to intimidation and threats against those speaking out against human rights violations committed in the past and against impunity, particularly those willing to collaborate with the Truth and Reconciliation Commission. The Survey also reported on the threats and harassment facing defenders of social and economic rights and defenders of farming communities.

Despite improvements in the situation of some human rights defenders in recent years, intimidation and harassment by both state and non-state actors continues. Trade union leaders, defenders of indigenous people's rights, and defenders of women's rights are some of the most vulnerable groups and those who have been most exposed to the infringement of their rights. However, the group of defenders who face the most risk are the defenders of land, territory and the environment, and in particular indigenous defenders.

Peru is a member of the Organisation of American States and the Union of South American Nations. The State suspended its membership in the latter organisation in April 2018.

2. Legal and Policy Framework

Peru is party to the core international human rights treaties, including the ICCPR, however it has not yet ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights. Peru is party to the Inter-American Convention on Human Rights.

The constitution provides a guarantee for fundamental rights and states that the goal of society and state is to defend the human being and to respect their dignity. The constitution recognises the right to freedom of peaceful assembly, freedom of expression, and also the right to join and establish non-profit organisations although organisations are subject to some controls.

According to defenders, the general population of Peru has little faith in the institutional frameworks of justice which are regarded as politically influenced and corrupt. The criminal justice system is used to harass human rights defenders rather than protect them. Since 2006 the police have used excessive force against protesters killing more than 130. In 2015 a decree was issued to limit the use of force by police but an earlier law still grants immunity to security forces who cause death or injury in the fulfilment of their duty, even if the use of lethal force does not comply with regulations.

In 2017 the law was amended to allow the privatisation of security so that public and private entities are able to contract the services of the police, making them more likely to safeguard the corporate interests of an extractive company than the interests of the public. A further law has increased the time police may detain those who have committed a crime in flagrante from 24 to 48 hours. While protesting is not a crime this law has been used against protestors.

The law has been used to criminalise as well as repress the right to protest. Environmental rights defenders Oscar Mollohuanca Cruz, Herbet Huamán and Sergio Huamaní have been

prosecuted for endangering public safety, obstructing public services and causing civil unrest. As community leaders they are deemed responsible for organising protests and therefore also responsible for any resulting criminal activity.

The Defensoría del Pueblo serves as the national human rights institution. It is fully compliant with the Paris Principles and the GANHRI Statute. The Defensoría was established in law in 1993 and brought to existence in 1996. It is autonomous and has a strong human rights mandate and quasi-judicial powers. The Defensoría has undertaken a range of protection and prevention activities on the issue of torture and other cruel, inhuman or degrading treatments, including the training of police and military personnel, penitentiary officials and education authorities. The Defensoría has done much to expose the persistent practice of torture, has issued periodic Special Reports, and since 2006, has published data on complaints of torture and the persistence of impunity.

3. Implementation of the Declaration

Human rights defenders in Peru face stigmatisation, criminalisation, repression and violence. 119 defenders are reported to have been killed since 2011 and hundreds face criminal proceedings. Defenders are stigmatised by the media and the authorities, in particular indigenous rights defenders, and all kinds of defenders are criminalised. There is no state protection mechanism or public policy on human rights defenders, protests are met with excessive force, and recent changes to the constitution have created a punitive legal framework for human rights defenders.

According to various reports, human rights defenders most at risk in Peru are environmental defenders. The massive wealth and resources of extractive companies allow them to generate social and political support for their projects, including through corruption. They also have the support of most media and the collaboration of authorities and state institutions. The sale of land for logging or palm oil plantations is a lucrative business that has resulted in the involvement of criminal gangs in land trafficking. Defenders of access to land, and of environmental and indigenous rights are therefore often in direct conflict with large business, criminal gangs, state authorities and the security forces, putting them in great danger.

The development of extractive projects has led to public demonstrations which have often been repressed with excessive force and there is a widespread perception that the security forces protect the mining companies at the cost of the peaceful protestors. At least 78 people have been killed by the security forces in protests in recent years. Defenders working in the context of mines are also routinely criminalised.

A state of emergency has repeatedly been declared when protests are taking place stigmatising the demonstrators and giving the authorities grounds to repress the protests. Defender Máxima Acuña has been involved in a legal dispute with the Yanacocha mining company since 2011 over the ownership of the land on which she and her family have lived since 1994. She has been stigmatised as a squatter, and both she and her legal team have been accused of lies, fabrication, and trespassing. Community leaders protesting against mining in Cajamarca were stigmatised as a “mob” who had used “force and violence”. There are estimates of over 300 defenders facing criminal proceedings for their opposition to a

single mining project, and 120 more facing prosecution for defending human rights against hydroelectric projects on one river.

Environmental rights defenders working to protect ecosystems with high levels of biodiversity and indigenous defenders protecting their land rights face great risk from state and non-state actors whose aim is to discredit them and in some cases to interrupt the actions of protecting territory at whatever cost. These defenders often work in remote areas with no protection. In 2017 six farmers were shot dead by a criminal gang wanting to use their land to grow palm oil. In 2018 José Napoleón Tarrillo Astonitas was tortured and killed for his opposition to land traffickers who had taken over a nature reserve.

Journalists and other media personnel face threats, physical attacks and even assassination. Many have faced criminal proceedings under the State's criminal defamation laws. Journalists reporting on corruption of State officials and businesses are frequent targets. In 2017 journalist Marco Bonifacio Sánchez was kidnapped and physically assaulted. Human rights lawyer Ronal Gamarra was charged and convicted of defamation for an article he wrote about the alleged corrupt practices of a magistrate. In 2016 radio journalist Hernán David Choquepata Ordoñez was shot and killed while on the air.

The Special Rapporteur has sent communications to the State concerning the situation of human rights defenders, in recent years raising issues concerning the treatment of women human rights defenders and defenders of indigenous rights and journalists.

4. Issues and Trends

In Peru the work of human rights defenders continues to be discredited through the stigmatising language of the media and some authorities. The right to peaceful assembly is being violated with cases of security forces wounding and killing civilians protesting over mining and other large-scale development projects. Communications received by the Special Rapporteur consistently express concern about the excessive use of force, intimidation, harassment, attacks and murders of members of indigenous communities and human rights defenders, as well as the increasingly restrictive regulatory environment for the exercise of the rights of free expression and association.

The Special Rapporteur urges the State to recognise the legitimate and valuable work of human rights defenders, particularly those who work to protect ecosystems and forests from the harm caused by megaprojects. The misuse of the justice system to intimidate, harass and discredit defenders of the environment, territory and land should cease. The State should initiate and pursue investigations to identify and bring to justice those responsible for attacks against human rights defenders working on issues related to the environment, access to land and territory.

The Special Rapporteur further urges the State to recognise the importance of the land to the spiritual life, integrity and economic wellbeing of indigenous communities and to take this into account when considering development projects. Indigenous communities should be consulted and involved in the decision making process. Defenders of indigenous rights should also be involved in the further development of the National Plan for Human Rights to guarantee they are protected effectively.

The Special Rapporteur welcomes the introduction of the National Human Rights Plan and encourages the State to ensure that the plan is implemented with effective warning and protection mechanisms for human rights defenders.

Finally, the Special Rapporteur recognises the work of the Climate Alliance COICA in identifying and publicising cases of aggression against indigenous rights defenders in the region, and in strengthening protection mechanisms.

Venezuela (Bolivarian Republic of)

1. National Context and Human Rights Defenders

In 2016, Maduro issued a decree to hold an election to form a “Constituent Assembly.” This was approved in 2017, giving the 545-member assembly power to change the constitution and dismiss government institutions and officials. Democratic institutions continue to deteriorate, freedom of expression and the press are curtailed, and political polarisation has grown.

Venezuela is an upper middle-income country. The government of former president Hugo Chávez reinserted much of the State’s oil wealth into social programmes in an attempt to redistribute income. The government of Nicolas Maduro, his successor, has had to struggle with plummeting oil prices amid a social and economic crisis characterised by shortages of basic goods and soaring inflation. Venezuela is currently experiencing a massive exodus of its citizens. Over the last four years, an estimated four million Venezuelans have migrated, often illegally.

Venezuela was included in the 2006 Global Survey. According to the information provided to the Special Representative by the UNDP office, there were several networks of organisations of human rights defenders. These networks and organisations were mainly developing research and education activities in human rights, and providing counselling and legal assistance to victims. Some focused their attention on documentation, information, education and promotion of public policies and legislation. Political and social polarisation in the country, as well as repression by the government, had limited the work of the organisations.

The drastic changes in Venezuela since 2006 under the increasingly authoritarian stance of the current administration have led to a humanitarian crisis. There are food shortages and a lack of medical supplies. Members of the opposition are persecuted and many are under house arrest, in prison or have fled. It is estimated that there are more than 300 political prisoners. The dangers faced by human rights defenders are severe with violent repression of protests, pervasive control of the media and freedom of expression, and criminalisation of and restrictions on civil society organisations. The Special Rapporteur has received a number of communications concerning the situation of human rights defenders in the State.

Venezuela is a member of the Organisation of American States (OAS) but formally notified the OAS of its withdrawal in 2017, with it taking effect in 2019.

2. Legal and Policy Framework

Venezuela is party to most of the core international human rights treaties, including the ICCPR. The State is not party to Convention for the Protection of All Persons from Enforced Disappearance nor is it party to the Optional Protocol of the Convention against Torture. The State withdrew from the American Convention on Human Rights in 2012.

Article 23 of the Constitution of the Bolivarian Republic of Venezuela establishes the constitutional hierarchy of international human rights treaties ratified by Venezuela which prevail domestically insofar as they contain more favourable norms than national ones. Likewise, the Constitution offers a favourable legal framework for human rights defenders to exercise their rights to freedom to seek and disseminate information, to communicate with each other and with others, and to study and discuss matters related to human rights. Article 57 and 52 guarantee the rights to freedom of expression and to the freedoms of association and assembly.

The National Assembly has introduced legislation to restrict organisations that “defend political rights” or “monitor the performance of public bodies” and a supreme court ruling allows individuals or organisations receiving foreign funding to be prosecuted for treason. Organisations can also be penalised for offending state officials or for inviting foreigners whose opinions “offend institutions of the state.”

In January 2015, the Minister of Defense approved Resolution 8610, authorising the “use of potentially lethal force, along with the firearm or an other potentially lethal weapon” as a last resort by the Venezuelan armed forces “to prevent disorders, support the legitimately constituted authority and reject any aggression, facing it immediately and the necessary means.” In May 2016, President Maduro declared a state of emergency.

Prison sentences of up to 20 years can be imposed on those who have published “messages of intolerance and hatred” in the press or on social media under the “Law Against Hatred” and websites can be closed for “incitement” or “disrespect”.

Decision No. 276-24/4/2014 of the Supreme Court has been criticised as it makes it obligatory to request a permit to exercise the right to peaceful demonstration and allows the security forces to disperse any demonstration organised without such a permit.

The national human rights institution (Defensoría del Pueblo) was downgraded to partially compliant (level B) with the Paris Principles and GANHRI Status in 2016. It has a constitutional mandate to promote, defend and monitor human rights recognised in the constitution and in international treaties.

The State does not have a national law or policy recognizing the rights of human rights defenders or establishing a national protective mechanism.

3. Implementation of the Declaration

The human rights situation in Venezuela is dismal with reports of extrajudicial killings, torture and the excessive use of force against demonstrators. The perpetrators of the gravest of human rights violations receive impunity and the State no longer recognises international or regional human rights bodies. All human rights defenders are at risk in Venezuela.

In August 2017 the crisis in Venezuela led to 12 foreign ministers from the Americas signing the Lima Declaration, calling for free elections and the release of political prisoners, and condemning the breakdown of democracy and the violation of human rights in Venezuela. The 12 stated they would recognise neither the Constituent Assembly nor its resolutions, pledged to stop the transfer of weapons to Venezuela, and expressed concern about the humanitarian crisis and the government's refusal to accept international humanitarian aid. They also indicated their willingness to support efforts toward credible and good faith negotiations aimed at restoring democracy in the country peacefully. This has led to the further isolation of Venezuela from the international order and increased tensions between Venezuela and neighbouring countries. Furthermore, it also led to the announcement of the State's withdrawal from the Organisation of American States.

There are grave concerns about the pattern of serious human rights violations committed against defenders in Venezuela, in particular cases of arbitrary detention, torture and murder. In 2015, the director of the civil society organisation Un Mundo sin Mordaza was arrested and subsequently released. There were acts of harassment, monitoring and threats against members of the civil society organisation Foro Penal Venezolano, and criminalisation and detention of defenders working against discrimination and for sexual orientation and gender identity rights.

Many organisations have reported that the State's response to protests over the past few years has been disproportionately repressive since around 82% of the protests repressed have been peaceful. The authorities have responded with an "iron hand" against those considered as "conspirators". The Counter-Terrorism Law has been used to justify arrests and a United Nations investigation found credible reports of cruel, inhumane and degrading treatment including the use of electric shocks, beatings and suffocation, as well as the threats of rape and murder.

Hundreds of extrajudicial killings have been reported. The relatives of victims of a fire that killed 68 people in a police station jail were fired on with tear gas as they gathered to demand information. As well as the use of excessive force by the State authorities, the right to peaceful assembly has met with arbitrary detentions, poor detention conditions, lack of access to lawyers and attacks by armed civilian groups. There has also been violence on the side of the protestors with at least 8 security officers killed.

Human rights defenders have not only faced attacks against their lives and personal integrity, individuals and civil society organisations have also been discredited and criminalised, accused of terrorism and treason. Defenders who co-operate with the United Nations or OAS suffer harassment, intimidation and defamation. Human rights defenders and the media are harassed by state officials and there is widespread impunity for violations of human rights.

4. Issues and Trends

The Special Rapporteur is extremely concerned by the crisis facing Venezuela and by the reports of widespread human rights violations of the most serious kind. Human rights defenders are working in a climate of fear in increasingly difficult circumstances. They are subjected to smear campaigns, threats, harassment, arbitrary detention, and even torture for carrying out their legitimate work and are often stigmatized by the media and by the authorities, including at the highest level of government.

The Special Rapporteur urges the State to take immediate action to prevent further deterioration of the situation and to take all necessary measures to ensure the protection of everyone, including protestors and human rights defenders. The Government, authorities and security forces should stop attacking the political opposition, the media and human rights defenders, refrain from detaining or bringing criminal charges against defenders for exercising their rights, and release any defenders who are in detention solely for their legitimate human rights work.

The Special Rapporteur further urges to the State to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and to publicly condemn all cases of torture and ill-treatment, and to take prompt measures to end this practice. The Special Rapporteur recommends the State to lift restrictions limiting the rights to freedom of expression, association and assembly.

ASIA

Central Asia

Kazakhstan

1. National Context and Human Rights Defenders

Although a vibrant civil society has developed in Kazakhstan following the independence of the State, in recent years all civil society organisations have faced a growing number of restrictions and human rights defenders have faced particular challenges. Groups of defenders facing particularly severe situations include the often overlapping categories of defenders engaged in online protest and blogging, labour rights defenders, land and environmental rights defenders, defenders associated with the political opposition, defenders located in rural areas, and defenders of sexual orientation and gender identity rights. Women human rights defenders also face the reinforcing challenges of a patriarchal social and political structure and shrinking civil society space. According to local human rights organisations, in the last five years, more than 500 human rights defenders have faced threats and other serious violations of their rights, with the number of defenders in such a situation growing every year.

According to the 2006 Global Survey, there were around 500 to 750 civil society organisations working on human rights in Kazakhstan, as well as individual human rights defenders such as journalists. At the time, it was party to seven of the core international human rights instruments. It had signed but not ratified the ICCPR and ICESCR. Kazakhstan ratified the ICCPR and ICESCR in 2006 and ten UN Special Rapporteurs have visited Kazakhstan since 2004. The Global Survey expressed concern that the government restricted rights to freedom of expression and assembly, and that individual defenders such as journalists were targeted. The State had also initiated tax investigations of civil society organisations and there were reports that civil society organisations were under state control.

Kazakhstan is a member of several regional organisations which have not developed policies with respect to human rights defenders. It is also a member of the OSCE and seeking to become a member of the Council of Europe, both of which have policies with respect to human rights defenders.

2. Legal and Policy Framework

Kazakhstan has signed and ratified eight core treaties. The state has only commented on defenders once when reporting to treaty bodies. In 2014, in their submission to the Committee against Torture, they stated that defenders are involved in working groups and other consultation to the state regarding cases of torture and other cruel treatment or punishment¹⁴². The Human Rights Committee has expressed concern that the law on defamation has been used to harass and intimidate defenders. The UN Working group of arbitrary arrest and detention in 2018 declared as arbitrary the arrest and detention and

¹⁴² CAT/C/KAZ/3

called for the release of Talgat Ayan, Teymuraz Akhmedov, Amin Yeleussinov and Nurbek Kushakbayev.

In the recent cycles of the UPR process, the situation of human rights defenders has been discussed. The State has accepted recommendations to ensure freedom of expression and protection of defenders and to ensure violations against defenders were prosecuted; unfortunately, the State rejected the recommendation to repeal elements of the criminal code which infringed on the rights to peaceful assembly and freedom of association¹⁴³.

State policy with respect to human rights is set out in five yearly National Actions Plans. The State has struggled to meet a majority of the goals in these Action Plans and none have addressed explicitly the situation of human rights defenders, including the protection of defenders particularly at risk.

The National Human Rights Commission (also known as the Kazakhstani Ombudsman) was established in 2002 as a national human rights institution and has been partially accredited at level B in accordance with the Paris Principles. While it has undertaken a number of successful initiatives in the field of human rights and intervened to address the situation of particular human rights defenders, it has not significantly addressed the situation of human rights defenders directly in its organizational structure or programming. Since 2014, the Public Association “Dignity,” or “Kadyr-Kassiyet,” has been proposing through the Commission’s national council of experts that the Commission develop a national protective mechanism for defenders. In 2015, this proposal was opposed as “discriminatory” by various public security departments within the State. In 2016, a related report on freedom of association that was listed in the Commission’s work plan was not published. However, more hopefully, at a recent meeting in June 2018, the council of experts recommended that the Commission create a focal point on protection of human rights defenders.

3. Implementation of the Declaration

There is no specific legislation that addresses the situation of human rights defenders or protects defenders at risk. In recent years, various legislative amendments and new legislation have restricted the rights of defenders, in particular in relation to their rights to peaceful assembly and access to funding. Many of these new legislative provisions have been passed under the guise of addressing the threats of terrorism and organized criminality; these rationales further stigmatise defenders when they are prosecuted under these laws.

Local human rights defenders have described at least 20 human rights defenders as “political prisoners”. Prominent cases of prosecution and imprisonment of defenders include, in 2016, that of Yerzhan Orazalinov, an environmental rights activist who was sentenced to five years in prison as a result of his litigation against extractive industrial interests. In 2017 Olesya Khalabuzar, the leader of an unregistered opposition party making what many believed to be a coerced confession, was charged with inciting racial hatred and sentenced to two years of restricted freedom; Ms. Khalabuzar simultaneously renounced her activism.

Freedom of expression, particularly criticism of the government, by defenders is severely restricted through the use of article 174 of the Criminal Code. Article 174 prohibits actions that foment social, national, tribal, racial, class, or religious hatred and actions that insult

¹⁴³ A/HRC/28/10

national honor or dignity or the religious feelings of citizens. It has been reported that these prohibitions have resulted in the arrest, secret trial and lengthy sentences for defenders who have expressed criticism of the government. Since 2015, individuals with convictions under particular provisions of the Criminal Code have been additionally punished through the denial of access to financial institutions, use of notaries and other financial and administrative services. The denial of access to these services can persist long after the end of criminal proceeding and detention.

The State has encouraged and supported the formation of a large number of pro-government civil society organisations and the state-aligned media regularly describe human rights defenders as militants, terrorists, and under foreign influence. According to information received by the Special Rapporteur, human rights defenders are subject to physical assaults, arbitrary arrest and detention, excessive sentences of imprisonment, and torture during detention by the State. Defenders are also subject to a wider range of State actions including psychological pressure, threats, searches of offices, public defamation, and interference with their practice of their professions. Lawyers working on human rights issues in particular have been targeted for disbarment and professional complaint.

The authorities regularly deny permits for peaceful protests, and organisers can be charged with inciting discord, including a number of high profile prosecutions under article 174, as several sources reported. In December 2012, at least 14 protesters were killed by police in Zhanaozen as they clashed with police on the State's Independence Day. The protest was part of a lengthy occupation of the main square by striking oil workers. In the aftermath of the violence, the State arrested and prosecuted many of the organisers of the protest and protesters; there were several reports of physical abuse and torture of the defendants.

The exercise of freedom of association is increasingly regulated by the State. In 2017, hundreds of oil workers went on hunger strike to protest the dissolution of important trade unions; two weeks later up to 63 participants were prosecuted and fined for their involvement. Since September 2016, Human rights organisations have been required to report information about their founders, projects, activities and results, donors and overall financial situation to the (now) Ministry of Religious and Civil Society Affairs. Many of the criminal law provisions used to target defenders are also used to prosecute colleagues working at the same organisation and to interfere with the operations of organisations.

Since November 2016, civil society organisations (and individual defenders) are required to immediately inform the tax department of receipt of foreign funding. Human rights organisations, including the Liberty Foundation, have been prosecuted for their failure to comply with this requirement and accused of “profiting” from foreign funding.

The Special Rapporteur appreciates the state responses to communications in recent years. The seven most recent communications (2016 and 2017) have raised concerns over arbitrary arrest and detention and lengthy imprisonment of individuals for their comments online, which the authorities believed were threatening to national security. The Special Rapporteur is also concerned about the practice of detaining individuals ahead of protests.

In the last five years, the Special Rapporteur has received a number of communications concerning the situation of human rights defenders in Kazakhstan. These communications expressed concern about freedom of online speech and the right to protest.

4. Issues and Trends

The situation of human rights defenders in Kazakhstan has deteriorated since the 2006 Global Survey. Human rights defenders face significant violations of their rights to freedom of expression, peaceful assembly, association, and access to resources. The State should make a public commitment to the implementation of the Declaration and the important and legitimate role played in social and economic progress of the State by human rights defenders. The National Human Rights Commission should develop greater programming and devote more resources to the situation of human rights defenders. The creation of a national protective mechanism for human rights defenders at risk should be a priority of all stakeholders in the State and this should be reflected in the programming of the Commission and in the National Action Plan of the government. The State should review its criminal legislation and its policies with respect to prosecutions to ensure that in law and in practice the rights of defenders are not infringed. In any review, particular attention should be paid to provisions concerning unlawful assemblies and defamation, including article 174. Consistent with some of its public announcements, the State should allow the independent investigation of significant acts of violence committed against human rights defenders, including the acts of violence in Zhanaozen.

Kyrgyz Republic

1. National Context and Human Rights Defenders

In the run-up to the elections of 2017 in the Kyrgyz Republic, human rights defenders faced a number of attacks against their freedom of expression and other restrictions in order to minimize their role in the election campaign. However, respect for human rights, guarantees of freedom of expression, and improved cooperation with civil society featured prominently in the electoral campaign of presidential candidate Sooronbay Jeenbekov. Since being elected in October 2017, President Jeenbekov has stressed these same issues in public addresses, raising hope for positive developments in the near future.

The State has a large, though largely urban, civil society with more than 5,000 active, registered civil society (“noncommercial”) organisations engaged on a wide range of issues. Civil society representatives are engaged with the government at the national and local levels through numerous consultative public councils at the state ministries and agencies. There are a large number of human rights organisations and networks defending human rights in the State. Human rights defenders operate in an environment in which the level of trust in the judicial system and in the law enforcement system overall is extremely low.

Defenders facing particularly challenging situations include journalists, defenders of sexual orientation and gender identity rights, and women human rights defenders. The latter two groups can face additional challenges due to social taboos against the discussion of sexual violence. As noted earlier, defenders from the Uzbek ethnic minority are at particular risk of being targeted by the State (and often the majority Kyrgyz public). Lawyers defending Uzbek defenders also regularly face threats and intimidation.

The Kyrgyz Republic was included in the 2006 Global Survey. The Global Survey raised concern about the general environment of oppression and persecution of HRDs in the state,

particularly when critical of state actors. Restrictions on the right to freedom of assembly, attacks on the families of HRDs, and difficulties faced by journalists were all highlighted.

2. Legal and Policy Framework

Since the 2006 Global Survey, Kyrgyzstan has adopted a new constitution that, among other advances, restricted the power of the President. Kyrgyzstan has ratified the majority of the international human rights treaties, including the optional protocols allowing for complaints procedures for Convention on the Elimination of Discrimination against Women, the ICCPR, and the optional protocol for the Convention against Torture. The latter two have been signed since the 2006 Global Survey. Despite recommendations during the UPR process, the State has not become party to the International Convention for the Protection of All Persons from Enforced Disappearances.

The Ombudsman (Akyikatchy) functions as the national human rights institution for Kyrgyzstan and has received a B status rating, accredited as partially compliant with the Paris Principles. The Human Rights Committee has noted that the office is not adequately independent from the Government; however, legislation has been proposed to improve this. The Ombudsman has publicly supported human rights defenders in their work, notably condemning the continued detention of Azimjan Askarov after the institution investigated the issue, and asking a company to withdraw claims against an investigative journalist. There are concerns however regarding dismissals of the head of the Ombudsman, taking place in 2013, 2015, and reports that the resignation in 2018 was not voluntary.

3. Implementation of the Declaration

There is no law that specifically addresses the situation of human rights defenders and no national protective mechanism for human rights defenders at risk.

The freedom of expression of defenders is restricted. Media outlets critical of the regime have faced harassment and prosecution. Journalists have also been targeted for their work, using defamation and libel laws, as well as being publicly accused of inciting ethnic hatred or 'discrediting the president's honour'. In 2017, five defamation lawsuits were brought against organisations such as Radio Free Europe and Zanoza, as well as individual human rights defenders, for speaking against the President. Opposition-leaning broadcaster Sentyabr was also closed with no evidence of malpractice, and a journalist working for Ferghana was charged for reporting on a contentious business deal. More hopefully, President Jeenbekov has recently retracted of defamation claims against the news agency 24.kg and journalist Kabay Karabekov.

However, draft legislation remains pending before the Parliament that would restrict online freedom of expression through the extension of defamation lawsuits to online postings. Human rights defenders also have faced targeting under "anti-extremism" legislation. The human rights organisation Bir Duino learned in March 2018 that it had been previously declared by a court to be an extremist organisation, ostensibly for its researching and publications investigating the violence of 2010.

In 2016, Kyrgyzstan's parliament voted against a contentious "foreign agent" bill which would have enforced harsh restrictions on groups who receive donations from abroad.

However, despite its defeat, the President has declared that defenders working with foreign donors are likely “betraying national values”. The bill was only defeated due to concerted advocacy by civil society.

However, in June 2018, the Parliament of Kyrgyzstan adopted Draft Laws on Countering Financing of Terrorist Activities and Legalization (Laundering) of Criminal Incomes and on Amending Certain Legislative Acts of the Kyrgyz Republic. The laws provide that the government regularly conduct risk assessments in the non-governmental organisation sector and, based on the results, identify organisations that are at "high risk" of using finances for terrorist activities. In the future, preventive work will be focused on such "high risk" organisations. Human rights defenders have shown concern on the possibility that these laws could be used to target them.

Defenders working on sexual orientation and gender identity issues face a dangerous environment. In 2008, the office of Labrys was raided and private documents and locked offices were searched. Two years earlier the offices had allegedly been raided, during which police threatened to rape anyone inside. More recently, in 2015, the office was again attacked with explosives, causing fires. A draft “anti-gay propaganda” law has fueled homophobia and, along with the targeting of Labrys and other organisations, forced many human rights defenders working on these issues (and LGBTQI* persons) to go underground. The risks (and lack of support) from the State faced by defenders working on issues of sexual orientation and gender identity are exacerbated by alienation and hostility from other human rights defenders and members of the public. It has been reported that women human rights defenders face a similar destructive dynamic of state targeting, impunity for perpetrators, and public hostility.

Uzbek minority defenders (and their supporters) continue to work in an environment that has not yet overcome the violence of 2010 during the clashes between Kyrgyz and Uzbek populations in the south of the country. The lack of anti-discrimination legislation and anti-discrimination or equal opportunity programs makes redress for acts of discrimination difficult or impossible. Azimjan Askarov who sought to document the violence remains in prison after being prosecuted on charges of creating a mass disturbance. Mr. Askarov was not allowed to see an independent lawyer for five days at the start of his detention, there were signs of daily beatings, and his lawyer also received threats and physical abuse. The Human Rights Committee has, in May 2016, come to the conclusion that Mr. Askarov has been severely mistreated and arbitrarily detained and found that a number of his rights outlines within the ICCPR had been violated.

According to numerous sources, the use of torture is widespread, including against human rights defenders who have been detained. The National Centre for the Prevention of Torture, set up in 2012, is a welcome protection mechanism however allegations of torture continue and remain under-investigated.

Since 2005, 34 communications have been received by the Special Rapporteur on the situation of human rights defenders in Kyrgyzstan; only twelve responses have been received. While the Special Rapporteur would like to thank the State for its engagement with the process so far; however, he regrets that the State has replied to a minority of communications sent. The communications sent by the Special Rapporteur highlight patterns of harassment of defenders by the authorities, in particular targeting defenders, lawyers and organisations

of the minority Uzbek community. The Special Rapporteur has requested a (second) country visit and hopes that the State will soon confirm dates to facilitate a visit.

4. Issues and Trends

There is a vibrant civil society present in Kyrgyzstan and it is often considered as an example for the region. Indeed, human rights defenders in Kyrgyzstan face opportunities, though they also face significant challenges. The new government may be willing to reverse the deteriorating environment for human rights defenders, though such hopes have been raised and then dashed by previous new governments. The Special Rapporteur encourages the State to engage with the community of human rights defenders, particularly with respect to any legislative or policy reforms that might affect them.

The independence of the office of the Ombudsman is essential and the State must ensure that its national human rights institution is able to proceed in its work without undue influence or pressure. The Ombudsman should continue to investigate and intervene with the State when defenders face a violation of their rights.

Freedom of expression of defenders, including journalists, is essential to a safe and enabling environment. The Special Rapporteur urges Kyrgyzstan to ensure a free and independent media in line with the rights of the Declaration and major international human rights instruments. The use of prosecution for defamation should be ended as a tactic against critics.

A number of the challenges faced by defenders relate to broader social challenges. The situation of the Uzbek minority and inter-ethnic tensions within the State are serious and extend beyond the situation of human rights defenders. The Special Rapporteur calls upon the State to ensure that human rights defenders do not suffer racial discrimination and that it takes particular care in the protection of Uzbek human rights defenders. Similarly, the homophobic rhetoric encouraged by the State in the past must be addressed and the human rights defender community should commit itself more openly to solidarity with defenders of sexual orientation and gender identity rights. The risk of torture facing all prisoners must be addressed, including the use of torture against defenders.

Tajikistan

1. National Context and Human Rights Defenders

The human rights situation in the Republic of Tajikistan has worsened in recent years as authorities have deepened a severe, widespread crackdown on free expression and association, peaceful political opposition activity, the independent legal profession, and the independent exercise of religious faith. Within this increasingly repressive environment, human rights defenders in Tajikistan face de jure and de facto restrictions on freedoms of association, expression, and peaceful assembly. As a result, human rights defenders in Tajikistan operate in a restrictive environment in which individual defenders face threats from the State and organisations are sometimes forced to close. Human rights defenders at particular risk in Tajikistan include journalists, lawyers, defenders of sexual orientation and gender identity rights, and defenders of the rights of religious minorities.

Tajikistan is a member of a number of regional organisations, including the OSCE, Commonwealth of Independent States, the Shanghai Cooperation Organization, and the OIC; only one (the OSCE) of these organisations has adopted legal instruments or policies with respect to human rights defenders.

Tajikistan was included in the 2006 Global Survey. At that time, Tajikistan had ratified seven of the core international human rights treaties. The constitution guaranteed freedom of association, assembly and expression however, in practice, numerous obstacles to the free exercise of these rights were noted. For example, the Global Survey reported that non-governmental organisations were subject to surveillance and regular inspections from the state. The Global Survey also noted criticisms of the State by human rights defenders for the disregard of religious freedoms, civil norms and political pluralism.

2. Legal and Policy Framework

Tajikistan has not ratified any additional core treaties since the Global Survey in 2006, though it is in the process of becoming party to the Convention on the Rights of Persons with Disability. According to credible sources, the existing legal frameworks have been used to prosecute human rights defenders for statements and actions perceived as critical to the government and to restrict their freedoms of assembly and association as noted below. In recent years, the State has repealed articles relating to criminal defamation. However, it is still an offence to insult the president or a state official, offenses which are reportedly very broadly construed.

The Human Rights Ombudsman is the national human rights institution. It has been accredited a level B being partially compliant to the Paris Principles. The Ombudsman does not have any specific mandate or programming on human rights defenders. Defenders who have reported cases to the Ombudsman have indicated that little apparent effort is made to respond to complaints and no government action has resulted. The Ombudsman is addressing some of its operational challenges through partnership with external organisations.

3. Implementation of the Declaration

There are no specific laws or policies relating to the situation of human rights defenders in Tajikistan.

Local and international human rights organisations estimate that more than 150 human rights defenders, including political activists, lawyers and journalists, remain unjustly jailed. Defenders are also at risk of enforced disappearance, arbitrary arrest and detention, denial of legal counsel and torture. Human rights lawyers and their families are harassed, intimidated, and arbitrarily detained, with many facing travel bans. Human rights defenders mention informal talks and even telephone conversations as an ordinary measure of intimidation and pressure. According to information received by the Special Rapporteur the most repressive measures are reserved for defenders perceived as part of the political opposition; less overtly political human rights defenders usually avoid many of the most severe forms of mistreatment. However, all defenders suffer from a more general climate of fear and censorship, including self-censorship. Recently there have been reports of increased surveillance, inspections and prosecutions of civil society organisations, especially those working on human rights. Repeated inspections significantly disrupt the work of human rights

defenders, and are often followed by warnings and legal actions against them for alleged violations.

There are cases of human rights NGOs being closed down on charges of misconduct, for participating in political work or activities which are not expressly mentioned in their mandates. The Law on Public Associations came into force in 2007, and required all existing civil society (“non-commercial”) organisations to undergo re-registration or face termination. There are about 3000 registered organisations in Tajikistan. In 2009, the procedures for registration were simplified for some organisations. However, more recent developments have considerably increased fees payable by some organisations and have introduced a notification requirement that hampers the ability of defenders to receive grants and other aid from foreign sources.

Despite the constitutional guarantee of freedom of assembly, legislation requires advance notice of public demonstrations and a wide range of locations are off limits to demonstrations. Amendment of the Law on Meetings, Rallies, Demonstrations and Marches removed the equal right of foreign citizens and stateless persons to participate in meetings, rallies and demonstrations. In practice, authorities often do not allow marches to take place, and when they do, they interfere with their continuation. For example, during a women’s march to the local UN office, the police detained and later fined some protestors due to “failure to obey police.”

Freedom of expression is limited, particularly in relation to the media. Severe restrictions are imposed on the press and many of those targeted for mistreatment by the State are journalists. In July 2018, journalist and comedy club owner Khayrullo Mirsaidov were sentenced to twelve years after publishing an open letter to the government regarding a corruption scandal. Some aspects of his conviction were subsequently overturned and his sentence reduced on appeal; he continues to appeal his remaining convictions and sentence.

Access to information and freedom of online expression are restricted. The government tightly controls the internet and messenger services. In November 2012, the country banned Facebook to prevent “mud and slander” being said by critics against the government. The State retains tight control of the internet, and although it has lifted blocks on social media platforms, it continues to block access to the BBC and CNN under provisions allowing it to block access to sites promoting “extremism”. Books cannot be brought into or taken out of the country without written permission.

Torture remains a serious concern. Since 2016, the Coalition against Torture, a collection of Tajik rights groups, has reported at least 90 instances of torture or ill-treatment in detention. In 2012, the Association of Young Lawyers of Tajikistan (Amparo) was closed down in circumstances lacking in due process and strongly suggesting it was an act of retaliation in response to Amparo’s participation in the review of the State before the Committee Against Torture and communications with the Special Rapporteur on torture, cruel, inhuman or degrading treatment or punishment.

Defenders of sexual orientation and gender identity rights face a combination of State repression and social stigma. While homosexuality is not criminalized, it is officially listed as an immoral behaviour. There were disputed reports in 2017 that Tajik authorities had created a list of lesbian women and gay men who would be kept under surveillance and subjected to regular, forced health checks. Such an environment makes it near impossible for defenders

to work for LGBTQI* rights. Negative public rhetoric about defenders has a particularly adverse effect on defenders working on sexual orientation and gender identity. Members of the LGBTQI* community have said they believe that some civil society organisations work for the police and would share personal information with the authorities.

Women human rights defenders operate in an environment in which social and political leaders emphasize the “traditional” role of women and women’s rights are discussed as part of the government’s campaign against Islamic extremism. The Ministry of Culture has published a guide of “recommendations” of appropriate clothing for women, notably declaring inappropriate black dresses, headscarves and the hijab. As a result, the work of women human rights defenders has been politicised and negatively associated in state and public attitudes with “Western” (non-Tajik) values or religious (Islamic) extremism.

The threat to human rights defenders extends to defenders operating outside the territory of the State. In March 2015, the Tajik citizen and human rights defender Umarali Kuvvatov was shot and killed in Istanbul. He was the founder of Group 24 which tried to unite Tajik defenders living in exile. There are credible reports that relatives of defenders who peacefully criticize the government from outside the country are subjected to retaliation orchestrated by authorities, including arbitrary detention, threats of rape, confiscation of passports and property, and vigilante justice at the hands of sometimes-violent mobs. For example, Tajik authorities have placed the 10-year-old daughter of Shabnam Khudoydodva, a defender in exile and colleague of Umarali Kuvvatov, on a watch list and in August 2018 prevented her from traveling to Europe to reunite with her mother. Tajik security services forced an activist’s 10-year-old daughter, elderly mother, and brother off an airplane at Tajikistan.

The Special Rapporteur received several communications concerning the situation of human rights defenders in Tajikistan, including most recently related to the closure of Amparo.

4. Issues and Trends

While the size and diversity of civil society in Tajikistan are impressive, recent developments in Tajikistan are troubling. The right of defenders to discuss and debate issues relating to human rights, in both local and international fora, is fundamental to the Declaration. The Special Rapporteur is troubled by the appearance of reprisals against human rights defenders both when they discuss the situation in the State with international organisations, and when they appear to oppose the policies and practices of the State locally. Defenders must be able to safely and freely carry out legitimate activities such as independent journalism, peaceful protests, representation of individuals (including other defenders) in legal proceedings, and participation in civil society organisations without facing the risk of harassment, intimidation, arbitrary arrest and detainment, and torture. The State should revisit and revise recent laws interfering with the right to raise resources for the defence of human rights and the ability of non-citizens to participate in public assemblies. The State and the Ombudsman should develop a programme of public education on the Declaration and the role of human rights defenders and explore better ways of responding to complaints from human rights defenders at risk, including a national protective mechanism. Family members of defenders should never be subject to reprisals and, like defenders themselves, should be protected from threats.

Turkmenistan

1. National Context and Human Rights Defenders

Turkmenistan is a hostile environment for human rights defenders. There are a very limited number of registered civil society organisations working on human rights issues. The government effectively bans all forms of religious and political expression not approved by authorities, tightly controls media, and allows no independent monitoring groups. Dozens of people remain victims of enforced disappearance. Journalists, both independent journalists and those associated with foreign media outlets are at particular risk. Defenders of sexual orientation and gender identity rights face hostile social attitudes and targeting by the State. All those who openly criticise government policies are also vulnerable to intimidation and harassment. Critics who were pressured to flee the country and now live in exile have also been targeted personally and through their families.

Turkmenistan was included in the Global Survey 2006. The Global Survey noted concerns regarding the violation of the right to freedom of association in Turkmenistan, and the virtual impossibility for independent human rights defenders to operate openly and without risks. In general the legal framework of Turkmenistan was restrictive in terms of the laws and provisions relevant for the work of human rights defenders. In fact, then recent amendments made to the Criminal Code signaled a hostile and deteriorating environment for defenders. For example, the Criminal Code was amended to sanction corrective labour and imprisonment for those found guilty of engaging in public activities without explicit state approval. The Global Survey also noted the lack of free media and restrictions on freedom of expression. It was reported that the Government censored the media and that access to the Internet was severely restricted. Defenders and their families faced intimidation, harassment, constant surveillance, arbitrary arrests, imprisonment and ill-treatment, and restrictions on freedom of movement. Although some progress has been made reforming restrictive legislation since 2006, the situation in Turkmenistan remains very difficult for human rights defenders.

2. Legal and Policy Framework

Turkmenistan is party to seven core international human rights treaties. In recent discussions by the Human Rights Committee in 2017, concerns were expressed about the treatment of defenders in Turkmenistan. Defenders commented on the harassment and intimidation of defenders and restrictions on their ability to carry out their legitimate work due to repression of civil society activism, and laws which restrict civil society organisation registration, activities, and funding. Similar submissions were made to the treaty body for the Convention on the Elimination of Discrimination against Women.

Turkmenistan has not until recently had a national human rights institution. However, the State has recently adopted the Ombudsman Act and appointed an Ombudsman. The State has asserted that the Ombudsman's mandate is consistent with the Paris Principles though it remains to be seen whether the Ombudsman will be accredited by GANHRI. In her first report in June 2018, the Ombudsman emphasized that the identities of all complainants had been "recorded" and dismissed the vast majority of complaints. No complaints from human rights defenders were noted in her report. It remains unclear how this new institution will develop

and whether it will gain sufficient public trust, independence and impartiality to operate effectively.

3. Implementation of the Declaration

Turkmenistan does not have legislation addressing the situation of human rights defenders. There is no national protective mechanism for human rights defenders at risk.

According to credible sources, defenders are unable to freely carry out their legitimate work due to restrictions on the rights to freedom of expression, association, assembly, movement, communication, funding and access to resources. Travel bans are imposed on defenders and relatives of exiled defenders.

There are a very limited number of civil society organisations focused on human rights. In 2003, new legislation toughened the rules concerning legal registration of civil society organisations (“public associations”) and prohibited activities of unregistered associations. While some legal reforms since the new government in 2007 have loosened the regulation of civil society organisations, others have tightened the rules. Hopefully, the new Law on Charitable Activity of 2017 may remove some of the regulatory requirements and restrictions on the receipt of foreign funding by defenders.

The ability of defenders to access information and express themselves online is very limited. All print and electronic media are controlled by the State. The current (2016-2020) National Human Rights Action Plan sets the goal of unobstructed internet access for all. However, at present, internet access is still limited in the State and websites featuring information displeasing to the authorities are blocked. It has come to the Special Rapporteur’s attention that persecution of journalists has intensified since 2015, with correspondents working for foreign media outlets becoming the main targets for State aggression. Journalists have been detained on trumped-up charges and violations of the right to a fair trial have persisted. Journalists’ relatives are also subject to growing harassment by the authorities.

Freelance journalist Saparmamed Nepeskuliev, was held incommunicado for weeks after he disappeared on 7 July 2015. He was then tried secretly without being represented by a lawyer, and was given a three-year jail sentence on a fabricated drug charge. The United Nations Working Group on Arbitrary Detention described his imprisonment as arbitrary. He was released in March 2018 after his health had severely deteriorated while in prison. In 2016, journalist Gaspar Matalaev was arrested, arbitrarily detained, tortured, and sentenced to three years in Turkmenabat labour camp on spurious charges of bribery and fraud after he published a story on the coerced labour in the cotton picking industry. His family are not allowed to visit him and his health is deteriorating.

Reports have drawn attention on the restraint of freedom of assembly and association. Public assemblies are rare, owing to a fear of reprisals for expressing dissenting views. Some spontaneous demonstrations (over price rises) have occurred over the last year; some of these have been peacefully (and successfully, in terms of the demands of the demonstrators) resolved. The State has forcefully mobilised residents en masse for official events and celebrations.

Women human rights defenders face elevated risks. The rights of women have come under attack in the past year by the State with a reported ban on women driving and increasing restrictions on what women can wear in public. In this context, women defenders are

perceived as critics of the government. Human rights defenders exposing corruption, the use of forced labour (particularly in the cotton fields) and the economic deprivation of the population have been particularly targeted. Homosexual conduct is a criminal offense under Turkmen law, punishable by a maximum two-year prison sentence and so LGBTQI* defenders operate almost completely covertly and are isolated from other human rights defenders.

Since the last Global Survey, the Special Rapporteur has received a number of communications concerning the situation of human rights defenders in Turkmenistan; many of these communications relate to the disappearance and arbitrary arrest of defenders. On 1 November 2010, the Special Rapporteur sent an urgent appeal concerning an alleged plan to assassinate Mr. Farid Tukhbatullin, orchestrated by the Ministry of National Security of Turkmenistan. Mr. Tukhbatullin is the director of the Turkmen Initiative for Human Rights (TIHR), a non-governmental organisation founded in 2004 and based in Vienna, Austria that publishes information and submits reports regarding the human rights situation in Turkmenistan. The State did not respond to the communication, and has only responded to one of the 32 communications sent since 2004. The State has persistently denied access to the country for independent human rights monitors.

4. Issues and Trends

The issues facing human rights defenders in the Global Survey 2006 remain largely consistent and unaddressed, apart from minor revision in legislative frameworks. Overall, there is little regard for enforcement of the rights of defenders as expressed in the Declaration and defenders in Turkmenistan operate in a hostile environment.

Independent groups that carry out human rights work can operate openly only in exile and even then face vicarious interference and harassment through their family members remaining within the State. Defenders, especially those who openly criticise the Government and communicate with foreign media, are subject to harassment, intimidation, arbitrary arrest and detention, torture and extremely poor conditions in prison or labour camps.

The Special Rapporteur urges the State to allow defenders to conduct their legitimate work and activities freely. The work of independent journalists, in particular, must be allowed and not subject to interference. He recommends that defenders are released from detention. The State must properly investigate all allegations of harassment, arbitrary arrest, torture and ill-treatment of human rights defenders. The obligation of the State to protect defenders extends to members of their families, who themselves must not be the targets of mistreatment. The Special Rapporteur encourages the Ombudsman to network with other national human rights institutions in the region and to build upon good practices in relation to human rights defenders elsewhere. The State should continue its process of revising its legal frameworks with a view to removing remaining infringements of the rights of defenders. However, the removal of de jure barriers in the face of de facto acts of intimidation and harassment will result in only illusory change. The opening up of access to the internet within the State must be accompanied by an allowance of free expression in online fora.

Uzbekistan

1. National Context and Human Rights Defenders

In September 2016, Shavkat Mirziyoyev assumed the presidency following the death of his predecessor. The last two years have seen some steps taken to improve the State's human rights record, releasing some political prisoners, relaxing certain restrictions on free expression, removing citizens from the security services' "black list," and increasing accountability of government institutions.

Although the State has reported more than 6,000 civil society organisations, most of these are supported by or affiliated with the government and very few of them pursue human rights issues. Notwithstanding the possible change in approach to human rights issues of the new government, Uzbek security services brought fresh charges against journalists and most recently, in August 2018, arrested a number of Uzbek bloggers who criticized government policies on Islam and expressed conservative views on this issue. Until a more significant and durable change in policy, human rights defenders remain at high risk in the State.

Uzbekistan was included in the 2006 Global Survey, though only civil society organisations responded to the questionnaires for the preparation of the report. The Global Survey commented that human rights defenders in Uzbekistan worked against a backdrop of difficult social and economic conditions and an absence of democratic rights. The Global Survey further stated that about half a dozen human rights organisations were working in Uzbekistan at that time, but that many individuals worked for the promotion and protection of human rights as defenders through a personal or professional capacity without belonging to any civil society organisations. Concerns were raised about considerable restriction on the freedom of expression and access to information. Furthermore, those who infringed procedures for holding assemblies and demonstrations could be imprisoned under the Criminal Code. The Global Survey expressed concern over the new amendment to the Criminal Code concerning civil society organisations and information that only two human rights civil society organisations had so far been granted official registration by the competent authorities. Communications had been sent regarding defenders who had reportedly been subjected to arbitrary forced detention, harassment, threats, forced detention in a psychiatric hospital, unfounded criminal charges, imprisonment sentences, death in custody, torture and ill-treatment, defamation campaigns or other types of persecution in relation to their human rights activities.

Today civil society groups and defenders still experience barriers to their work due to their restricted abilities to register organisations, limits to funding and obstructions to their freedom of association and communication to international bodies and media without fear of repression. Defenders used to be targeted and threatened by the government because of their work until recently, and these fears are not completely decimated despite an unprecedented hope of change in the country. This is especially true for journalists that have connections to foreign media and those that criticise the government. Women defenders and defenders working on the issue of sexual orientation and gender identity are also very vulnerable, both socially and politically.

2. Legal and Policy Framework

Notwithstanding the difficult situation faced by human rights defenders within the State, the national formal legal framework for human rights is reasonably good. Uzbekistan is party to most core international human rights treaties except notably the Convention on Enforced Disappearance and the Optional Protocol to the Convention Against Torture. In response to criticism by civil society organisations before treaty bodies, the State has often alleged that

criticisms of its policies were aimed at “diminishing the country’s image in the international arena” and has insisted, against the evidence, that no defenders have been prosecuted for their work in Uzbekistan.

The new government of President Mirziyoyev has introduced a number of wide-ranging political and economic reform proposals, designed to end past isolationist and repressive policies. Many of these have implications for human rights defenders. Judicial reform, formal prohibition of torture to gain confessions, and the reduction of length of detention before judicial review have been important policy developments. In May 2017, at the end of the first ever visit by the UN Office of the High Commissioner for Human Rights to Uzbekistan, the Commissioner called on the President to translate his reform pledges into action for the effective protection of human rights. This year, the State announced that the country’s exit visas—a Soviet document that authorities have used as a tool to prevent a wide array of perceived critics, including artists and activists, from foreign travel—would be abolished by January 2019.

The Commissioner of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman) acts “to ensure parliamentary control over the observance of legislation on human rights and freedoms by state bodies, enterprises, institutions, organizations and functionaries.” The Ombudsman has not been accredited as complying with the Paris Principles and it is unclear whether he has developed programming with respect to human rights defenders.

3. Implementation of the Declaration

There is no national law or policy to address the situation of human rights defenders.

Despite important changes over the last years, the rights of the Declaration are still generally not respected. Restrictive laws and measures such as arbitrary travel bans and complicated registration processes for civil society organisations limit freedom of association, freedom of movement, freedom of opinion and freedom of expression. Defenders’ rights to resources are restricted and defenders’ rights to effective remedy are significantly undermined by allegations of torture, forced commitment to psychiatric facilities, and forced labour for political prisoners. It has been reported that lawyers for human rights defenders (and lawyers working as human right defenders) have faced harassment from the authorities. Surveillance by the authorities in Uzbekistan and abroad has reinforced the repressive environment for defenders.

The authorities eased some undue restrictions on the right to freedom of expression. However, the government retained firm control of access to information. Independent and international media platforms considered critical of the authorities have remained inaccessible. In February 2017, the authorities released critical journalist Muhammad Bekzhanov, after he served 17 years in prison on politically motivated charges. He remained under curfew and close police supervision. In July 2017, Erkin Musaev, a former military official and staff member of the UN Development Programme, was released too. He had been sentenced to 20 years on fabricated espionage charges in 2006.

While the media sphere remains highly controlled, some public criticism of former President Karimov appeared in the last two years, local media outlets such as kun.uz have acquired a reputation for more critical reporting, and the government indicated it would invite the BBC’s

Uzbek service to base a correspondent in Tashkent. International agencies and some international human rights groups were also allowed in the country for the first times in many years.

However, in September 2017 Uzbek security services detained Bobomurod Abdullaev, an independent journalist, in Tashkent, for “attempts to overthrow the constitutional regime.” He has been denied meaningful access to a lawyer, nor has his family been granted access. A city court in Uzbekistan’s capital on May 7, 2018, convicted a freelance reporter, but finally did not sentence him to prison. He should pay 20 percent of his income to the government for three years, according to the verdict. The court freed Abdullaev from pretrial detention, and quashed the charges against his three co-defendants, including Hayot Nasriddinov, a well-known economist and blogger. It also ordered an investigation into alleged abuses of Abdullaev in detention by the State Security Service, known as the SNB which is also without precedent.

In recent years the State has released some defenders and independent journalists from jail, however other political prisoners convicted in unfair trials are serving long prison terms in cruel, inhuman and degrading conditions according to credible sources. Authorities have continued to silence reports of torture and other ill-treatment by law enforcement officials, although defenders, former prisoners and relatives of prisoners continue to provide credible information that State security forces routinely use torture to coerce suspects, detainees and prisoners into confessing to crimes or incriminating others. Human rights defenders estimate that, even after recent releases, there remain at least 100 human rights defenders in prison.

As a result of the hostile environment, many human rights defenders in Uzbekistan were forced into exile. Some exiled human rights defenders were invited to come back to the country, including a veteran of human rights movement in Uzbekistan Tolib Yakubov.

Some defenders are especially vulnerable. For example, women defenders remain a highly vulnerable group in Uzbekistan. Defenders such as Elena Urlaeva, a veteran activist against forced labour in the cotton industry, was forcibly detained in March 2017 and confined to a psychiatric hospital ahead of planned meetings with a World Bank delegation; she was repeatedly detained later in the year. The Committee on the Elimination of Discrimination against Women was concerned at the conditions at women’s detention facilities, and the ill-treatment and abuse of women human rights defenders in detention¹⁴⁴. The Special Rapporteur is particularly concerned about reports of forced sterilization of women human rights defenders.

Consensual sexual relations between men are criminalized, with a maximum prison sentence of three years. Lesbian, gay, bisexual, and transgender people face deep-rooted homophobia and discrimination and their defenders are subject to aggressive and double discrimination. In this social context, the work of defenders on sexual orientation and gender identity rights is both difficult and dangerous. Defenders working on drawing attention to human rights abuses in the cotton picking industry have been targeted by the authorities. Ms. Malohat Eshonkulova and Mr. Dmitry Tikhonov have been arbitrarily detained, beaten and threatened. Ms Eshonkulova was also subjected to a strip search, and Mr Tikhonov has had spurious charges levied against him.

¹⁴⁴CEDAW/C/UZB/CO/5

The Special Rapporteur has received a number of communications concerning the situation of human rights defenders in Uzbekistan. These communications have primarily concerned the whereabouts and condition of defenders held as political prisoners; many defenders have recently been released from prison. The Special Rapporteur reiterates his concerns at the situation of numerous human rights defenders, independent journalists and dissidents, who remain in prison on politically motivated charges, or in retaliation for their human rights activities. They face extremely poor conditions, torture, lack of access to communication, unfair trials and denial of medical care.

4. Issues and Trends

As noted in the 2006 Global Survey, Uzbekistan has been a very difficult place for human rights defenders. Many suffered surveillance, arbitrary arrest, enforced disappearance, unfair trial, torture and imprisonment in poor conditions. The Special Rapporteur applauds the new policy directions outlined by the new government of President Mirziyoyev, in particular the reform of the judiciary to allow for an effective remedy for human rights violations and the alteration of numerous policies that infringed on the rights of defenders. This includes restrictions on the media and international travel. A productive way to build on the visit of the High Commissioner would be to extend an invitation for country visits to relevant special procedure mandate holders, including the Special Rapporteurs on the situation of human rights defenders and on torture and other cruel, inhuman or degrading treatment or punishment.

The State should be encouraged to work with defenders in the reform of its laws and policies and to adopt good practices from other States. The Special Rapporteur welcomes the release from imprisonment of defenders who had been unjustly jailed but reminds the State of its obligation to investigate and provide a remedy to these defenders for the violations of their rights that they incurred, including for torture and other mistreatment while imprisoned. The State should strongly consider becoming party to the Optional Protocol to the Convention Against Torture and the establishment of a national preventive mechanism. The Ombudsman should draw upon the good practices of other national human rights institutions, including in the region, and develop a range of programming on human rights defenders, including a mechanism to respond to complaints from defenders.

East Asia

China (People's Republic of)

1. National Context and Human Rights Defenders

China was included in the 2006 Global Survey of HRDs. In that report, it was noted that the Special Representative was gravely concerned about the situation of human rights defenders in China. The Global Survey highlighted the limitations on freedom of expression, including media censorship, limitations on access to foreign news and State monitoring of communications.

The Global Survey also raised serious concerns about the limitations of the right to freedom of assembly and freedom of association, including the then recent crackdown of hundreds of civil society organisations. The Global Survey noted that strict laws were used to restrict the registration and operation of civil society organisations, including their raising of and spending financial resources. The Global Survey also raised concerns about the interference with Uighur human rights defenders and the state's inappropriate use of the "global war on terror" as a justification for acts of suppression.

All human rights defenders in China face significant risk. While China has legally committed itself to a range of human rights instruments and has politically promoted "human rights with Chinese characteristics," human rights defenders working in China regularly face violation of their fundamental rights by the State. While all defenders face significant risk in China (including in Hong Kong), particularly vulnerable categories of human rights defenders include lawyers working on human rights issues or defending defenders, labour activists, minority rights activists (including Uyghur, Tibetan and other minority groups), defenders participating in international discussions of China, rural communities opposing pollution, development and corruption (including land and environmental defenders), and those calling for political reforms. Defenders working in Tibet and Xinjiang face additional challenges.

Of additional importance is the situation of human rights defenders in Hong Kong, a special administrative region of China. Hong Kong is governed by the constitutional Basic Law, which guarantees fundamental rights in Hong Kong and continues the application of international human obligations to Hong Kong (including notably those contained in the ICCPR). In 2014, Hong Kong's "Umbrella Movement" tens of thousands of Hong Kong residents occupied during 79 days major roads and public spaces, demanding universal suffrage and the change of electoral guidelines. Key political leaders were arrested and detained and some continue to face legal proceedings. Defenders there face increasing surveillance (by both the Hong Kong and mainland governments) and restrictions.

Although China participates in a number of regional fora, including the Shanghai Cooperation Organisation, none of these fora have addressed the situation of human rights defenders.

2. Legal and Policy Framework

China is party to most of the major international human rights treaties. Although China has signed the ICCPR, it continues to "pursue administrative and legislative reforms in preparation for ratifying the Convention" (a phrase it has used for two decades). Despite China not being a party to the ICCPR, the treaty continues to apply to Hong Kong and is enshrined in its Basic Law.

Numerous human treaty bodies have noted significant failures by China in its laws, policies and practices towards human rights defenders. The treaty body for CEDAW has noted that China has interfered with the ability of human rights defenders to travel internationally and participate in human rights discussions in international fora, including before the treaty body¹⁴⁵. The treaty body also noted that China placed undue restrictions on the ability of

¹⁴⁵ CEDAW/C/CHN/CO/7-8

individuals and groups of individuals to form organisations. The treaty body for CERD expressed its concern at harassment and restrictions placed on lawyers taking up cases of human rights violations, especially those relating to the treatment of ethnic minorities¹⁴⁶. The treaty body for the CRC shared many of these concerns and also noted the difficulties facing human rights defenders and journalists seeking to report on violations of children’s rights¹⁴⁷. The Universal Periodic Review of China also revealed concerns about police harassment, arrests, unfair trials, and enforced disappearances of human rights defenders and members of their family, including their spouses and children¹⁴⁸. The Human Rights Committee has noted, in relation to Hong Kong, that there has been a deterioration of media and academic freedom, including arrests, assaults and harassment of journalists and academics. The Committee also expressed concerns about reports of excessive use of force by members of the Hong Kong police force in the policing of peaceful assembly and protest.

The national constitution of China notes that “the State respects and protects human rights” and guarantees that “citizens have freedom of expression, press, assembly, association and demonstration”, though these freedoms do not fully apply in practice. There is no NHRI in China and the Equalities Commission (EOC) of Hong Kong has not been accredited by the Global Alliance of National Human Rights Institutions; the EOC does not explicitly have a mandate to protect the rights of human rights defenders. The Anti-Discrimination Ordinance and the Bill of Rights Ordinance, provide protection for some human rights in Hong Kong.

3. Implementation of the Declaration

China has not introduced national laws, policies or guidelines recognizing human rights defenders. There is no national protective mechanism for human rights defenders at risk or any similar mechanism in Hong Kong. Reports from UN agencies, treaty bodies and local and international civil society establish clearly that China not only fails to adequately respect and protect the rights articulated in the Declaration but too frequently actively suppresses and seeks to silence human rights defenders.

UNESCO has noted cases of journalists facing harassment, intimidation, and arrest for reporting on “sensitive” issues and formally condemned the killing of journalists in China¹⁴⁹. Websites critical of the Government or considered sensitive were often blocked, including social media sites. While a freedom of information law allows access to government information, in practice access to public information remains a challenge due to the numerous technical requirements of the law, delays and refusal in its implementation, and fear of reprisals against those that seek government information.

In the past five years, China has increased the number of legislative restrictions on the activities of human rights defenders. The Overseas NGO Management Law and the Cyber Security Law place severe restrictions on the organisation, operation, and financing of civil society organisations and their freedom of expression in and access to information from online spaces. According to numerous sources, the so-called “709 crackdown” (named after

¹⁴⁶ CERD/C/CHN/CO/14-17

¹⁴⁷ CRC/C/CHN/CO/3-4

¹⁴⁸ A/HRC/WG.6/31/CHN/2

¹⁴⁹ CI-16/COUNCIL-30/4 Rev (7 October 2016)

its commencement on 9 July 2015) has resulted in the harassment, intimidation, enforced disappearance and unfair trial of around 300 lawyers and paralegals defending human rights. The whereabouts of some of those disappeared by the state remains unknown and others face trumped up charges of “subverting state power” for their human rights activities. According to reports, human rights defenders (and members of their families) suffer mistreatment (and torture) during imprisonment and are frequently denied access to appropriate medical care, with the deaths in custody of Cao Sunli and shortly after release of Liu Xiaobo being emblematic of state practice in this regard.

The suppression of human rights defenders by the State often extends to members of their families. Many human rights defenders report that government officials have threatened members of their family and many family members of human rights defenders have faced arrest and enforced disappearance by the State in order to increase the pressure on and control of human rights defenders. Imprisoned Nobel Peace Prize laureate and democracy activist Liu Xiaobo died in July in 2017, less than a month after prison authorities announced that he had late-stage liver cancer. His wife Liu Xia was finally released from house arrest and travelled to Germany in 2018.

Public protest of any kind is punished by the Chinese government. Women human rights defenders organizing an anti-sexual harassment campaign on public transport have faced arrest, prosecution for disturbance of public order, and detention for 37 days. Labour activists have been arrested and detained for organizing collective action, including strikes. In Hong Kong, the right to protest is protected by law and the government permits several large scale annual gatherings, including advocating for greater democracy and commemorating the Tiananmen Square crackdown. However, the recent prosecutions of Umbrella Movement leaders Alex Chow, Nathan Law, and Joshua Wong raise serious issues concerning the right to protest and judicial independence. Of particular concern was the decision by the justice secretary to, ultimately unsuccessfully, petition the courts for lengthy terms of imprisonment. Human rights defenders seeking to discuss politically sensitive topics such as corruption, the governance of China and political rights are at risk of arrest notwithstanding their commitment to non-violence.

Freedom of expression by human rights defenders in China continues to be severely limited. In recent years, the State has extended its heavy restrictions on free expression into virtual spaces. The State maintains tight control over news reporting through direct ownership of media, accreditation of journalists, harsh penalties for online criticism, and daily directives to media outlets and websites that guide coverage of breaking news stories.

State management of the telecommunications infrastructure enables the blocking of websites, the removal of mobile-phone applications from the domestic market, and the mass deletion of microblog posts, instant messages, and user accounts that touch on banned political, social, economic, and religious topics. Thousands of websites have been blocked by the “Great Fire Wall”, many for years, including major news and social media hubs like the *New York Times*, *Le Monde*, YouTube, Twitter, and Facebook. The Cyberspace Administration of China ordered five websites, including shopping giant Alibaba, to remove vendors that offered access to virtual private networks (VPNs) that might allow circumvention of the “Great Fire Wall”.

Dozens of journalists and bloggers have faced arrest and detention for exercising their right to free expression. It has been reported that harassment of foreign journalists continues, including physical abuse, detention to prevent meetings with certain individuals, intimidation of Chinese sources and staff, withholding or threatening to withhold visas, and surveillance. The ability of defenders working on issues of sexual orientation and gender identity to access to discuss their situation online, in particular LGBTQI* and women human rights defenders have increasing online surveillance and restrictions (as evidenced by the recent shutdown of the prominent microblog Women's Voices).

Human rights defenders face significant obstacles in exercising their freedom of association, including through heavy restrictions on the registration of civil society organisations (or "social organisations"). In 2016, the government significantly amended its laws governing organisations through the introduction of the Charity Law, the Overseas NGO Law, and important accompanying regulations. Taken together, these new laws continued the significant barriers to entry facing organisations and imposed new restrictions on the ability of organisations to seek international resources and collaborations. Those civil society organisations that are able to gain government approval tend to be government-sponsored organizations and organisations focused on service delivery; advocacy organisations, including those pursuing rights-based advocacy, continue to face difficulties in gaining government approval and, ultimately, closure. The new laws continue the distinction made by the Chinese government between encouraged service-delivery organisations and discouraged human rights and advocacy organisations, including those with international connections. Registration may be revoked and criminal sanctions applied for damaging "national interests" or "society's interests" — two phrases which are open-ended and discretionary. Even organisations pursuing less politically sensitive advocacy, like public health or women's rights, have faced closure in recent years under government pressure.

The Special Rapporteur has received numerous communications regarding the situation of human rights defenders every year since the 2006 Global Survey. The Special Rapporteur thanks the State for responding to the majority of these communications but reminds the State that the continuing and repetitive accounts of violations contained in these communications provides further evidence of the urgent need for the State to reform its treatment of human rights defenders.

4. Issues and Trends

Human rights defenders in China are under threat. Even the limited space for human rights defenders noted in the Global Survey of 2006 has shrunk, with the government pursuing a systematic programme of enforced disappearance (called "residential surveillance in a designated location") and unfair prosecution against human rights defenders. The growing surveillance and control of online spaces by the State have extended the restrictions on human rights defenders into the virtual realm. China must end the practice of criminalizing the activities of human rights defenders, release all unjustly detained defenders and grant all detained defenders access to appropriate medical care. Human rights defenders should be allowed access to counsel and the State must end the targeting of lawyers who themselves are human rights defenders.

The Hong Kong government should address the absence of a national human rights institution and, in particular, the absence of any institutional protections for human rights defenders. The government of Hong Kong should ensure the rights to freedom of expression and protest in Hong Kong for defenders, including notably individuals and groups with contrary political opinions about the future of Hong Kong, and defenders advocating for and belonging to marginalized groups, including sexual orientation and gender identity defenders and defenders of people on the move. The programmes of human rights and citizenship education of both the Chinese and Hong Kong governments should include information about the Declaration and the rights of human rights defenders.

Japan

1. National Context and Human Rights Defenders

Certain marginalised communities within Japan may face greater hardship in defending human rights because of their identity, including Okinawans, defenders of sexual orientation and gender identity, and women (particularly if of an ethnic minority background). Activists in Okinawa have reported ethnically derogatory language used by enforcement officers; discrimination against LGBTQI* people is not explicitly prohibited under domestic law and stigma is common; and women continue to face the restriction of harmful traditional gender roles as well as prejudice – particularly if of an ethnic minority background.

The popular media in Japan has widely discussed the potential implications of the Act on the Protection of Specially Designated Secrets (SDS Act), though not often framed as a discussion on human rights defenders. Whilst some national newspapers have noted the threat of whistle-blowing and freedom of information, others have praised the comprehensive legislation.

Japan was not included in the 2006 Global Survey.

2. Legal and Policy Framework

Japan has ratified almost all international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR). However, the State has yet to become party to any Optional Protocols, apart from those under the Convention on the Rights of the Child. Stakeholders in the UPR process noted the lack of meaningful involvement of domestic civil society, including human rights defenders, in preparatory and follow-up processes to the UPR and in domestic policy making. Treaty bodies have encouraged Japan to expand the space for civil society.

The Constitution of Japan enshrines rights to freedom of thought, assembly and expression as well as the right of the press to remain uncensored. An amendment to the Constitutional protection of freedom of expression (article 21) has been proposed by the government to restrict the freedom of expression of those who engage in “activities with the purpose of damaging the public interest or public order, or associating with others for such purposes, shall not be recognized.” Human rights defenders expressed concern that this amendment may be used to restrict their freedom of expression or the freedom of others opposed to

government policy; the proposed text insufficiently safeguards the freedom of expression of defenders and may lead to self-censorship by defenders, including the media.

In 2014, Japan adopted the Act on the Protection of Specially Designated Secrets (SDS Act). The SDS Act diminished the scope of protection of the right to access to information by expanding the capacity of Government officials to establish and enforce confidentiality. This has been criticised by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Human Rights Committee as “curtail[ing] the activities of journalists and will certainly intimidate whistleblowers¹⁵⁰.” In 2014, the Human Rights Committee noted that the SDS Act did not provide sufficiently narrow prerequisites for the classification of ‘secrets’ and allowed for punishment of those who may disseminate the information¹⁵¹. Available oversight mechanisms risk being ineffective in guaranteeing independence and protection of whistleblowers.

Japan lacks a national human rights institution that has been accredited according to the Paris Principles.

3. Implementation of the Declaration

Whilst there is no legislation specific to the protection of human rights defenders or accredited national human rights institution, the Ministry of Justice affiliated “Human Rights Bureau” continues to facilitate education on human rights with the assistance of a substantive network of volunteers. Alongside awareness-raising activities and engaging with young people, which enables for a new generation of defenders, the Ministry of Justice also provides legal counselling services and avenues for remedy.

Freedom of expression by defenders working as journalists has been threatened by calls for broadcasters and others in the media to remain ‘politically neutral’. The constrained environment within which the media works, is keenly felt by independent investigative journalists. Mr. Yu Terasawa, a freelance reporter who has investigated corruption, has suffered physical attacks and arbitrary detainment alongside restrictions on his work. Mr. Terasawa states that “...freelance journalists who relate inconvenient news, [officials] want to keep us out of the system.”

The Act on Punishment of Organised Crime and Control of Crime Proceeds, which came into force in July 2017, includes broad definitions of criminal groups. Defenders have expressed concern that the Act could be used to intimidate and harass defenders and ultimately to criminalise the legitimate activities of human rights defenders.

In 2016, the prominent Okinawan activist Mr. Hiroji Yamashiro was arrested and detained for five months following sustained protests against the building of a new US military base. The events prompted discussion as to the legitimacy of his methods of activism (and debate over whether it constituted peaceful protest) and the broader movement. The case has been seen as emblematic of wider issues in the justice system such as lengthy detentions, as Mr.

¹⁵⁰ A/HRC/35/22/Add.1

¹⁵¹ CCPR/C/JPN/CO/6

Yamashiro gained sympathy domestically and from international movements. However, critics have condemned the more extreme sections of the protest, with opinion pieces denigrating ‘leftist anti-Japan’ movements.¹⁵²

The Special Rapporteur received communications relating to the situation of defenders in Japan in 2008, 2015, and 2016. The Special Rapporteur would like to thank Japan for replying rapidly and comprehensively to all three communications sent regarding human rights defenders.

The communications raised concerns regarding detention of protesters (during the passing of the Beijing Olympic Torch and excessive use of force and detentions of Okinawan activists), and allegations of surveillance of an employee of Human Rights Now during the visit from the Special Rapporteur on freedom of expression. The State responded that the latter had been investigated but no evidence could be found, and that in both protest cases, the individuals had broken the law, and not engaged in peaceful demonstrations.

4. Issues and Trends

The Special Rapporteur commends the generally free and enabling environment that human rights defenders enjoy in Japan. However, there remains concern regarding potential restrictions on the ability to operate effectively particularly in relation to freedom of expression and the right to protest. Recent legislation has had a chilling effect on the activities of human rights defenders and provides opportunities for future restrictions on their rights. The State should ensure future legislation and policy better addresses the situation of human rights defenders including, in particular, journalists and whistleblowers. The State should also ensure measures are in place to promote participation from groups that may be underrepresented, and safeguard human rights defenders that are confronted with multi-faceted challenges. Japan should consider the establishment of a national human rights institution in accordance with the Paris Principles and making the promotion and protection of human rights defenders central to that institution.

Korea (Democratic People’s Republic of)

1. National Context and Human Rights Defenders

The laws, policies, and practices of the Democratic People’s Republic of Korea (North Korea) made the existence of civil society and the open practice of the defense of human rights impossible within the state. As a result of the restrictions on freedoms within the State and the isolationist policies of the State, only limited information is known about the situation of covert human rights defenders within the State. The situation within the State is so manifestly hostile to the defense of human rights, that all defenders of human rights are at extreme risk.

¹⁵² Phillop Brassor “Okinawa’s story told differently in Tokyo” (Japan Times, 7 March 2015) available online at <https://www.japantimes.co.jp/news/2015/03/07/national/media-national/okinawas-story-told-differently-tokyo/#.XAniURMzY0Q>.

The Democratic People’s Republic of North Korea was not included in the 2006 Global Survey. However, the human rights situation in North Korea has been subject to close international scrutiny for numerous years with the appointment of a Special Rapporteur on the situation of human rights within the State since 2004 and the establishment of a Commission of Inquiry to investigate systematic, widespread and grave violations of human rights in the Democratic People’s Republic of Korea in 2013.

2. Legal and Policy Framework

The State is party to a majority of the core international human rights treaties, with the notable exception of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and the Convention for the Protection of All Persons from Enforced Disappearance. The State has not accepted any individual complaints procedures. The Constitution specifies that the State guarantees all the conditions for democratic rights and liberties as well as the material and cultural well-being of the citizens. A constitutional amendment in 2009 added the words “human rights” into the document. However, any legal commitments to human rights are, in practice, not implemented.

The UN Commission of Inquiry on Human Rights in North Korea found “systemic, widespread and gross human rights violations had been and [were] being committed by the Democratic People’s Republic of Korea [and] in many instances, the violations found entailed crimes against humanity based on State policies¹⁵³.” This conclusion echoed an earlier finding by the Special Rapporteur on the situation of human rights in The Democratic People’s Republic of Korea.

In recent years, international trade and investment have been restricted as a result of the Security Council sanctions imposed on the country for its nuclear and missile tests. These sanctions “exempt humanitarian and other similar activities [but] they have directly contributed to reluctance among donors to fund projects in the country.”

The Democratic People’s Republic of Korea neither recognizes nor accepts resolutions passed by the UN Human Rights Commission and the UN General Assembly and “categorically rejects them as the extreme manifestation of politicization, selectivity and double standards in the area of human rights.” There is no accredited national human rights institution.

3. Implementation of the Declaration

There is no national law or policy guidelines on human rights defenders. Generally, the rights in the Declaration are not respected. In 2014, the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea reported that there is “an almost complete denial of the right to freedom of thought, conscience and religion, as well as the rights to freedom of opinion, expression, information and association¹⁵⁴.”

All residents of the State are subject to systematic violations of their rights; restrictions are so severe that dissidence, including the promotion or even the discussion of human rights, is

¹⁵³ A/HRC/25/63

¹⁵⁴ A/HRC/25/63

virtually impossible. Anyone perceived by the State as defending human rights would be subject to arrest, unfair trial and detention at one of numerous political concentration camps; members of their family would be at risk of similar treatment. The State prohibits any organized political opposition, independent media and civil society, and free trade unions.

The ability to exercise freedom of expression is impossible in the State. There is no independent popular media or civil society organizations in the Democratic People's Republic of Korea. The Law on Publications (article 48) empowered the State to criminalize any statement, publication, news or article critical of the State or its organs."

As a result of these conditions, many human rights defenders have been forced into exile and many citizens in exile have become human rights defenders, conducting programmes of support to other exiles, monitoring of human rights within the State, and advocacy concerning the situation within the State from abroad. Even once in exile, it has been reported that these defenders face pressure and threats from the State delivered through the internet, personal messages or family members that remain within the State.

According to numerous sources, human rights defenders seeking protection as refugees face significant barriers to accessing protection and the risk of *refoulement* from neighbouring States as a result of close economic ties and geopolitical considerations. Those who leave the country without permission and are forcibly repatriated, are reported to be at risk of detention, torture and imprisonment. Defenders assisting these exiles seeking protection also face arrest, detention and deportation from neighbouring States. Many defenders in exile live in neighbouring States and can be heavily impacted by restrictions on their rights as human rights defenders in those States, including in particular in Japan and the Republic of Korea.

The Special Rapporteur has received numerous communications concerning the situation of human rights defenders in the State. In most cases, the State has failed to meaningfully engage with the communications of the Special Rapporteur.

4. Issues and Trends

The situation of human rights defenders in the State is extremely difficult. Individuals and groups who are caught defending human rights face the systematic and severe violations of their human rights. The State must take immediate steps to create a favorable environment for the activities of human rights defenders, journalists and other actors of civil society. Immediate measures could include providing greater access to information, allowing the establishment of independent newspapers and other social media, including free access to the internet, and ensuring full respect for the rights to freedom of association, expression, religion or belief and movement. The State should foster a greater engagement with international human rights institutions and process, including through the extension of an invitation to special procedures, including the Special Rapporteur. The State should also develop a strategy for dissemination and education on human rights standards accepted by the country, including the Declaration and the important and positive role in the development of society by human rights defenders. Other States should support and protect human rights defenders in exile from the State and be sensitive to the knock-on effects of restricting their activities abroad.

Korea (Republic of)

1. National Context and Human Rights Defenders

In 2017, Park Geun-hye became the first president of the Republic of Korea to be removed by the Constitutional Court after impeachment by the National Assembly. Journalists and civil society groups played a key role in exposing the scandal which led to the eventual impeachment of President Park. Furthermore, the unprecedented mass protests could be a watershed moment for improved civil freedoms, in particular the freedom of peaceful assembly, for human rights defenders.

The new administration that took office in the Republic of Korea after subsequent elections has emphasised the importance of the protection of human rights, announcing one hundred specific policy tasks. The tasks include reinforcing freedom of expression and the independence of the press; strengthening independence and competence of the National Human Rights Commission of Korea; and cementing the rights to labour.

There is a vibrant civil society in Korea, with a wide range of human rights organisations and human rights defenders. The Special Rapporteur has previously noted that the “environment in which [human rights defenders] operate is quite polarized and not always sufficiently conducive to the defence and promotion of human rights and fundamental freedoms¹⁵⁵.” There is often a lack of trust between human rights defenders and authorities which is exacerbated by shortcomings in the legal and policy framework.

The Republic of Korea was included in the 2006 Global Survey, however, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time. The key points of the Global Survey were that the Republic of Korea was not party to several core conventions, that concern was expressed over restrictions on the freedom of expression of the press, and that concern was also expressed over the use of excessive force against human rights defenders as a result of their participation in peaceful protests. Although the State has become party to additional human rights treaties since 2006, the other issues identified in the Global Survey remain of concern.

The Special Rapporteur visited the country during the reporting period as reported in March 2014. The Special Rapporteur noted after her visit that human rights defenders are able to carry out their work freely but that the “environment in which they operate is quite polarized and not always sufficiently conducive to the defence and promotion of human rights and fundamental freedoms¹⁵⁶.”

The Republic of Korea is a member of the OECD.

¹⁵⁵ A/HRC/25/55/Add.1

¹⁵⁶ A/HRC/25/55/Add.1

2. Legal and Policy Framework

The Republic of Korea is party to most core international human rights treaties. Since 2006, it has become party to the Convention on the Rights of Persons with Disabilities and accepted the Individual complaints procedure under the Convention against Torture. The Constitution is considered to be “grounded upon respect for human dignity, the worth of individuals, and equality of all before the law.” For example, article 11 of the Constitution provides that “All citizens shall be equal before the law, and there shall be no discrimination in political, economic, social or cultural life on account of gender, religion or social status.”

The National Human Rights Commission of the Republic of Korea has been active on the issue of human rights defenders. The Commission has been fully accredited A status in accordance with the Paris Principles. In 2016, the National Human Rights Commission of Korea Act was amended to ensure the transparency in nomination and election process and diversity of human rights commissioners, addressing persistent perceptions locally about its lack of independence. The Commission has identified the “cooperation with domestic human rights defenders and international organizations” as one of its “key missions.”

3. Implementation of the Declaration

The Republic of Korea does not have any national legislation specifically addressing the situation of human rights defenders. There are particular rights in the Declaration that are problematic. These include for example, the right to conduct human rights work individually and in association with others, to form associations and non-governmental organizations, and to meet or assemble peacefully. These rights are limited in cases where the work of the human rights defenders is critical of government action. There have been numerous reports of the excessive use of force by the police to suppress protests and criminal defamation cases filed against journalists critical of government action. The National Security Act and the Act Concerning Assembly and Demonstration restrict the ability of human rights defenders to protest. For example, article 21 of the Act Concerning Assembly and Demonstration, obligates certain conditions and permission for open-air assemblies.

Severe restrictions are placed on the right to assembly, including the operation of an arbitrary system of authorization of peaceful assemblies by the police, cases of excessive force, and the frequent use of criminal law against human rights defenders for organizing or participating in protests. For example, Baek Nam-gi, a 69-year-old farmer, remained in a coma until he died as a result of a head injury caused by the use of excessive force – water cannons – by police during a protest. Environmental defenders and communities affected by development projects have faced excessive force by the government, private security and police forces when they have protested or sought to block projects. Charging peaceful assembly participants, including human rights defenders, with criminal offences, such as the general obstruction of traffic, amounts to the de facto criminalisation of peaceful assembly.

Although freedom of expression is constitutionally guaranteed, in practice, it has been reported that the criminalisation of dissent can be used to punish defenders voicing views contrary to the government and has a chilling effect on the reporting of dissent. Defamation lawsuits have been filed against defenders critical of government action, even when the statements are true and made in the public interest. For example, in 2013, three human rights

lawyers were sued for defamation by the National Intelligence Service for action taken in their professional capacity. Reports have drawn attention to threats of litigation against journalists after publishing material critical of the government.

Defenders of labour rights face restrictions on their ability to collectively organise workers. In 2014, the Special Rapporteur expressed concern that the ban on the unionisation of teachers restricted the space for trade unions and the rights to strike contrary to international standards.

Foreign migrant human rights defenders working on issues relating to labour rights and labour unions were considered particularly vulnerable because of the risk of deportation. However, in June 2015, the Supreme Court of Korea “ruled that anyone, including undocumented workers, who provides labour in return for wage is a worker within the law.” As a result of this ruling, labour union of migrant workers was established. Previously, the Special Rapporteur had sent communications to the State regarding migrant worker human rights defenders. Recently the sudden arrival of a large number of asylum seekers from Yemen has prompted a public backlash against refugees and migrants, including defenders of their rights. The National Human Rights Commission has voiced support for people on the move and their defenders.

The Special Rapporteur has received a number of communications concerning the situation of human rights defenders in the State. The excessive use of force during peaceful protests and restrictions on the freedom of expression was a prominent issue in communications from the Special Rapporteur since 2006.

4. Issues and Trends

While human rights defenders operate openly within the State and have received support from all branches of the State, including the judiciary and the national human rights institution, the existing legislative frameworks concerning expression (defamation) and peaceful assembly unduly restrict the rights of defenders and should be amended. The State should revisit the training of its police officials with respect to the policing of peaceful assemblies and consider revising the governing legislation. The State should also refrain from pursuing defamation litigation, both criminal prosecutions and civil actions, against defenders, including journalists, whose statements are made in good faith in their capacity as human rights defenders. The Special Rapporteur recalls that it is ultimately the responsibility of the State to “ensure a safe and enabling environment for human rights defenders whereby they can pursue the defense of human rights without fear of repercussions and obstructions to their activities”. Confidence building measures to address the lack of trust between human rights defenders and authorities are needed; the National Human Rights Commission should play an important role in building this trust.

Mongolia

1. National Context and Human Rights Defenders

Mongolia was included in the Global Survey of 2006. The report highlighted that human rights defenders faced barriers in accessing information about state policies; some human rights

defenders including lawyers, had been arrested and subject to judicial prosecution because of their human rights activities; and, high levels of corruption posed a significant obstacle to the further development of human rights in Mongolia.

Many of these concerns persist, in particular in relation to land and environmental human rights defenders, labour rights, defenders focusing on sexual orientation and gender identity, and journalists.

Mongolia is not a member of any regional organisation or process in which human rights defenders have been discussed.

2. Legal and Policy Framework

Mongolia is party to many of the major international human rights treaties. The Constitution of Mongolia guarantees basic human rights for all individuals, including human rights defenders. The operating environment for human rights defenders is protected by national laws and international obligations generally well-respected.

The Human Rights Committee has expressed concern about the broad restrictions on the media, including online media, and limitations on access to information due to the broad interpretation of confidentiality provisions by authorities. The Committee has also expressed concerns about the remaining criminal defamation provisions and reports about the chilling effect on free expression of the use of civil defamation litigation. The Special Rapporteur on extreme poverty and human rights has expressed concern about the challenges faced by groups most vulnerable and severely affected by poverty and social exclusion in Mongolia, such as women, children and youth, persons with disabilities, older persons, internal migrants, herders and nomadic communities, ethnic minorities, LGBTQI*, persons living with HIV/AIDS and stateless persons.

The National Human Rights Commission of Mongolia is mandated with the promotion and protection of human rights and freedoms, provided for in the Constitution of Mongolia, Mongolian laws and international treaties to which Mongolia is a party. The Commission is accredited “A” as fully compliant with the Paris Principles. The Commission addressed the implementation in its 14th (2015) annual report and identified significant barriers to the work of human rights defenders and gaps in policy and practice. The report noted numerous examples of Mongolia’s lack of compliance with its obligations under the Declaration and recommended the adoption of “a specific legislation that stipulates the rights, duties, and responsibilities of human rights defenders.”

3. Implementation of the Declaration

Mongolia has no specific law or policy on human rights defenders, notwithstanding the recent recommendation of the national human rights institution.

There is a strong and vibrant community of human rights defenders in Mongolia. The Law on Non-Governmental Organisations governs the creation and operation of civil society organisations. Contrary to the global trend, international civil society organizations operating in Mongolia are not branded as “foreign agents” or are seen as a negative influence to the

country. Similarly, human rights defenders are generally not viewed (or described by the State) as opposing national interests. To the contrary, the State involves human rights defenders in the development of policy and legislation.

Human rights defenders opposing extractive industries face harassment, lawsuits, and occasionally violent attacks by non-state agents and occasionally the State is complicit in their targeting. For example, in March 2016, environmental human rights defender Beejin Khastamur with the non-governmental organisation Delhiin Mongol Nagoon Negdel was arrested for an alleged violent crime and interrogated. He was later released when no evidence could be produced against him. His arrest was widely interpreted as linked to his environmental activism. Youth and disability defenders, including students with disabilities exposing discrimination and sexual abuse, have reported incidents of harassment.

Despite the media being free to operate, self-censorship among journalists is common due to the fear of arrest. Journalists have been charged in defamation suits by members of Parliament and prominent businesspeople; more than half of the defamation cases in Mongolia are brought against journalists and media outlets, pushing them to censor themselves. In 2017, the new Administrative Offence Act came into effect which allows increased administrative fines including when false information was published that could damage the reputation of individuals or business entities. Human rights defenders opposing extractive industries and corruption are at particular risk from the misapplication of this law.

Although Mongolia has introduced new prohibitions on discrimination, human rights defenders are denied third-party standing to pursue complaints on behalf of a victim.

The Special Rapporteur has received several communications concerning the situation of human rights defenders in Mongolia. In particular, the Special Rapporteur has received allegations concerning the harassment and deportation of an environmental human rights defender and the government's repeated refusal to register the Lesbian Gay Bisexual Transgender (LGBT) Centre in Mongolia. Previously, the Special Rapporteur discussed with the State the situation of Ms Baasan, a human rights defender for those arrested and detained during the state of emergency.

4. Issues and Trends

Mongolia must support the further development of a safe and enabling environment for human rights defenders. It should pay particular attention to addressing the challenges faced by particularly vulnerable defenders, including environmental defenders and defenders working on sexual orientation and gender identity areas. Mongolia should consider amending current legislative provisions that silence defenders, including journalists, and restrict the ability of defenders to conduct advocacy on behalf of others. Its national human rights institution should continue to engage with the situation of human rights defenders, receive and respond to their complaints, and advocate for the reform of law, policy and practice. Mongolia should consider the introduction of national legislation both providing protection and effective remedies for human rights defenders as recommended by the National Human Rights Commission. In its most recent UPR submission, Mongolia committed to human rights education as a "priority issue." The Declaration and the rights and role of human rights defenders should be part of any programme of human rights education.

Oceania and the Pacific

Australia

1. National Context and Human Rights Defenders

There is a robust civil society community in Australia and the country has held an annual civil society “Forum on Human Rights” for 20 years, which provides a consultation mechanism for human rights issues. In general, civil society organisations can be formed, resources raised, opinions voiced and the government criticised. However, defenders of (and particularly those from) marginalized groups face barriers to participation in civil society. Defenders of indigenous rights, people on the move, and people of colour face harmful public rhetoric and, occasionally, targeting by the state for repression. Many of the new and emerging restrictions on human rights defenders arise from the State’s pursuit of its national security, including border control and anti-terrorism agendas.

The State was included in the 2006 Global Survey. Concerns were raised over limitations to the constitutional recognition of the right to freedom of communication and representation of the indigenous population. Furthermore, measures implemented to combat terrorism such as the authorisation of control orders were considered detrimental to the work and security of human rights defenders. In 2016, the State hosted a country visit by the Special Rapporteur which resulted in a lengthy list of recommendations to all stakeholders that is consistent with this report¹⁵⁷.

Australia is a member of the Pacific Islands Forum. It is also a longstanding (and the first) dialogue partner with the Association of South East Asian Nations (ASEAN). Australia is currently a member of the Human Rights Council (2018-20). The Special Rapporteur thanks the national human rights institution for its submission in advance of this report.

2. Legal and Policy Framework

Australia is party to all core international human rights treaties except the Convention on Enforced Disappearance and the Convention on the Rights of Migrant Workers and Members of their Families. Mechanisms exist at the federal, state and territory level to support the implementation of international obligations. As a federal State, the legal frameworks for the protection of the rights of defenders vary between states and territories, particularly in relation to the registration of civil society organisations and the policing of public protests.

While the Constitution of Australia supports the rule of law and an independent judiciary, it provides very few specific guarantees of rights. Unlike other States with a similar tradition, Australia has no “Bill of Rights” to protect human rights in a single document. As a result, many of the rights of defenders are subject to legislation and regulation, both of which can be amended relatively easily. However, the recognition and protection of many rights and freedoms are enshrined in common law, which has developed principles of statutory

¹⁵⁷ A/HRC/37/51/Add.3

interpretation that function to protect human rights and limit statutory and regulatory restrictions.

While there is legislative protection for whistle-blowers in Australia, the Border Force Act of 2015 makes sharing information (including with the United Nations) about the operation of immigration detention centres a punishable offence. A number of states in Australia have or are attempting to introduce legislation to restrict the right to protest ostensibly to address security concerns arising from the risk of terrorist attack but in practice it restricts the ability of defenders to protest projects of extractive industries and various government policies.

The State national human rights institution, the Human Rights Commission (AHRC), is accredited “A” status, in accordance with the Paris Principles. The Commission, created by federal statute, promotes understanding and respect for human rights for all persons through adherence to the International Bill of Rights and includes a human rights complaint function. The Commission has vocally criticised the reduction in government funding for civil society organisations in Australia and restrictions upon the funding of civil society organisations that conduct advocacy. In 2015, the Commission launched a national inquiry into immigration detention and collated information about the conditions from defenders and staff. In response, the State pursued a public relations campaign of vilification of the AHRC and its leader, often in the form of verbal attacks against their expertise and integrity by public officials in the media. These attacks stand in stark contrast to the State’s support for national human rights institutions abroad concerned with human rights violations in other States.

3. Implementation of the Declaration

Australia does not have a national legal or policy framework concerning human rights defenders. While in international fora, Australia has supported the importance and a broad reading of the Declaration, the implementation of the Declaration in Australia has become problematic. As noted by the Special Rapporteur at the close of his recent (2016) visit to Australia: “I was astonished to observe mounting evidence of a range of accumulative measures that have levied enormous pressure on Australian civil society. I was surprised to observe the increasing discrepancy and the lack of coherence between Government’s external pronouncements and implementation of human rights obligations internally.”¹⁵⁸ As noted in the 2006 Global Survey, measures implemented to combat terrorism remain a concern.

Public discourse on human rights issues too frequently involves the public vilification of rights defenders by senior government officials, in a seeming attempt to discredit, intimidate and discourage them from their legitimate work. The media and business actors have contributed to stigmatization. According to numerous sources, environmentalists, trade unionists, whistle-blowers and individuals like doctors, teachers, and lawyers protecting the rights of refugees have borne the brunt of the verbal attacks.

The government has restricted funding to civil society organisations within Australia, including the AHRC and the National Congress of Australia’s First Peoples. The cuts in funding have a differential effect on defenders, further marginalising the voices of defenders of indigenous rights and women human rights defenders. The State has formally rejected the recommendation of the Referendum Council to build a representative indigenous voice at the

¹⁵⁸ A/HRC/37/51/Add.3

national level. In comparison to the 2006 Global Survey, the representation of indigenous defenders has improved but remains problematic and must be addressed as a key element of the national reconciliation process. Women human rights defenders from grassroots women's organizations have also been left without a national voice due to funding constraints.

Some organisations receiving State funding have been precluded from undertaking "law reform, policy or advocacy work including lobbying governments or engaging in public campaigns" under the new National Partnership Agreement with Community Legal Centres. This change in the agreement restricts the ability of defenders to challenge the policies of the State. There have also been troubling proposals at a recent Parliamentary inquiry into the 2016 federal election that the State should limit the ability of human rights organisations to seek funding from abroad.

The freedom of expression of defenders has been restricted by new legislation aiming to curtail foreign influence, restrict the publication of "protected information", and require disclosure of foreign contacts by a range of defenders, including journalists, human rights organisations, protesters and possibly academics. While the last minute amendments of some of the legislative provisions mitigated some of the restrictions (by adding, for example, a public interest exception for journalists), defenders have noted that it will have a chilling effect. As noted by the Special Rapporteur, amongst others, in advance of the passage of the legislation, it is inconsistent with the State's international human rights obligations.

In recent years, the State has introduced federally and at the state level legislation that would restrict the ability of defenders to protest publically. Legislation introduced in Queensland and Western Australia have expanded dramatically the ability of police to arrest and search protesters and has criminalised a number of acts of peaceful protest.

Regarding people on the move, the militarization of interdiction and offshore processing has led to a restriction of access by defenders to sites of detention and information about the policy. There is limited transparency in the operation of the offshore processing arrangements and there have been reports that access to the facilities by defenders, including journalists, is being restricted. The remote location of these offshore facilities makes them less accessible to defenders and human rights monitoring bodies. In April 2016, the Papua New Guinea Supreme Court declared the detention centre on Manus Island unconstitutional; in response to the Court's ruling, the population of the detention centre was relocated nearby to "transit" centres with even worse conditions according to credible sources.

Imposition of "gagging clauses" on staff as well as the 2015 Border Force Act have restricted the rights to freedom of expression and freedom of association to defenders of people on the move. People on the move in the offshore facilities who seek to defend their own rights face intimidation and reprisals from staff, as evidenced by the mistreatment and harassment of Behrouz Bouchani, an Iranian journalist and refugee detained on Manus Island who has sought to expose the deplorable conditions on Manus Island. The Special Rapporteur has sought assurances that defenders, including people on the move themselves, will not be prosecuted for lodging communications with the United Nations regarding conditions in detention centres, however such assurances have not been forthcoming.

The issue of whistle-blowers extends beyond the State's attempts to restrict access to and publication of information by defenders of people on the move. The State has prosecuted

Bernard Collaery for his role in defending a whistleblower (anonymous “Witness K”) who revealed that the State had spied on the government of Timor Leste during sensitive negotiations. The prosecution of whistleblowers (and defenders more generally) has been facilitated by a new telecommunications law that has opened the way to surveillance of the meta-data communications, including to and from journalists and other defenders.

Reports have drawn attention to a growing number of digital attacks against human rights defenders, specifically high-profile women and those that advocate against domestic violence. It appears the most horrifying digital abuse is reserved for women with high visibility, who speak out or those deemed to be feminist. The remedies have lagged behind the abuse and the process of triggering follow up by police is often ineffective. The State has an obligation to protect defenders, including from online harassment.

The Special Rapporteur has received some communications on the situation of human rights defenders, most recently relating to the anti-protest laws introduced in Western Australia.

4. Issues and Trends

Australia has been a vocal supporter of the Declaration and the rights of defenders throughout the world. Media coverage of human rights defenders in Australia is generally sympathetic and there is a broad popular consensus in support of human rights. However, in recent years, the situation of human rights defenders within Australia and the State’s policies with respect to their rights have drifted away from the standards that the State has demanded that other States uphold. The State has sought to silence the voices of critics, including in its own national human rights institution, through divisive rhetoric, defunding of human rights organisations, imposition of contractual restrictions on defenders and human rights organisations, and legislation that restricts the freedoms of expression and protest. The Special Rapporteur calls on the State to renew its commitment to the Declaration and to revisit its domestic policies that have restricted the rights of defenders since the 2006 Global Survey.

Many of the challenges facing the State are not unique to it; environmental change, people on the move, and terrorism are challenges facing every State and the international community more generally. The Special Rapporteur calls on the State to adopt good practices in response to these challenges and to limit the restrictions that its responses may place on the rights of defenders and those articulated in the Declaration. The State should cease prosecuting whistle-blowers and revise its legislative frameworks restricting the access to information and freedom of expression of human rights defenders on topics of important State policy. The Special Rapporteur also calls on the State to recommit to a level of support of civil society commensurate with its role of regional leader, including the support of marginalised defenders. The Special Rapporteur notes that the shrinking of civic space is not solely a global phenomenon; it plays out and must be resisted at the national, state and local level. The Special Rapporteur encourages defenders to renew their efforts and encourages the State to meet them with renewed dialogue.

Fiji

1. National Context and Human Rights Defenders

In Fiji, civil society organisations provide services and conduct advocacy, including on human rights issues. The Coalition of Human Rights NGOs serves to network human rights defenders and organisations.

Fiji was included in the 2006 Global Survey. The 2006 Global Survey noted the absence of a strong popular support for human rights organisations and the widespread perception that human rights are a Western concept. The harassment of human rights defenders was frequently linked to the perception by the State that they are inciting civil unrest and comprising national security, thereby restraining free discussion. Consistent with this report, the Global Survey also noted that the Declaration is not well known by both defenders and officials. The Global Survey expressed concern that women defenders have faced threats of rape and sexual harassment.

Fiji is a member of the Pacific Islands Forum and the Commonwealth of Nations, though it was suspended from both organisations during the years of its coup.

2. Legal and Policy Framework

Fiji is party to many of the core international human rights treaties, with the notable exception of the ICCPR and ICESCR. The 2013 Constitution guarantees a wide range of rights, included those articulated in the Declaration.

During much of the period since the 2006 Global Survey, Fiji lacked a constitutional order and a state of emergency was in place. Public emergency laws in place during this period further restricted the rights of all individuals. During this time, various executive decrees curtailed the rights of defenders, in particular those defending labour rights. For example, the Essential National Industries (Employment) Decree illegitimately restricts the exercise of workers' rights to freedom of association and of expression.

The Human Rights Commission was the national human rights institution; it was suspended from the Global Alliance for National Human Rights Institutions in 2007 after its chairwoman expressed support for the coup. The Human Rights and Anti-Discrimination Commission has replaced the earlier institution and is in the process of building its capacity and re-joining international networks.

The Commission notably stepped up during the arrest and detention of political party leaders in 2016, by meeting with the Commissioner of Police to ensure that the detained persons' constitutional rights are protected. However, the Commission remains understaffed and questions remain about its independence from the government. Despite having the power to investigate incidents of excessive use of force by state security officers and intimidation, there are no reports that the Commission has done so.

3. Implementation of the Declaration

There is no specific national law, policy or protective mechanism for human rights defenders.

Reports have drawn attention to the period between the 2006 coup and the 2013 adoption of a new constitution, when defenders experienced numerous restrictions on their rights. These restrictions extended beyond defenders engaged in political advocacy.

Freedom of expression by defenders is severely restricted with journalists facing legal and extra-legal intimidation. In 2009, the editor-in-chief of the Fiji Times had rocks thrown at his house and car by unknown men and suffered an attack on his home with home-made petrol bombs. Other journalists have been detained or deported for writing stories that are critical of the government. The 2013 Constitution and more recent elections have appeared to have a positive impact on freedom of expression (and the right to information). However, freedom of expression continues to be threatened. Since the elections, the editor of the Fiji Times, the country's most popular newsletter, has faced sedition charges and the foreign media was described as "hostile" to the nation.

It has been reported that labour rights defenders have been targeted by the State. In addition to the legal curtailments of labour rights noted above, labour rights defenders have been refused permits for meetings, including with international trade union representatives (who were also refused entry into Fiji). These actions appear to form part of a wider campaign by the State to curtail the activities of trade unions.

Domestic violence and discrimination against women remain important human rights issues in Fiji. Women human rights defenders have received support from the Regional Rights Resource Team (RRRT).

The Special Rapporteur has received communications concerning the situation of human rights defenders in Fiji several times from 2007 to 2013; no response was received from the State to the Special Rapporteur's inquiries. No communications have been received since 2013.

4. Issues and Trends

Fiji is emerging from a period of transition, with a recently introduced constitution and elections. The Special Rapporteur urges Fiji to continue to build robust institutions capable for protecting human rights and human rights defenders, including a national human rights institution that fully complies with the Paris Principles. Freedom of expression, freedom of association and the right to protest must be the cornerstones of the new order. The Special Rapporteur calls on the State to ensure that these rights are respected in all domains, including with respect to collective organisation of workers. Journalists must not suffer threats. The Special Rapporteur reminds the State of its obligation to protect the rights, including the safety, of human rights defenders.

Nauru

1. National Context and Human Rights Defenders

There are civil society organisations in Nauru, working on a variety of issues including asylum seekers, disabled peoples, women, young persons and environmental issues. Human rights defenders have been targeted when they oppose government policies. Defenders of people on the move are particularly at risk.

Nauru was not included in the Global Survey of 2006. Nauru is a member of the Pacific Islands Forum and the Commonwealth of Nation.

2. Legal and Policy Framework

The State has signed but not ratified a number of core human rights treaties, including the ICCPR. It has become party to the Convention Against Torture (and its optional protocol), the Convention on the Rights of the Child, the Convention on the Elimination of Discrimination Against Women, and the Convention on the Rights of Persons with Disability.

The Constitution guarantees fundamental rights and freedoms, including those articulated in the Declaration. Legislation has restricted some of these rights, including freedom of expression. In May 2015, the Special Rapporteur on freedom of opinion and expression, called on the State to withdraw recent amendments to its Criminal Code which unduly restricted freedom of expression.

Although the Courts are guaranteed independence in the Constitution, recent practice has compromised the independence of the judiciary and brought into question the rule of law within the State. The State dismissed and deported the Resident Magistrate in January 2014 and subsequently removed the Chief Justice from office. The successor as Resident Magistrate did not have her contract renewed in December 2016. The latter decision not to renew her contract was reportedly as a result of passing sentences against anti-government protesters that the government saw as too lenient.

There is no national human rights institution in the Republic of Nauru, though it is progressing toward creating one. It has hosted national human rights scoping missions led by the Pacific Community's (SPC) Regional Rights Resource Team (RRRT), and supported by the Asia Pacific Forum for National Human Rights Institutions.

3. Implementation of the Declaration

There is no national law or policy addressing the situation of human rights defenders. In practice, the State has sought to quell dissenting voices and use the criminal justice system to silence defenders opposed to its policies, including its hosting of an Australian offshore immigration detention centre, the Nauru Regional Processing center. According to numerous sources, the State restricts free expression of defenders through its control of the media, the use of "gag contracts", and restriction on online access, and criminal prosecution.

Regarding the Nauru Regional Processing centre, it has been reported that defenders of people on the move have faced numerous restrictions, including difficulty obtaining entry visas, raids on their offices, harassment and acts of intimidation, and acts of reprisals against human rights defenders and journalists documenting, and reporting on the situation of those housed in the Centre. In October 2015, police twice raided the offices of a Nauru-based branch of the civil society organisation Save the Children working on improving the treatment of asylum seekers. Refugees and asylum seekers have reported that Nauruan police have disregarded their reports of sexual violence and ill-treatment. The hospital also refused to send an ambulance on multiple occasions.

The right of defenders to protest is restricted in practice despite constitutional guarantees. In March 2015, nearly 200 refugees, including children, were arrested during a peaceful

protest. The arrests came in the wake of statements from the police chief that assemblies of larger than three people would be dispersed.

Freedom of expression and the right to information of defenders are restricted. In May 2015, new criminal laws were introduced imposing seven-year prison sentences for publishing statements that are deemed likely to threaten a broad range of State interests, including defense and public safety, order, morality and health.

Since April 2015, access to several social media outlets, including Facebook, has been blocked based on the official justification to limit pornography, crime and cyberbullying, and to protect the national culture. Defenders have suggested that these restrictions are, in part, an attempt to prevent people on the move in detention from sharing information on their situation.

The remoteness of Nauru and the presence of non-citizen defenders and international human rights organisations has allowed the State to use visa policy as a means to control the work of defenders in the State. In 2014, at the instigation of the Australian government, nine employees of Save the Children, who were working with asylum seekers on an Australian government contract, were deported. The Australian government subsequently apologized and paid compensation to those deported. In 2018, the State refused entry visas to international journalists attending the Pacific Islands Forum summit that had previously criticised the State. The State normally imposes a visa fee of in excess of 6,000 USD (which it had waived for the summit) for journalist visas, severely restricting media freedom.

Although the restrictions faced by defenders of people on the move have attracted greater international attention, defenders working on local issues face similar challenges, particularly when their activities are seen as opposing the government or its policies. In June 2014, five opposition Members of Parliament were suspended for criticising the government in international media. Since then, those members have not been permitted to participate in parliamentary discussions.

The Special Rapporteur has received two communications concerning the situation of human rights defenders in Nauru in recent years, both relating to the (mis)treatment of asylum seekers who were defenders of the rights of people on the move. In neither case did the Special Rapporteur receive a reply from the State.

4. Issues and Trends

The activities of human rights defenders are heavily restricted in Nauru. As a result of the serious human rights issues and international opposition generated by the State's hosting of the Nauru Regional Processing Centre, the State has systematically restricted both the ability of people on the move, housed at the Centre, to defend their rights and the rights of human rights defenders more generally. The Special Rapporteur calls on the State to revisit its restrictive policies in light of the shrinking number of people on the move housed at the Centre and its insistence that they are treated in accordance with international human rights standards. The Special Rapporteur condemns the behaviour of Australia in instigating and condoning the restrictions placed on and mistreatment of human rights defenders. The State must also ensure that parliamentary rules are applied without discrimination and not used as a means to restrict political expression and diminish the ability of opponents of its policies to voice their concerns.

New Zealand

1. National Context and Human Rights Defenders

New Zealand is home to a diverse, vibrant and publically supported civil society scene, including many large and well-known human rights organisations. There are many organisations defending the rights of the indigenous population, and some key organisations working specifically from a human rights perspective on a variety of issues. For example, organisations such as the Foundation for Human Rights have been joined by newer ones, such as the New Zealand Centre for Human Rights Law, Policy and Practice, now headed by the long-standing former Human Rights Commissioner, Rosslyn Noonan, and the new Aotearoa Human Rights Lawyers Association. There are also numerous womens' rights organisations. More recently, defenders working to promote and protect sexual orientation and gender identity rights, such as Aych McArdle, have gained public prominence.

As New Zealand has recently begun to accept "climate change refugees" from the Pacific Islands, environmental defenders are also becoming a more prominent in the human rights networks. A reassurance in interest in the once outlawed indigenous language, te reo Māori, has also led to increased visibility for Māori language and cultural rights defenders. In the wake of a series of earthquakes in the Canterbury region, housing rights defenders have also been active. Newer advocacy groups like Action Station have taken key roles in promoting government action on human rights issues such as mental health. Women human rights defenders have also been targets of abuse and harassment.

New Zealand was not included in the 2006 global survey. New Zealand is a member of the Pacific Islands Forum.

2. Legal and Policy Framework

New Zealand is party to most core international human rights treaties, with the exception of the Convention on Enforced Disappearance and the Convention on the Rights of Migrant Workers and Members of their Families. Although New Zealand does not have a codified constitution, it has enacted a Bill of Rights Act which guarantees a range of civil and political rights. While the Act does not expressly define remedies for breaches of the Bill of Rights, the higher courts in recent judgments have affirmed the availability of a wide range of remedies, including a declaration of inconsistency, which expresses a "reasonable expectation that other branches of government, respecting the judicial function, will respond by reappraising the legislation and making any changes that are thought appropriate."

The State national human rights institution, the New Zealand Human Rights Commission (NZHRC), is accredited "A" status, in accordance with the Paris Principles. In addition, there is a national preventive mechanism (for the Optional Protocol for the Convention Against Torture) and a monitoring mechanism for the State's obligations under the Convention on the Rights of Persons with Disabilities. There is a separate Office of the Children's Commissioner, and a non-government sector group established to support this Commissioner's work on monitoring the implementation of the Convention on the Rights of the Child.

The NZHRC has been increasingly active in gathering civil society and human rights defenders together to raise awareness about international mechanisms. The NZHRC is conducting a series of regional consultations in the lead up to the January 2019 UPR review of the State. The NHRC has also created its own Indigenous Rights Information series and held a series of events to promote awareness and discussion around the UNDRIP, in the lead up to its tenth anniversary in September 2017. The Human Rights Commission commented that “the UNDRIP is the result of a long and hard-fought struggle by many indigenous activists from around the world” and that “its adoption almost ten years ago was a major milestone for indigenous peoples’ rights, and the potential it offers is huge”.

3. Implementation of the Declaration

There is no national law or policy on human rights defenders although the rights articulated in the Declaration are generally respected.

The right to protest is generally respected and policing of demonstrations is generally appropriate. In 2016, hundreds of people gathered to protest against the Trans-Pacific Partnership (TPP), and no documented cases of excessive force were reported. In 2017, various political commentators publicly criticised anti-war protesters on ANZAC Day, the annual national commemoration of those who served and died in all conflicts. However, the Prime Minister, Bill English, defended their right to protest: “What we're remembering on Anzac Day is people who gave their lives for freedom and part of that freedom is the ability to protest.” Defenders generally enjoy freedom of expression and journalists and the media face few restrictions on their activities. Recent legislation, including the Harmful Digital Communications Act of 2015, has limited free expression.

The past marginalization of Māori defenders has been addressed through the programming of the NZHRC and a wider initiative by the State to increase the participation of Māori in government, including through the creation of seven Māori electorates. The establishment of new fora and opportunities for representation has encouraged the growth in the number of human rights defenders from within the Māori community and helped to connect them to the broader human rights community.

Notwithstanding these efforts, Māori defenders remain the most vulnerable group of defenders in the state. Treaty promises made to the Māori remain incompletely realized and continue to conflict with legislation and policy. Māori human rights defenders face discrimination and mistreatment within the justice system, as does the indigenous population as a whole.

Defenders taking direct action and engaging in public protest have faced restrictions on their rights. For example, in November 2007, the Special Rapporteur received a communication concerning the arrest of 17 Māori and environmental defenders suspected of terror related activities. The Special Rapporteur expressed concern that the arrests were connected to the individuals’ activities in defence of the rights of Māori people, and particularly of the land rights of the Ngai Tuhone community. The State acknowledged that the actions of the police may have been discriminatory and may have breached human rights standards and were under investigation.

According to numerous sources, women human rights defenders have been targets of abuse and online harassment. Women generally in New Zealand experience high levels of online abuse and harassment.

With the exception of the noted communication, the Special Rapporteur has not received any communications concerning the situation of human rights defenders in New Zealand.

4. Issues and Trends

The situation of human rights defenders is good in New Zealand and their rights are generally respected. Since the Global Survey 2006, the situation has improved and a number of good practices have been developed both by defenders and the State, including the work of the national human rights institution and efforts to address the marginalization of Māori defenders. The Special Rapporteur notes that all stakeholders agree that a key concern in relation to human rights defenders remains ensuring that the government consult the Māori population in matters that concern their treatment and their rights. This requires involving the indigenous population in decision making both at national and at local level. The relatively new Coalition government in New Zealand has also recognized, but still needs to act upon, a number of key human rights issues that have been raised by human rights defenders. The larger test of the State's commitment to the Declaration and the rights articulated within it will be the State's willingness to act upon the human rights concerns raised by human rights defenders.

Pacific Islands

1. National Context and Human Rights Defenders

The Pacific Islands includes the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Fiji, Papua New Guinea and Timor-Leste are covered in separate country entries.

The promotion and protection of human rights throughout the Pacific Islands mainly occurs through a range of civil society organisations that are often issue-specific, for example, focusing on women's rights, children's rights, or the rights of people with HIV/AIDS. The Regional Rights Resource Team (RRRT) based in Fiji, is the most prominent and active human rights-focused regional civil society organisation in the Pacific, aiming to educate and train people in human rights issues. The United Nations Development Programme Pacific Centre (UNDP-PC) is also active in supporting specific initiatives using a rights-based approach to programming in the areas of, for example, parliamentary strengthening, civic education and HIV/AIDS. Human rights defenders from the Pacific face a number of challenges including access to information and support, isolation and the provision of "safe spaces" to discuss human rights issues.

The Pacific Islands was included in the 2006 Global Survey. The Global Survey reported that civil society organisations are active in the fields of welfare and charity, delivering important services of various kinds. However, it has been reported that many civil society organisations are hesitant to assume more confrontational and public roles as "watchdogs" and few civil

society organisations pursue advocacy in relation to human rights concerns. In the smaller States, like Kiribati and Tuvalu, civil society organisations are sometimes administered by government departments and have their offices in government buildings. This raises questions with regard to the independence of so-called “non-governmental” organisations.

The Pacific Islands are individually members of the Pacific Islands Forum, a regional organisation including also Australia and New Zealand. The recent meeting of the Pacific Islands Forum in Nauru was marred by restrictions on access by journalists and media based upon their past perceived criticisms of the government of Nauru.

2. Legal and Policy Framework

The individual Pacific Islands have become party to between two (Tonga) and five (Samoa, Solomon Islands and Vanuatu) of the core international human rights treaties. In all cases, the States should be encouraged to become party to the full list of core international human rights treaties. Custom and human rights are often seen as conflicting in the Pacific region, yet both are embedded in Pacific legal systems. Custom is recognised as a source of law in most Pacific countries, and human rights are also protected in most Pacific constitutions.

The Constitutions of the Federated States of Micronesia, Kiribati, the Solomon Islands and Tuvalu all recognise the right to seek and receive information and the right to freedom of expression. Vanuatu and the Cook Islands have freedom of information laws

Some of the constitutional and legislative provisions of Pacific Islands conflict with international human rights standards. For example, under the Tuvaluan Constitution, restrictions on the exercise of the right to worship and freedom of expression and information were permissible if their exercise was “divisive, unsettling or offensive to the people, or directly threaten Tuvaluan values”. Defamation and libel remain a criminal offence under Part XIX of the criminal code. There was no freedom of information law in Tuvalu.

Many of the Pacific Islands have, over the last five years, established or significantly expanded their national human rights institutions: Kiribati, National Human Rights Task Force; Samoa, Ombudsman; Solomon Islands, Ombudsman; Tuvalu, expanded Ombudsman; and, Vanuatu: Interim National Human Rights Committee. Consultations, led by the Asia-Pacific Forum for National Human Rights Institutions and the SPC-RRRT, have been held to support the establishment of national human rights institutions in the Cook Islands, the Republic of Marshall Islands and the Federated States of Micronesia.

3. Implementation of the Declaration

None of the Pacific Islands has a policy on human rights defenders and human rights defenders are rarely identified locally as such. The Special Rapporteur would encourage the new or expanded national human rights institutions to actively promote the Declaration and the discussion of the role of human rights defenders in the human rights project.

Human rights defenders working on issues threatening vested interests and local policing authorities are vulnerable. For example, in 2010, threats and acts of reprisal and intimidation were made by Vanuatu Mobile Forces (VMF) officers inside the Cook barracks located in the Anabrou neighbourhood of Port-Vila against a witness (and her family) to the killing of a prisoner who escaped from the prison of Port Vila.

Freedom of expression by defenders in the Pacific Islands is restricted by both legislation and social convention. In Samoa, the law criminalising defamation was restored in December 2017 by Prime Minister Tuilaepa Sailele Malielegaoi in order to penalise so-called “ghost writers”, meaning those who criticise members of his government. While the Media Council Law adopted in 2015 was initially welcomed (and led to the adoption of a code of ethics), some journalists continue to worry that it will be used as a means to control them.

In the Solomon Islands, the defamation law continues to intimidate journalists and encourage a degree of self-censorship in the media. Combined with Indonesian diplomatic pressure, defenders working on issues related to West Papua separatism face a risk of prosecution. In May 2017, Prime Minister Manasseh Sogavare called for responsible reporting by journalists and said the “interest of the public at large” may sometimes override “the right to know”. Otherwise, there are infrequently documented cases of harassment, a media ombudsman, and proposed legislation designed to reinforce government transparency and combat corruption.

The small populations and size of most Pacific Islands pose unique challenges for human rights defenders, including making it more socially difficult for human rights defenders to take an unpopular position against the State, the status quo or chiefs in villages or settlements. Often, defenders are related to or are wantok (belong to the same clans) to human rights violators. Openly taking a different position can be seen as going against the culture or a betrayal of one's culture, resulting in social exclusion. In bigger countries, defenders have larger independent social networks to mitigate against the loss of familial or social ties. In small Pacific Island States they often only have one social network. Advocacy may thus mean loss of familial and social ties. For example, when a defender in Tonga mobilised her women's group to fight against a new law that limited free speech she was ostracised by a social group very important to her.

The Special Rapporteur has received only one communication since the 2006 Global Survey concerning the situation of human rights defenders in the Pacific Islands. The communication dealt with the mentioned reprisals and intimidation by members of the Vanuatu Mobile Forces in the Cook barracks. Human rights defenders in the Pacific Islands have expressed frustration at their lack of access to international fora and communications with international mechanisms.

4. Issues and Trends

While the environment for most defenders in these States is generally supportive, the small size and populations of the States pose unique challenges for defenders affecting their independence from the State, their access to resources, and their ability and willingness to push for change. In the Pacific Islands in general, human rights defenders may not be favourably looked upon due to existing customs and culture. This situation is exacerbated by defamation laws in Tuvalu, Samoa and Solomon Islands which may intimidate human rights defenders and by reported threats in Vanuatu.

The Special Rapporteur is encouraged by the regional cooperation in the establishment and expansion of national human right institutions in the region. He urges the national human rights institutions in the Pacific Islands to include in their programmes of action education and advocacy about the Declaration and the important role of human rights defenders. The

Special Rapporteur recommends the review of criminal defamation laws and other policies that might restrict the freedom of expression of defenders. He also urges those Pacific Islands without laws guaranteeing the right to information to address this gap.

Papua New Guinea

1. National Context and Human Rights Defenders

Civil society organisations, including human rights organisations, operate openly in Papua New Guinea (PNG), with many focusing on service delivery. Human rights defenders in PNG mainly work on a wide range of issues, including land and environmental rights, women and children's rights, gender based violence, especially against sorcery and witchcraft accusations and to end tribal warfare.

In recent years, environmental issues have become more prominent, particularly in relation to extractive industries, and there has been a growth in the number of environmental and land rights defenders and organisations. Women human rights defenders face particular risks in a society that has been described as one of the worst places in the world for domestic violence. Sexual relations between consenting (male) adults of the same sex remains criminalized and defenders of sexual orientation and gender identity rights face discrimination and hostility from State and non-State actors.

Papua New Guinea was not included in the 2006 Global Survey. Papua New Guinea is a member of the Commonwealth of Nations and the Pacific Islands Forum. The State is also seeking membership in the Association of South East Asian Nations.

2. Legal and Policy Framework

The State is party to most of the core international human rights treaties, though it has not accepted any individual complaints or inquiries procedures. PNG is not party to the Convention Against Torture or the Convention on Enforced Disappearance. The State regularly misses its reporting obligations to treaty bodies.

The Constitution of PNG guarantees many of the rights in the Declaration, including the freedom of expression, including for the press, freedom of assembly, freedom of association, and freedom of information. The judicial system has jurisdiction to receive complaints of violations of constitutionally protected human rights from both victims and others with "sufficient interest"; it also has jurisdiction to commence proceedings on its own initiative. Section 39 of the Constitution allows the courts to consider international human rights obligations in determining whether or not the law or act is reasonably justifiable in a democratic society that has proper respect for human dignity.

The Ombudsman Commission of Papua New Guinea serves many of the functions of the national human rights institution. It is an independent institution established directly by the Constitution. The Commission is not internationally accredited as complying with the Paris Principles. The Commission focuses on a range of issues, including those related to maladministration and corruption, human rights and discrimination, integrity of the political process, and judicial appointments. It has its own investigative authority and may refer

matters of constitutional interpretation to the Supreme Court. The Commission has an agreement for joint investigations with the national police.

The Commission has investigated human rights violations and referred individuals for prosecution. The Commission is also active in the training of law enforcement personnel and non-governmental organisation staff, connecting it to the daily practice of human rights in the State. The Commission has come under attack from those opposed to its investigations. Mr. Chronox Manek, then Chief Ombudsmen, faced an assassination attempt in December 2009. Subsequent efforts by the government to narrow the powers of the Commission were met with mass popular protest and were ultimately unsuccessful.

In 2007, a Final Option Paper proposed the creation of a new national human rights institution, the PNG Human Rights Commission (HRC), in order to “strengthen and complement the work of [other] government agencies in the promotion and protection of human rights in PNG”. In the 2011 UPR, the State committed to the establishment of the HRC; given the lack of progress since that date it is unclear whether it remains committed to establishing the HRC.

3. Implementation of the Declaration

There is no national policy or law addressing the situation of human rights defenders or providing a protection mechanism for those at risk.

It has been reported that defenders in PNG who threaten face extra-legal harassment, intimidation, threats and violence and legal prosecution for defamation, arrest and detention. The risk is greatest for defenders challenging vested political, social and economic interests, including environmental defenders, defenders of people on the move, and women human rights defenders, and defenders of sexual orientation and gender identity rights.

According to numerous sources environmental, indigenous, labour rights and business and human rights defenders face reprisals and retribution from companies which they criticize. Companies hire security and pay (bribe) police officers to harass defenders with threats and beatings. Jethro Tulin, an indigenous Ipili and human rights defender from Enga Province in Papua New Guinea, was repeatedly harassed, and then attacked by three men wielding machetes and suffered a broken arm in August 2008. This attack occurred after Mr. Tulin visited Canada in an attempt to raise awareness of alleged human rights violations, including killings, reportedly being perpetrated by the Barrick mine’s security forces on the indigenous population living near the mine site, in May 2008.

Many journalists complained of intimidation aimed at influencing coverage by agents of members of parliament and other government figures. For example, Mr Simon Eroro, a journalist with Post Courier National Daily received four threatening phone calls from unidentified people following his reporting on a bribery scandal allegedly involving several Papua New Guinean Government officials. As a result, self-censorship by journalists is common, especially when reporting on contentious political events. Media members alleged substantial bribes often were offered to journalists and editors with the intent of buying favourable coverage.

In 2016, the government amended the penal code to apply the provisions of a new cybercrime law with a section on internet freedom that would allow the government to punish those who

used social media to incite violence or break the law. In July, the electoral commissioner obtained a court order to silence a blogger who was critical of his administration of the parliamentary elections. The media council viewed this court order as an attempt to suppress free speech.

The constitution provides for the freedom of peaceful assembly. In practice, however, the government limits the freedom of peaceful assembly by requiring a 14 day advance notice period and not issuing permits routinely. In 2016, police opened fire against a peaceful demonstration by students demanding the Prime Minister's resignation, leaving many injured.

Environmental human rights defenders face mistreatment at the hands of the State and private actors aligned with the business interests they oppose. According to information received by the Special Rapporteur, defenders opposed to large scale development projects and extractive industries face judicial harassment and police abuse. Violent clashes between defenders and the police have occurred during peaceful gatherings opposing controversial projects. Indigenous defenders and members of indigenous community lack politically meaningful participation in the decision-making process and equal representation in the governance of the country.

Defenders of people on the move also face barriers to the exercise of their rights. In 2013, Papua New Guinea agreed to provide immigration detention facilities for people on the move intercepted by Australia. Defenders have reported on harsh and sometimes violent conditions of detention for refugees and asylum seekers at the Manus Island Detention Centre.

Journalists have faced restricted access to the centre and people on the move seeking to communicate with people outside the centre about their situation have faced intimidation, reprisals and restrictions on their access to communication technology. Defenders working from within the detention centre have had their phones seized and their living spaces raided, been subjected to interrogation as to the content of their communications, threatened with physical beatings, held in solitary confinement and transferred elsewhere, as a result of their human rights activities. For example, in January 2015, the police detained a large group of people on the move for several weeks in crowded cells in the local jail and police lock-up following a hunger strike at the detention centre.

The alleged restrictions, harassment and threats have been carried out by detention facility staff, including private security contractors, according to numerous sources. People on the move in detention who protested the treatment of others within the centre also faced intimidation and violent retribution from detention centre staff and other detainees. In 2016, the Supreme Court ruled that the operation of the detention centre was unlawful.

Women human rights defenders face many of the risks they face elsewhere as a result of their often outspoken advocacy in a patriarchal society. It has been reported that many have faced threats and abuse from their husbands and families as a result of their human rights work. Traditional norms of society discourage women speaking out against harassment or assault and stigmatise those that do. Women human rights defenders are often shunned by their families as practitioners of witchcraft or sorcery and blamed for unfortunate events. Sorcery accusations have been directed against defenders and accompanied by brutal attacks,

including burning of homes, assault, and sometimes murder. Women are particularly likely to be targeted and less likely to be able to defend themselves from accusations.

The Special Rapporteur has sent several communications to the State concerning the situation of human rights defenders in the State since the Global Survey 2006. These communications have raised issues about the issues already identified, including the situation of defenders of people on the move, women human rights defenders (especially those accused of witchcraft), and land and environmental rights defenders. The State has not responded to any of these communications.

4. Issues and Trends

While human rights defenders work openly in PNG they also face legal and extra legal mistreatment as a result of their human rights activities. Increasingly, business and economic interests seek retribution against defenders who criticise them, according to reports. The Special Rapporteur is encouraged by the positive interventions of the Ombudsman Commission and the possible creation of an additional human rights institution. The Special Rapporteur urges the State to continue to strengthen these institutions and other providing oversight of State human rights violations, particularly given that many of the violations of the rights of human rights defenders arise from the State's own political leadership and police and administrative officers.

The legal frameworks in PNG criminalise defamation and have resulted in the prosecution of human rights defenders, including journalists, seeking to expose corruption. The police have been heavy handed in their responses to protests and are often complicit in the targeting of defenders. People on the move, already in a precarious position, face mistreatment when they seek to defend their rights. The Special Rapporteur calls on the State to develop, in consultation with all stakeholders, a national action plan for the implementation of the Declaration. The State must address the legal and extra legal restrictions on human rights defenders. The Special Rapporteur reminds the State that the creation of a safe and enabling environment for human rights defenders is not only an obligation of the State but a condition precedent to the State's realization of its ambitious PNG Vision 2050.

The Special Rapporteur is particularly concerned about the situation of women human rights defenders. They face high levels of domestic violence and accusations of sorcery. While the Special Rapporteur recognises that the State's introduction of the Criminal Code (Sexual Offences and Crimes Against Children) Act 2003 was noteworthy within the Pacific region, he reminds the State that mere criminalization is insufficient to address the deep social roots of the situation of women. Within the limited capacities of the State and its national action plan on the realization of women's rights, the Special Rapporteur urges the State to provide greater mechanisms for the protection of women human rights defenders.

Timor-Leste

1. National Context and Human Rights Defenders

Elections were held in the Democratic Republic of Timor Leste in May 2018 led to the Alliance for Change and Progress (AMP) gaining a majority in Parliament, ending a period of political gridlock.

Civil society in Timor-Leste emerged out of resistance to Indonesia's occupation of the country prior to 1999. It has grown significantly in recent years and the country is now home to a wide range of civil society organisations, including human rights organisations. Many civil society organisations focus on building accountability as Timor-Leste in a state of transition after gaining independence. The rights of human rights defenders are generally respected, though defenders operating in rural areas, participating in public protest, and critical of government policy are at higher risk. Women human rights defenders and defenders of sexual orientation and gender identity rights also face higher risks.

Timor-Leste was not included in the 2006 report. Timor-Leste is in the process of joining the Association of South East Asian Nations and is an observer of the Pacific Islands Forum.

2. Legal and Policy Framework

Timor-Leste is party to most of the core international human rights treaties, except for the Optional Protocol of the Convention Against Torture (which it has signed), the Convention on Enforced Disappearance and the Convention on the Rights of Persons with Disabilities. The State has also accepted the individual complaints procedure for the Convention on the Elimination of All Forms of Discrimination against Women. The State is overdue in its reporting to most treaty bodies, though it has recently submitted a report (in 2017) to the Committee Against Torture and has been reviewed.

Timor Leste's Constitution guarantees a long list of rights, consistent with its obligations under international human rights law. Under the Constitution, international human rights treaties become part of domestic law once ratified and domestic laws must be consistent with international obligations.

The Criminal Code of the State includes provisions creating the offense of criminal defamation (article 285).

The East Timor Media Act of 2014, created a Press Council with jurisdiction to "grant, renew, suspend and revoke" the credentials of journalists under a new licensing system. Under the Act, journalists would be obligated to "promote the national culture", "promote public interest and democratic order", and "encourage and support high quality economic policies and services". The Act, after reference to the Court of Appeal by the President, was declared unconstitutional.

The national human rights Institution is the "Provedoria dos Direitos Humanos e Justiça" (Institute of Public Assistance for Human Rights and Justice, PDHJ), which started operating in 2006. The PDHJ is fully accredited (level A) as complying with the Paris Principles. The PDHJ receives complaints from citizens about human rights violations, conducts investigations and provides recommendations to the relevant authorities. It also promotes human rights through training.

The capacity of PDHJ is increasing, and authorities generally cooperate with investigations carried out by the institution. However, the Government does not provide timely responses to the recommendations of the institution as required by law, and few recommendations have been implemented. The bureaucratic procedure to access its own budget through the Ministry of Finance highly limits the PDHJ's independence and hampers its operational effectiveness and capacity to respond to unexpected situations.

3. Implementation of the Declaration

While the State does not have a law or policy addressing the situation of human rights defenders, civil society has established a Human Rights Defenders Network, consisting of eleven human rights civil society organisations.

While there is limited discussion of human rights defenders as such in popular media, human rights, good governance issues, and reconciliation are much discussed. The State has noted that the Timorese are generally aware of the notion of human rights, having struggled to denounce human rights atrocities committed by occupying powers in the past.

It has been reported that defenders critical of the State have been subject to threats. The directors of two civil society organisations scrutinizing, respectively, the police, military forces and the judiciary have received serious threats (including death threats) on social media and messenger apps.

Human rights defenders are generally free to express themselves. Occasional incidents of threats and intimidation have been reported by human rights defenders. In January 2016, the police visited twice the offices of Asosiasaun Hukum, Hak Asasi dan Keadilan (the Law, Human Rights and Justice Association, HAK). During the second visit, police searched the offices and confiscated a t-shirt worn by a defender with a "free West Papua" on it. This incident was the subject matter of a communication to the Special Rapporteur to which he has yet to receive a response from the State. As noted earlier, the State's efforts to regulate journalists were found to be an unconstitutional violation of their rights.

Defenders' freedom of expression is further restricted by article 285 of the Criminal Code, criminalizing defamation. Journalist Raimundo Oki was prosecuted twice under this provision for having exposed corruption.

According to information received by the Special Rapporteur, women human rights defenders face social barriers to their work. Domestic violence and the lack of recognition of women's role in the public spheres lead to the silencing of women human rights defenders. Recent amendments to electoral law requiring 33% of political parties' lists and 38% of seats in the National Parliament to be women will help to provide greater opportunities for women's participation in public life.

In 2017, the LGBTQI* community celebrated their first pride parade, with the public support of Prime Minister De Araujo. Reports have drawn attention to the situation of defenders of sexual orientation and gender identity rights, including members of the LGBTQI* community, who have been targeted on social media with messages of hatred and can face severe discrimination for speaking up including within their family and the workplace.

4. Issues and Trends

The independence of Timor-Leste is testament to the commitment of earlier generations of human rights defenders opposing its occupation and documenting the severe human rights violations suffered by the Timorese. Since its independence, human rights defenders have worked to ensure that the rights guaranteed in its Constitution and international human rights commitments are enjoyed by all members of society. Human rights defenders have played an important role in the development of the new State's institutions, combating corruption, and ensuring transparency and accountability.

The Special Rapporteur is encouraged by the work of the national human rights institution and urges the State to remove any obstacles to its work. The development of a civil society network about and of human rights defenders is a good practice and should provide a means of discussion between human rights defenders and the State. The State must ensure that future legislative initiatives consider the rights of human rights defenders, in particular their freedom of expression. The Special Rapporteur notes the efforts made by the State to support and encourage women human rights defenders and defenders of sexual orientation and gender identity rights and encourages it to continue these efforts.

The Special Rapporteur has sent one communication to the State since the Global Survey 2006 raising the issue of freedom of association, peaceful assembly and expression of defenders of West Papuan right to self-determination.

South Asia

Afghanistan

1. National Context and Human Rights Defenders

Ongoing insecurity and instability in Afghanistan remains a pressing concern for the internationally recognized government, with the Taliban still able to influence and control parts of the country. Parliamentary elections have been delayed since 2015 and took place in October 2018. The United States ended the war in Afghanistan in 2014, although US-led NATO troops remain present in the country acting in an advisory capacity for Afghan government forces.

Afghanistan was included in the 2006 Global Survey. The Special Representative noted the serious instability that existed, and the human rights violations and abuses caused by warlords, armed factions including Taliban forces, US forces, as well as local military and police forces. Positive changes included the establishment of the Afghan Independent Human Rights Commission (AIHRC), the reinvigoration of the press and media, the promotion of human rights by UN bodies and some legal reform processes. The Special Representative was concerned that she had had little engagement with human rights defenders, and recognized that the continuing lack of security affected their ability to promote and protect human rights. She was concerned about impunity and the lack of means by which civilians could challenge their arrest and detention by the military. She also highlighted the threats and attacks suffered by women and girls, especially those who organized politically or criticize local rulers.

Human rights defenders operate in insecurity and instability, subject to threats and attacks by state actors and non-state actors, including the Taliban, Da'esh, Al Qaeda, warlords, and conservative groups. Women human rights defenders face particularly high risks because of their gender and the type of issues they act on. Journalists, media workers, humanitarian aid workers, and local NGO staff are also targeted for their work.

Afghanistan is a member of the South Asian Association of Regional Cooperation (SAARC).

2. Legal and Policy Framework

Afghanistan is party to most international human rights treaties. However, it is not party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, the Convention for the Protection of All Persons from Enforced Disappearance or the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Afghanistan has only accepted one individual complaint procedure and one inquiry procedure, both under the Convention on the Rights of Persons with Disabilities.

The 2004 Constitution of Afghanistan protects the right to freedom of expression, association, and unarmed demonstrations. Civil society groups are governed by the Law on Associations 2013 (amended in 2017) and the Law on Non-governmental Organisations (NGO Law) 2005. Article 5(2) of the Law of Associations and Article 8 of the NGO Law prohibits participation in 'political' activities', which is generally understood as involvement in campaigning and elections rather than advocacy. According to the Law on Gatherings, Strikes and Demonstrations enacted in 2003, only citizens have the right to participate in these three types of assemblies, and organizers are required to inform the police in writing 24 hours before the event.

The AIHRC has been accredited with an A status, indicating its full compliance with the Paris Principles.

3. Implementation of the Declaration

Afghanistan has not enacted any laws, policies, or practices that specifically recognize and protect human rights defenders. In a conference on the situation of human rights defenders in Afghanistan in 2016, AIHRC called on the government to adopt a national action plan for the protection of human rights defenders. While the President attended the conference, and announced his readiness to support human rights defenders in accordance with Afghan laws, no further action has been taken. Human rights defenders continue to be subject to threats, intimidation, harassment, surveillance, arbitrary detention, enforced disappearances, and killings. From January to October 2018, the International NGO Safety Organisation recorded 202 security incidents experienced by NGOs, including robberies, threats, abduction, direct fire, and the use of improvised explosive devices. They also noted the abduction of 92 NGO workers in this period, all of who were national staff.

Since 2014, increased insecurity has affected the contribution of human rights defenders across the country. After two attacks in Kunduz province in 2015 and 2016, most human rights defenders have moved out of the province, either to Kabul, to other provinces, or abroad. When the Taliban attacked Kunduz in 2015, their first action was looking for human rights defenders there. Similarly, because of insecurity in Helmand, Farah, Nangarhar and Ghazni provinces, defenders have relocated to neighboring provinces or to Kabul along with their families for immediate protection.

Individual human rights defenders have been continuously exposed to human rights violations, detention, and attacks. In 2016, Khalil Parsa, Head of the Herat Civil Society Network was attacked and shot several times by unknown gunmen. Similarly, an award-winning photographer Masood Hossaini survived an assassination attempt in March 2018, when three gunmen blocked his car while he was driving and shot at him. Both human rights defenders had been openly critical of Taliban attacks and civilian casualties as well as the ongoing presence of warlords, unregistered armed groups, and the drug mafia. Despite several complaints and follow up by defenders in Herat and Kabul, the perpetrators of these attacks have not been found.

Women defenders face higher risks because of their identity and their human rights activism. They often face stigmatisation, shame, isolation, and blame for the violence and threats levied against them. It has been reported that often, threats against them are not taken seriously and violence is treated with impunity. According to Amnesty International, many attacks against women defenders come from the Taliban and other armed opposition groups. However, one defender expressed that, "The threats now come from all sides: it's difficult to identify the enemies. They could be family, security agencies, Taliban, politicians." Women occupying prominent positions in the Administration have also been threatened and subject to targeted killings. In 2012, the directors of the Department of Women's Affairs, Najia Sediqi and Hanifa Safi, were shot and killed in broad daylight within six months of each other. Dr Soraya Rahim Sobhrang, an AIHRC Commissioner, has been subject to harassment, defamation, and death threats.

Journalists face particularly high risks. The Afghan Journalists Safety Committee (AJSC) recorded 89 cases of violence and intimidation against journalists and media workers in the first six months of 2018 alone, in which 11 journalists were killed directly, nine of them by two coordinated suicide bombs on 30 April in Kabul. AJSC also recorded cases of physical beatings, the infliction of bodily injury, detention, illegal expulsion, humiliation and mistreatment. Similarly, Nai, an Afghan NGO, has recorded 1,306 security incidents between 2001-2018 committed against journalists and media workers, and 16 killings in the months of April to October 2018 alone.

In March 2017, the police beat a reporter working for Ariana TV in Sar-e-Pul province for trying to report on excessive use of force against civilians. In August 2017, a prominent reporter from Zabul province received death threats from Taliban members followed with attempts on his life, and had to leave the province. In November 2017, Shamshad TV's station in Kabul was attacked by IS fighters which killed one staff member and wounded others.

The AIHRC has also come under attack. In October 2015, a minibus carrying eight staff members was attacked using a remote controlled improvised explosive device in Jalalabad. Two staff were killed and one seriously injured. According to credible sources, this was likely a direct retaliation for AIHRC's human rights work.

In terms of the freedom of association, local and foreign civil society organisations are subject to strict regulation by the Ministry of Economy (MoE). They are required to submit semi-annual and annual reports or face dissolution. The International Centre for Not-for-Profit Law (ICNL) notes that in March 2015, 113 local NGOs and six international NGOs were terminated because they didn't fulfill MoE requirements. In January 2012, the MoE Minister announced

that 600 local and 195 foreign NGOs had been closed because they failed to submit reports and meet their obligations.

The freedom of assembly has also been restricted, and legislation has been proposed that will curtail this even further. In June 2017, civil society organisations, activists and relatives of the victims of a truck bomb attack on 31 May that killed more than 150 people gathered in Kabul to protest security conditions. They were met by security forces who used water cannons and opened fire on demonstrators, killing seven people. The State responded by proposing legislation to limit venues approved for protests and to prohibited 'influential people' from 'intervening' in protests. Proposed amendments would also enable the extension of police authority to stop and prevent demonstrations and strikes.

The Special Rapporteur has received three communications concerning the situation of human rights defenders in the State, raising issues concerning the AIHRC and women human rights defenders.

4. Issues and Trends

Defenders operate with great insecurity and instability, with threats and attacks by state and non-state actors. The Special Rapporteur urges the government to enact laws, policies, and practices that recognizes and protects the rights of human rights defenders. He urges the government to work closely with human rights defenders to establish a protection and coordination mechanism with relevant government institutions. This protection mechanism should cover urgent medical care, relocation, security measures, and psychological support to defenders at risk, paying specific attention to the situation of groups facing high risks such as women defenders and journalists. The government must investigate all crimes against defenders, bringing perpetrators to justice. The Special Rapporteur urges the government to ensure that the AIHRC is resourced sufficiently and enabled to work independently and safely.

Bangladesh

1. National Context and Human Rights Defenders

Elections were held in Bangladesh in 2017 and Prime Minister Sheikh Hasina of the Awami League was re-elected. The election was boycotted by the opposition in an ongoing political crisis.

Bangladesh was included in the 2006 Global Survey. The Special Representative reviewed the ways in which laws restrict the freedom of expression, the right to access to information, and the freedom of association. She expressed deep concern about death threats and the risk of physical attacks, including assassinations, faced by human rights defenders perpetrated by ruling party activists, Islamic groups, and criminal armed gangs. She noted that authorities failed persistently to protect human rights defenders, and to conduct investigations about violations against them. She was extremely concerned that the alleged perpetrators in many of the cases where she has sent communications, were the authorities.

Since 2014, Islamic groups have been targeting bloggers, atheists, and secular intellectuals, subjecting them to physical violence and killings. The government has failed to bring perpetrators to justice, and has also been intensifying its efforts to stifle public debate and

criticism. Since 2013, law enforcement authorities have been carrying out enforced disappearances, usually targeting supporters of the opposition. Human rights defenders have been subject to death threats, stigmatisation, smear campaigns, arrests, kidnapping, abductions, torture, extra-judicial killings, judicial harassment and criminalisation. Some have been forced into exile. Impunity prevails.

Defenders facing high risks include those who criticize the government and member of political parties for human rights violations; those working on anti-corruption; those criticising Islamic parties; journalists; bloggers; women human rights defenders; defenders working on sexual orientation and gender identity rights; and defenders working on the rights of minorities.

Bangladesh is a member of the South Asian Association for Regional Cooperation (SAARC).

2. Legal and Policy Framework

Bangladesh is party to almost all the core human rights treaties. It is neither party to the Optional Protocol of the Convention against Torture nor to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty. It has accepted one individual complaint procedure under the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and one inquiry procedure under the Convention against Torture.

In September 2018, the Digital Security Act was passed despite strong protest from human rights defenders. The Act incorporates section 57 of the 2006 Information and Communication Technology Act (amended in 2009 and 2013) on “publishing fake, obscene, or defaming information”, a provision that has been used repeatedly against human rights defenders. Civil society organisations are regulated through the Foreign Donation (Voluntary Activities) Regulation Act, which criminalises foreign funded NGOs engaged in “anti-state activities” or who make “derogatory comments about the Constitution and constitutional institutions”. The Distortion of the History of Bangladesh Liberation War Crimes Act makes it an offence to debate or dispute the details of the 1971 war of independence.

The National Human Rights Commission (NHRC) is the national human rights institution of Bangladesh and has been accredited with B Status, noting only partial compliance with the Paris Principles.

3. Implementation of the Declaration

There are no laws, policies or practices that specifically recognise and protect the rights of human rights defenders. Human rights NGO Odhikar reports that from January to August 2018, it documented 367 extrajudicial killings, 27 enforced disappearances, 66 physical attacks on journalists, and 35 arrests under the 2006 ICT Act, amongst other human rights violations. Of great concern is the arrest and secret detention of opposition activists and militant suspects for long periods before they are produced in court; some become victims of enforced disappearances and extrajudicial killings.

Judicial harassment and criminalisation has been used against human rights defenders. In September 2018, Mozammel Hoque Chowdhury, Secretary-General of Bangladesh Jatri Kalyan Samity, was arrested and detained on false charges of extortion based on a complaint

made against him, detained; he released a few days later. Jatri Kalyan Samity denounces irregularities in and the poor administration of the transport sector. In June 2017, journalist Golam Mujtaba Dhruba was charged under the section 57 of the ICT Act by Judge Mahbubur Rahman for an article he published reporting on an argument between court employees and a family who were prevented from driving their sick child to a hospital by a truck rented by Judge Mahbubur. The judge claimed that he had manipulated the facts and threatened him over the phone.

The freedom of opinion and expression is under threat in Bangladesh, with state and non-state actors taking punitive action against those whose views they oppose. The government exercises strict control over the media, and many journalists engage in self-censorship. They are also subject to threats and judicial harassment when they criticise the government. As an example, in August 2018, photographer Shahidul Alam was arrested and detained for “spreading propaganda and false information against the government” under the ICT Act. At a court appearance in August, he informed the court that he had been tortured in custody. He remains in prison. In 2017, Human Rights Watch highlights at least 30 assaults on journalists. In February 2017, the journalist Abdul Hakim Shimul was shot and killed by a mayor of a municipality while taking pictures of a clash between local factions of a political party. In August 2017, journalist Abdul Latif Morol was arrested for his satirical reporting on Facebook of the death of a goat. In September 2017, two Burmese journalists reporting on the Rohingya crisis were arrested and detained for a week before being released on bail. The charges against them were eventually dropped and they were allowed to return home.

The freedom of assembly has been seriously restricted. In July 2018, students of schools and colleges engaged in public protest in different locations over the death of two students by public buses and the callous response of government officials. The Police and Chhatra League leaders and activists attacked the students in different places. Government supporters allegedly shot the protestors, the police used teargas, and members of the Chhatra League (the armed wing of the Awami League) physically attacked the protestors. NGO Odhikar notes that between 29 July to 15 August 2018, 52 cases were brought against student protestors and others demanding road safety. 81 people were arrested in 43 cases under the Penal Code and Special Powers Act. Their lawyers alleged that they were tortured while they were in custody; 74 were eventually granted bail. In December 2016, trade unionists, labour activists and human rights defenders were arrested, detained, and subject to physical violence, harassment and intimidation by the police in relation to a work stoppage at around 20 factories, according to credible sources. In October 2016, environmental human rights defenders engaged in peaceful protests in Dhaka opposing the Rampal Power Station which threatens the world-heritage listed Sundarbans mangrove forest, were subject to the excessive use of force by the police. Soldiers have also used excessive force to disperse students peacefully protesting the disappearance of indigenous rights defender Kalpana Chakma.

Indigenous human rights defenders have been targeted by state and non-state actors. In 2015, the government issued an order banning indigenous people in the Chittagong Hill Tracts (CHT) from interacting with foreigners without supervision, thus silencing them from speaking to others about their human rights concerns. Several assemblies and rallies organised by indigenous peoples’ organisations have also reportedly been banned. In January 2018, indigenous human rights defender Mithun Chakma was shot and killed. He had been subject to judicial harassment, forced to attend court up to eight times a month to answer 11 cases

against him, some under the ICT Act, for articles posted online on human rights violations. The perpetrators have not been brought to justice. Kapaeeng Foundation reported that in 2016, 191 indigenous human rights defenders and indigenous villagers have had fabricated cases filed against them. In April 2017, student leader Romel Chakma was arbitrarily arrested and died, allegedly after being tortured by the army in Rangamati District. In August 2014, indigenous defender Timir Baran Chakma from the CHT was reportedly killed while in military custody. Impunity remains for the abduction of Kalpana Chakma in 1996 by plain-clothes security personnel.

Women human rights defenders face particular risks in Bangladesh. Extremist groups target those writing about women's rights, freedom of religion, and indigenous peoples' rights. In February 2018, indigenous woman human rights defender Rani Yan Yan was attacked by members of the army and plainclothes police at a hospital in Chittagong Division where she was visiting two sisters recovering from sexual assault. An advocate for the empowerment of indigenous women, she intervened when the two sisters refused to leave the hospital. She was kicked, punched, beaten, and dragged downstairs and managed to flee the hospital. In 2017, woman human rights defender and lawyer Sultana Kamal was publicly threatened with arrest, exile and violence by the Hefazat-e-Islam Dhaka City Committee when she publicly opposed their efforts to dismantle the Lady Justice statue outside the Supreme Court because they believed it constituted 'idolatry' under Islam.

Defenders working sexual orientation and gender identity rights also face high risks. They are routinely targeted and subject to arbitrary detention. In 2016, Xulhaz Mannan, founder of Roopban, Bangladesh's first LGBT magazine, was hacked to death in his home along with a colleague, Mahbub Rabbi Tonoy, by a group of men armed with machetes. After this horrific event, more than 40 LGBT rights defenders went into hiding. The perpetrators have not been brought to justice.

The Special Rapporteur has sent numerous communications to the State, highlighting some of the cases above and expressing concern that threats and attacks have not been investigated promptly and perpetrators brought to justice.

4. Issue and Trends

The Special Rapporteur remains concerned about the death threats, physical attacks, stigmatisation, judicial harassment, criminalisation, torture, and extra-judicial killings of human rights defenders that occur in a climate of insecurity, violence, and impunity. The Special Rapporteur urges the government to cease harassing and criminalising human rights defenders exercising their rights to freedom of opinion, expression, association and assembly, and to publicly recognise the right of everyone to these rights. He calls for the government to review, amend and repeal laws that curtail these rights. He recommends that the government publicly denounce threats and attacks by non-state actors, and to develop protection programmes for human rights defenders that are sensitive to their circumstances and their needs. He encourages the State to provide support and resources to the NHRC so that it can operate independently, effectively, and comply fully to the Paris Principles. The NHRC should develop a specific programme of work on the security and protection of human rights defenders. He urges the State to investigate all threats and attacks against human rights defenders, including physical attacks, killings, and enforced disappearances, and to bring perpetrators to justice.

India

1. National Context and Human Rights Defenders

India was included in the 2006 Global Survey. The Special Representative expressed grave concern about reports of defenders being killed, especially those working on land rights, and the pattern of impunity for violations against defenders. She expressed concern about allegations of ill-treatment and torture of defenders by the police. The communications she sent also focused on threats and attacks against defenders working on LGBT rights, human rights and health, and child labour.

The police are frequently identified as perpetrators that go unpunished. In regions with a high presence of the military and armed groups, human rights defenders face high risks from the authorities and vigilante groups. Those who advocate for the rights of marginalised communities such as the Adivasi (indigenous peoples) and Dalit (lowest caste) experience caste-based discrimination, death threats, false charges, physical attacks, and the destruction of property. Private companies and armed groups also target human rights defenders for work related to economic development projects and their impact on the local communities or the environment. Fundamentalist groups, including ultra-nationalists and religious groups, threaten, harass, and mount smear campaigns against human rights defenders. In addition to the risks faced by men in their defence of human rights, women defenders have been subject to gendered threats, such as acid attacks and gang rape.

India is a member of the South Asian Association for Regional Cooperation (SAARC).

2. Legal and Policy Framework

India is party to most core human rights treaties. However, it is not party to the Optional Protocol of the Convention against Torture, the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It has signed but not ratified the Convention for the Protection of All Persons from Enforced Disappearance. India has neither accepted any individual complaints procedures nor accepted any inquiry procedures.

The Constitution of India guarantees the rights to freedom of speech and expression, peaceful assembly, freedom of movement, and freedom of association. The Constitution bans discrimination on several grounds including gender and caste. The Protection of Human Rights Act 1993 defines human rights and provides for the creation of the National Human Rights Commission, setting out its powers, function and procedures. The Right to Information Act 2005 (RTI Act), enables Indian citizens to request information from a public authority, which is required to reply within 30 days. Disturbingly, however, human rights defenders have been harassed, assaulted, and even killed for exercising their right to information through this Act.

The Indian Penal Code (IPC) has been frequently used to target defenders, in particular, section 499 on defamation and section 500 on punishment for defamation. In 2016, the Supreme Court ruled that criminal defamation under these two sections were constitutional.

Section 124(A) of the IPC on sedition has also been used against defenders. The National Security Act 1980 allows the government to detain any person acting in a manner prejudicial to state security and public order for up to 12 months.

Section 66A of the Information Technology Act 2000 (IT Act) has reportedly been used to silence critics; however, in March 2015, the Supreme Court declared it to be unconstitutional. Section 66A criminalised, inter alia, the sending of information by a computer or communication device information that is grossly offensive or has a “menacing character”; any false information to cause annoyance, insult, hatred, ill will; and electronic messages to annoy, inconvenience or deceive. However, in its ruling, the Court upheld section 69B and the 2011 guidelines on the implementation of the Act, enabling the government to conduct surveillance and to block websites if their content has the potential to cause communal disturbance, social disorder, or affect India’s international relations.

The Foreign Contribution Regulation Act 2010 imposes significant restrictions on foreign funding for civil society organisations. All civil society organisations wanting to accept foreign contributions must register with the central government; accept contributions through designated banks; and maintain separate books of accounts for the receipt and use of funds. They must report the amount received, its source, the manner it was received, the purposes, and how it was used. Rights-based groups criticising the government have had their licence renewal applications rejected under this law.

The National Human Rights Commission (NHRC) is the national human rights institution of India and has been accredited with A Status noting its full compliance with the Paris Principles. The NHRC has a Focal Point on human rights defenders who deals with complaints related to threats and attacks against human rights defenders. India has also established National Commissions for minorities, scheduled castes, scheduled tribes, women, and the protection of child rights.

3. Implementation of the Declaration

India does not have laws, policies or practices that specifically recognise and protect human rights defenders. In January 2011, the Special Rapporteur conducted a country visit to India. Amongst the issues raised in her report to the Human Rights Council was the use of counter-terrorism legislation to provide legal grounds for human rights violations against human rights defenders¹⁵⁹. She also noted that defenders commonly attributed threats and attacks to law enforcement authorities. She highlighted the situation of groups of defenders, including defenders working on economic, social and cultural rights; defenders affected by security legislation and militarisation; right to information activists; journalists; women defenders; defenders working on the rights of the marginalised and religious minorities; defenders seeking accountability for communal pogroms; and defenders monitoring violations on border areas.

The freedom of association is a clear area of concern. In September 2018, in his annual report to the Human Rights Council, UN Secretary-General António Guterres highlighted concerns over the use of the Foreign Contribution Regulation Act (FCRA) to restrict NGOs cooperating with the UN, such as the refusal to renew or grant licences including for Henri Tiphagne of the

¹⁵⁹ A/HRC/19/55/Add.1

Centre for Promotion of Social Concerns and Nobokishore Urikhimbam of the Centre for Social Development. The government has blacklisted NGOs for not adhering to the FCRA¹⁶⁰. The International Centre for Not-for-Profit Law (ICNL) noted that in March 2015, the Ministry of Home Affairs cancelled the FCRA registration of 1,142 NGOs in the state of Andhra Pradesh that received foreign funding for failing to file annual returns from 2009-2012.

In July 2018, the Maharashtra State Charity Commissioner ordered around 400 NGOs and trusts registered there to remove “corruption” and “human rights” from their names or risk suspension, on the basis that only the government has the capability and responsibility to prevent corruption and promote human rights. Similarly, the Charity Commissioner’s office in Pune instructed 16 NGOs to remove “corruption” from their names. This included the organisation Bhrashtachar Virodhi Jan Andolan which has been suspended and is seeking to regain its registration through the courts. A committee appointed by the central government by order of the Supreme Court has recommended a way of ensuring the “light regulation” of civil society organisations, proposals which are under consideration by the government.

In terms of freedom of assembly, permission for assemblies is often required and conditions enforced. Foreigners associated with protests can be subject to deportations and criminal sanctions. Assemblies have been met with excessive force such as the use of wooden batons. In May 2018, a peaceful protest over environmental pollution conducted in Thoothukudi District in Tamil Nadu was repressed with excessive force and the use of firearms, resulting in the deaths of 13 protesters and injuries in others. This occurred on the 100th day of peaceful protests calling for the closure of the Sterlite Copper smelting plant because of its negative environmental impacts. The police charged the crowd with batons, and then fired assault rifles, which triggered further shootings in different locations.

As stated earlier, human rights defenders have been threatened and attacked for exercising their right to the information as protected in the RTI Act. As an example, in August 2018, Kamlesh Saha was attacked and badly injured by unknown assailants on motorbikes while he was returning home. Reports suggest that the police were reluctant to investigate this incident. Kamlesh Saha had filed several RTI applications related to violations of building construction laws and received death threats from an organised crime syndicate in Nagpur.

Journalists have been subjected to harassment, death threats, judicial harassment, police investigations, and smear campaigns to discredit their work. In August 2018, journalist Kishorchandra Wangkhemcha was arrested for allegedly spreading rumours and making defamatory comments on social media against the ruling party. He was charged under section 505 of the Indian Penal Code and was released a few days later after protests by fellow journalists. In March 2016, police took award winning journalist Pushp Sharma from his home in Lajpat Nagar to the police station, interrogated him for several hours, and told him to report back the next day. This is likely related to the publication of an investigating story in The Milli Gazette claiming that the government admitted to hiring practices that were discriminatory. Pushp Sharma also stated that he had been subject to character assassination and false rumours.

It has been reported that defenders working on the rights of communities who face discrimination – such as Dalits and Adivasis – have been subject threats, harassment and

¹⁶⁰ A/HRC/39/41

physical abuse. Perpetrators subject them to ‘teachings’ and ‘lessons’ to deter them in their efforts to challenge caste structures; they have also been subject to judicial harassment and criminalisation. For example, in June 2018, Chandrashekhar Azad, co-founder of the Bhim Army Bharat Ekta Mission organisation fighting for Dalit rights, was arrested following caste clashes in Uttar Pradesh even though he was not present at the protests. Arrested with about 40 other activists and leaders, he was charged on multiple counts, including “rioting”, “armed with deadly weapons”, “unlawful assembly”, attempt to murder”, “assaulting public servants”, “trespassing”, and “breach of peace”. Due to the lack of evidence, he was granted bail in November. He was re-arrested the next day under the National Security Act (NSA) and kept in administrative detention without charge or trial. He was released in September 2018.

In August 2018, five human rights defenders were arrested in a coordination action by Pune police in different parts of India for several charges, including terrorism-related charges, for their “involvement in inciting violence” in December 2017 when a Dalit commemoration of the anniversary of a battle turned violent at Bhima Koregaon near Pune. Some had their houses raided. Sudha Bhardwaj, a human rights lawyer and trade unionist, and Gautam Navlakha, a journalist, were charged under several sections of the Unlawful Activities (Prevention) Act as well as sections 153A (promoting enmity between different groups), 505, 117 and 120 of the Indian Penal Code. Vernon Gonsalves, an academic and writer, Varavara Rao, a poet and academic, and Arun Ferreira, a human rights lawyer, were also arrested and charged with section 153A of the Penal Code. The Supreme Court ruled that they would be kept under house arrest in their own homes under police watch. On the same day as these arrests, the residence of Father Stan Swamy, an indigenous peoples’ rights defender, was raided and property seized. In July 2018, Father Stan Swamy had a sedition case filed against him for statements he posted on social media that were critical of the Jharkhand State Government. He was accused of inciting tension amongst the Adivasis.

Defenders working on land and environment rights as well as on corporate accountability have been subject to judicial harassment and criminalization. In June 2018, two human rights defenders were arrested in Tamil Nadu for opposing the proposed Salem-Chennai ‘green corridor’ highway project sponsored and funded by the central government. Valarmathi Madhaiyan, a student woman human rights defender and member of the Iyarkai Paadukappu Kuzhu (Nature Protection Group) was charged under sections of the Indian Penal Code, section 53 for preventing a government servant from discharging duty and 506(ii) for criminal intimidation under the Criminal Law Amendment Act. Piyush Manush, an environmental rights defender and convenor of Salem Citizen’s Forum was charged under various sections of the Indian Penal Code, including section 153 for wantonly giving provocation with intent to cause riot, section 189 for threat of injury to a public servant, and section 506(ii) for criminal intimidation. They were both released on bail in July 2018. In July 2017, Valarmathi Madhaiyan was criminalized as a ‘goonda’ (a hired thug or bully) and arrested for distributing pamphlets expressing support for a protest against hydrocarbon and methane projects in Kathiramangalam and Neduvasal in Tamil Nadu. She was charged under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (TN Act 14/1982), otherwise known as the Goondas Act. She was subsequently suspended from University.

Other women human rights defenders have also been subject to threats and attacks in the exercise of their rights. In April 2018, journalist Swathi Vadlamudi was harassed extensively

online and subject to death threats for publishing a cartoon criticizing rape apologists on social media in relation to incidents of rape and kidnapping in Kathua, Jammu and Kashmir State, and Unnao, Uttar Pradesh State, that sparked public outcry. The leader of a right-wing Hindu nationalist organization filed a police complaint against her under Section 295(a) of the Penal Code for acts intending to outrage religious feelings. Also in April 2018, Salima Memcha of the Extrajudicial Execution Victims' Families Association, Manipur (EEVFAM) was harassed, intimidated and subject to a raid by the police at her home. This was likely in connection with her human rights work related to extrajudicial killings.

4. Issues and Trends

The Special Rapporteur is concerned about the judicial harassment and criminalisation of human rights defenders. Restrictions on the right to freedom of association and assembly have had a marked impact on civil society. The Special Rapporteur urges the government to enact laws and to develop policies and administrative practices that specifically address the security and protection of human rights defenders, recognising the diversity of their practices and circumstances. Attention should be paid to the specific risks faced by defenders working on the rights of marginalised communities and women human rights defenders. The Special Rapporteur calls for the government to review, amend or repeal laws that restrict the rights to freedoms of opinion, expression, association and assembly. He encourages the government to strengthen the role and the resources of the NHRC so that it is better able to respond effectively to complaints concerning human rights defenders. He urges the government to cease from criminalising defenders acting to promote and protect human rights, and to drop charges against those exercising these rights legitimately. Threats and attacks against human rights defenders must be investigated promptly and effectively, and perpetrators brought to justice.

Maldives

1. National Context and Human Rights Defenders

In February 2018, President Abdulla Yameen declared a 15-day state of emergency, refusing to comply with the decision of the Supreme Court to release imprisoned opposition lawmakers on grounds that their trials were politically motivated. Former president Maumoon Abdul Gayoom, former Chief Justice Abdulla Saeed, and Supreme Court Justice Ali Hameed were arrested and subsequently found guilty of obstruction of justice and sentenced to imprisonment for refusing to surrender mobile phones to the police. Opposition parties were banned from elections. In September 2018, election were held and President Ibrahim Mohamed Solih won against the incumbent Abdulla Yameen.

The Maldives was included in the 2006 Global Survey, although the Special Representative noted that she had insufficient information to prepare her report. She raised this as a point of concern, as it indicated that defenders might have faced difficulties or lacked capacities to communicate about their situation. The Special Representative expressed concern about limits on the right to freedom of expression; allegations of slander campaigns against defenders; and the difficulties NGOs faced in getting registered. She was concerned that the Maldives National Human Rights Commission (NHCR) had been banned from distributing

copies of the Universal Declaration of Human Rights. She noted the arrests (including house arrest), incommunicado detention and harassment of defenders, as well as the mass arrests of peaceful protesters and threats against journalists. She highlighted that in four of the five complaints she received, the perpetrators were state authorities.

The situation of human rights defenders has been deteriorating significantly in the Maldives. Freedom of expression and freedom of religion remains severely restricted and those that advocate for these rights have been threatened and investigated by the authorities. NGOs have also become increasingly targeted for work that is deemed by the authorities to be 'unconstitutional'. Journalists and other human rights defenders have been silenced by laws for engaging in 'anti-islamic' discussion and for expressing criticism of the government. There are serious concerns that the government has been undermining the rule of law and compromising the independence of the judiciary.

The Maldives is a member of the South Asian Association for Regional Cooperation (SAARC). The Special Rapporteur thanks the State for responding to his request for information for this report.

2. Legal and Policy Framework

The Maldives is party to all major international human rights treaties except for the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty. The Maldives has also signed but not ratified the Convention for the Protection of All Persons from Enforced Disappearance. The Maldives has accepted individual complaints procedures under the Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Maldives has also accepted inquiry procedures under the Convention against Torture and the Optional Protocol to CEDAW.

The Maldives Constitution states that the religion of the State is Islam, and that "no law contrary to any tenet of Islam shall be enacted in the Maldives" (Article 10). Freedom of expression, freedom of the media, freedom of acquiring and imparting knowledge, and the freedom of association and assembly are provided for in the Constitution. However, these freedoms are restricted through legislation, and many within civil society exercise self-censorship.

Passed in April 2015, the Public Service Media Act gave control of the state television and radio stations to the government. The Maldivian Broadcasting Corporation was replaced by a state media company and concerns have been raised that it serves as a mouthpiece for the ruling party rather than in the interests of the public. The Anti-Defamation and Freedom of Expression Act, passed in August 2016, sets fines for speech or content that "contradicts a tenet of Islam, threatens national security, contradicts social norms, or encroaches on another's rights, reputation or good name". This vaguely-worded law has already provided the authorities with the discretion to target and silence peaceful critics of the government and those expressing concerns about social and political issues.

Human rights defenders have expressed concern over the Parliamentary Privileges Act, which poses significant threats to press freedom and independent journalism, as under the Act,

journalists could be forced to reveal their sources. Whilst there are positive aspects of the Freedom of Peaceful Assembly Act enacted in 2013, it requires the accreditation of reporters and provides the police with wide discretionary powers to disperse assemblies and protect participants. The Act placed limitations on places of assembly that restrict the rights of protesters to freedom of movement as well as the media coverage of protests.

The Maldives' national human rights institution, the MHRC, was accredited a B status in accordance with the Paris Principles in March 2010. The Commission have been publically active on the issue of human rights defenders. In June 2015, following their submission to the 2015 Universal Periodic Review, the Maldivian Supreme Court ruled that their submission was unlawful, biased, and undermined judicial independence. This decision contravenes Maldives' international human rights obligations and contravenes rights enshrined in its own Constitution.

3. Implementation of the Declaration

The Maldives does not have laws, policies and practices that specifically recognize the rights of human rights defenders. August 2018 marked four years since the disappearance of journalist Ahmed Rilwan, who worked for the independent news website Minivan News. Investigations into his disappearance have been unsuccessful and marred by police interference. Similarly, perpetrators of the brutal assassination of the journalist and political blogger Yameen Rasheed in April 2017, highly likely related to his human rights work, have not been brought to justice. An outspoken critic of the government, Yameen Rasheed denounced public corruption, attacks on the right to freedom of expression, and impunity for crimes committed against journalists and human rights defenders by radical Islamist groups. Yameen Rasheed had already been subject to persistent and serious threats prior to his killing, which he reported to the Maldives Police Service and to the Cyber Crimes Investigation Unit. His killing took place in a context of reportedly increased religious intolerance and increased attacks against those who express liberal or independent views.

The right to freedom of expression has been increasingly restricted in the Maldives, especially for those advocating against religious fundamentalism. According to a report by the Maldives Broadcasting Commission in May 2014, 84 percent of journalists interviewed stated that they had been threatened – on social media, via the telephone, or in person. These threats came from gangs, religious extremists and political parties, and has resulted in the self-censorship of journalists. In March 2017, journalists from RaajjeTV, a leading media outlet, reported to the police that they had received death threats in relation to sending journalists to Faafu Atoll to cover the visit of the King of Saudi Arabia. However, the police did not provide any additional security. Furthermore, two journalists from the Maldives Independent newspaper were taken into 'protective custody' by police after receiving threats from members of the ruling party, during which they were treated as suspects. Similarly, in July 2017, seven journalists from Sabgu and RaajjeeTV were arrested for obstruction of justice whilst covering a protest marking Independence Day. RaajjeTV has also been subject to hefty fines several times under the Anti-Defamation and Freedom of Expression Act.

The freedom of association has also come under threat in recent years as NGOs have been targeted by the authorities. Transparency Maldives, a prominent NGO, reported facing threats of dissolution by the Registrar of Associations and death threats against their staff.

The offices of the Maldivian Democracy Network were ransacked in 2013 and confidential documents stolen.

The freedom of assembly continues to be a cause for concern, as peaceful protestors have been subject to arbitrary restrictions. In July 2017, tear gas and pepper spray was used to disperse parliamentarians trying to enter Parliament. In August 2017, a march marking the third anniversary of the disappearance of Ahmed Rilwan was blocked and interrupted by Special Operations police officers, who briefly detained nine people. Subsequently, Ahmed Rilwan's nephew and Yameen Rasheed's sister were dismissed from their posts as civil support staff to the police for their participation in the protest. Earlier, in 2015, Yameen Rasheed, along with 200 other activists were imprisoned after taking part in a pro-democratic rally for three weeks. That year, ahead of a mass rally in support of former president Mohammed Nasheed who was jailed for 13 years after being found guilty of terrorism charges, the government declared a state of emergency. Security forces detained suspects without charge and major online news sites were shut down.

Reprisals for engagement with the UN are a cause for concern. Founder and Executive Director of the Maldivian Democracy Network, Shahinda Ismail, was subject to investigations for her use of Twitter and for participating in a side event of the Human Rights Council in June 2017. As woman human rights defender, she has been threatened, harassed and intimidated for her advocacy against religious fundamentalism and for promoting deradicalisation. In December 2017, Ismail was targeted by a news article, written by Vagathu Online, who labelled her as an 'apostate' in response to a tweet she posted regarding President Yameen Abdul Gayoom's statement that he would not allow for any religion but Islam. She has since received death threats and become the target of a police investigation.

The Special Rapporteur has sent a number of communications to the State in recent years raising issues of concern concerning the treatment of human rights defenders, including threats, harassment, prosecution and killing of defenders (particularly against online activists and journalists), some of the legislative developments noted above, and reprisals against human rights defenders seeking to participate in international fora (including in the Universal Periodic Review of the State). The Special Rapporteur expresses his thanks to the State for responding to his most recent communication but reminds the State that his earlier communications remain unanswered.

4. Issues and Trends

Key concerns in relation to human rights defenders in the Maldives remain the protection of journalists, political dissidents, and other human rights defenders, especially those working on the freedom of religion and the freedom of expression. The Special Rapporteur urges the State of the Maldives to conduct an independent and impartial investigation into the assassinations and disappearances of human rights defenders, in particular, of Ahmed Rilwan and Yameen Rasheed. The Special Rapporteur urges the government refrain from engaging in reprisals against human rights defenders and in targeting them for the legitimate exercise of their rights, including to freedoms of expression, opinion, association and assembly. The Special Rapporteur calls for the State of the Maldives to strengthen the NHRC and to ensure that it has the resources to function as an independent body in compliance with the Paris Principles. Human rights and civil society groups should be protected and enabled to work in an enabling environment, free from threats and persecution.

Nepal

1. National Context and Human Rights Defenders

Nepal was included in the 2006 World Survey. The Special Representative noted the ongoing armed conflict between the government and the CPN (Maoists), and how human rights defenders had been weakened by repressive measures and suffered higher risks related to the royal coup and the State of Emergency. The Special Representative was very concerned over reports of arbitrary arrests, brutal torture, gang rape, killings, and disappearances of defenders. She noted the Committee against Torture's reports of systematic torture and ill-treatment by the Police, the Army Police, and the Royal Nepalese Army as well as the UN High Commissioner's concerns about a culture of impunity for human rights violations and abuses during a visit to Nepal in 2005. Amongst defenders at high risk identified in her Survey were trans defenders, lawyers, journalists, and defenders working in remote locations.

During the Maoist insurgency, which began in 1996 and ended in 2006, government forces engaged in arbitrary arrests, torture, extrajudicial killings and enforced disappearances. Many of these crimes have yet to be prosecuted.

Discrimination persists on the bases of gender, caste, class, ethnic origin, sexual orientation, gender identity and religion. Women face challenges because of gender inequalities, discrimination, and gender-based violence; women defenders working on sexual and reproductive rights, sexual and gender-based violence, and domestic violence face higher risks. Lawyers and journalists are threatened and attacked for their work, as are human rights defenders calling for equal rights for the Madhesi, indigenous people, and other marginalized groups. Corruption and impunity are of ongoing concern.

In April 2015, an earthquake devastated Nepal, and human rights defenders have been part of the humanitarian response.

Nepal is a member of the South Asian Association for Regional Cooperation (SAARC).

2. Legal and Policy Framework

Nepal is party to most of the core human rights treaties. However, it is not a party to the Optional Protocol of the Convention against Torture (CAT); the Convention for the Protection of All Persons from Enforced Disappearances, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. It has accepted three individual complaints procedures: The Optional Protocol to the International Covenant on Civil and Political Rights (CCPR-OP1); the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW-OP); and the Optional Protocol to the Convention on the Rights of Persons with Disabilities (CRPD-OP). It has also accepted three inquiry procedures, under CAT, CEDAW and CRPD.

The Constitution of Nepal came into force in September 2015, and provides for various civil and political rights. Article 17(2) states that all citizens have the freedom of opinion and expression; freedom to assemble peacefully and without arms; freedom to form political parties; freedom to form unions and associations; freedom to move and reside in Nepal; and freedom to engage in any occupation, employment or business in Nepal. However, these are subject to “reasonable restrictions” including national security and “harmonious relations” amongst communities in Nepal.

The new Criminal Code came into effect in August 2018, replacing around 15 laws. There are concerns that this Code will restrict the freedom of expression and the freedom of the media. Journalists could face imprisonment of up to three years and fines for publishing ‘confidential’ information. Of concern are sections that criminalise: recording and listening to conversations without the consent of persons involved (Section 293); disclosing private information without permission, including on public figures (Section 294); photographing a person outside a public space without consent (Section 295); communicating unauthorized information through electronic medium (Section 298) and engaging in satire that is disrespectful of individuals (Section 298).

The 2008 Electronic Transactions Act has been used to curtail the freedom of expression amongst journalists and other human rights defenders. Article 47 of the Act states that publishing material in electronic media is “contrary to the public morality or decent behavior” or which may “spread hate or jealousy” or may “jeopardize the harmonious relations” amongst peoples shall be liable to punishment by a fine and/or imprisonment of up to five years.

The government has proposed a National Integrity Policy that is likely to curtail the work of international NGOs and civil society groups working in Nepal. The Policy sets out strict guidelines about what non-governmental groups can do. These include the requirements that international NGOs must obtain government permission to receive donations and that they can only send government-approved reports to their headquarters or donors. In addition, international NGOs must also have their programmes and budgets approved by the finance ministry. NGOs are also required to report to the authorities individuals and groups that are involved in “activities against Nepal, Nepali civilization or social harmony”.

The National Human Rights Commission of Nepal (NHRC) has been accredited with an A status, indicating that it is fully compliant with the Paris Principles. It has come under questioning by the government for its work in protecting human rights. There are also concerns amongst human rights defenders about its independence and impartiality.

3. Implementation of the Declaration

There are no national laws, policies or practices that specifically recognize and protect the rights of human rights defenders. In September 2009, the NGO Informal Sector Service Center (INSEC) proposed a draft law called the Human Rights Defenders Security Act that has yet to progress.

Threats and attacks against women human rights defenders are of particular concern. According to information provided to the Special Rapporteur by the National Alliance of Women Human Rights Defenders (NAWHRD), most women defenders face threats, warnings, ultimatums for their work. They also receive threats against their family members, such as

the kidnapping and murder of their children. Women participating in the public sphere are subject to 'sexual baiting' by family members and non-state actors – they are accused of engaging in extra-marital affairs, being sexually promiscuous, and being bad mothers and women. They are accused of promoting Western ideas and of breaking up families. They are also subject to domestic violence, sometimes leading to attempted murder.

In November 2017, Mohna Ansari, lawyer and a member of the NHRC, was subject to verbal abuse, harassment and a smear campaign after she was defamed in a national newspaper. In April 2016, after she delivered a statement on behalf of the NHRC at the Universal Periodic Review of Nepal, NHRC commissioners were summoned for questioning by the Prime Minister. The Commissioners expressed that they – in particular, Mohna Ansari – were subject to intimidation, aggressive questioning and reprimand for some of the contents of their submission.

In September 2017, prominent activist Rajkumari Upadhaya was assaulted for over three hours by a mob in her home, accused of being a witch and of making others ill. These accusations occurred because of her work to combat domestic violence, promote gender equality, and end the persecution of women for being witches. Women have also been killed for defending their own rights. According to NAWHRD, Kari Devi Yadav who won a legal case against her brother-in-law claiming her share of land inherited from her father-in-law went missing from her home on 10 August 2018. A body was later found, likely to be her remains. Investigations are underway in both cases.

Journalists also face high risks for their efforts in covering issues of public interest. The International Federation of Journalists reported several cases of journalists threatened and attacked by the police in July 2018 for covering demonstrations, including LB Devkota of Kantipur Daily and Prakash Upadhyay of AP1 TV in Jumla, Karnali, and in a separate incident Ajaya Babu Shiwakoti, the editor of hamrakura.com, Maheshwor Gautam of Rajdhani Daily, Nivesh Kumar of News24 TV, Skanda Gautam and Prabin Maharjan of The Himalayan Times. In September 2018, Raju Basnet, the editor-in-chief of a weekly newspaper, was arrested under a court order for alleged cybercrime under the Electronic Transaction Act for writing an article about pressure by lawmakers to sell government-owned factory land illegally.

Of great concern to the Special Rapporteur is the use of firearms to quell public protests. In August 2018, protesters gathered in Mahendranagar, West Nepal, to demand justice for the rape and murder of a 13-year old girl, Nirmala Panta. The use of firearms by the police resulted in dozens injured and a 17-year old boy, Sani Khuna, killed. In March 2017, security forces opened fire on protesters in the Saptari district in Tarai, killing three people and injuring sixteen people. The protesters, who supported an alliance of Madhesi parties, called for the elections to be boycotted as changes had not been made to the Constitution.

In September 2015, police used tear gas and opened fire on protesters on their way to Janakpur in southern Nepal. In the months of August and September that year, at least 50 protesters were killed. The protesters – comprising Madhesi, indigenous, and members of other marginalized groups – were demonstrating against the 2015 Constitution and its amendments, which discriminated against them. According to eyewitnesses, police shot some protesters in the face and in their backs as they attempted to flee. It also has been reported that children were shot and killed unlawfully, and protesters and people beaten in their homes.

The Special Rapporteur has sent a number of communications to the State since the 2006 Global Survey, raising concerns about the treatment of women human rights defenders, journalists, and LGBT defenders. The communications also raised concerns about the use of excessive force to end peaceful protests in Katmandu by Dalit defenders and the tolerance by the State of calls to violence (so called “people’s action”) against defenders working to end the impunity of violators of the rights of defenders. The Special Rapporteur continues to await responses to the majority of his communications.

4. Issues and Trends

The Special Rapporteur is concerned about the threats and attacks against human rights defenders, and recognizes that women defenders, journalists, and defenders of minority rights have been facing particularly high risks. The Special Rapporteur calls for the government of Nepal to enact laws, policies, and practices that protect human rights defenders, with special attention to the specific circumstances of those facing high risks. Laws that restrict the rights of defenders should be amended or repealed. The Special Rapporteur calls for the government to ensure that peaceful protesters can exercise their right to freedom of assembly and expression. Perpetrators of violence and crimes against human rights defenders must be brought to justice, and concrete measures taken to end impunity. The State should ensure that the NHRC is resourced and staffed so that it is able to operate with independence and impartiality.

Pakistan

1. National Context and Human Rights Defenders

In the 2006 Global Survey, the Special Representative expressed concerns about the killings of human rights defenders, the raiding of NGO offices and threats against staff members, government surveillance of human rights NGOs leading to smear campaigns, and the establishment of government-sponsored NGOs. She noted increased governmental control over NGOs and human rights defenders through the introduction of new laws and regulations. Impunity was of ongoing concern as were restrictions on freedom of expression, opinion, association, and assembly. She expressed concern over reports that the police used violence against peaceful protesters and that they had detained or arrested some of them. Despite repeated requests, the Special Representative expressed regret that she had not been invited for a country visit to Pakistan.

Human rights defenders work under hostile conditions, where some are under immediate threat of arrest, extrajudicial killing, enforced disappearance, and torture by state and non-state actors. Pakistan is considered one of the most dangerous countries in the world for journalists. Defenders at risk include those working in conflict-affected areas and working on topics deemed sensitive by conservative groups, such as sexual orientation and gender identity rights, sexual and reproductive rights, and women’s rights. Laws are used to restrict the rights of defenders and to criminalise their activities. Corruption amongst state actors and impunity for crimes against human rights defenders are of ongoing concern.

Pakistan is a member of the South Asian Association for Regional Cooperation (SAARC).

2. Legal and Policy Framework

Pakistan is party to most of the core human rights treaties. However, it is not party to the Optional Protocol of the Convention against Torture; the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty; the Convention on the Elimination of All Forms of Discrimination against Women; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. It has neither accepted any individual complaints procedures nor any inquiry procedures.

The Constitution of Pakistan recognizes the right to freedom of assembly, association, speech and expression. The Pakistan Penal Code contains provisions for blasphemy that have been used against human rights defenders. These include sections 298 and 295 which provide penalties of imprisonment and capital punishment. Critics of the Anti-Terrorism Act (ATA) point out that its definition of terrorism is overly-broad and vague. The Prevention of Electronic Crimes Act 2016 contains provisions that have been used to curtail the right to freedom of opinion and expression, including those related to cyber-terrorism (section 10), hate speech (section 11) and offences against the dignity of a person (section 20). The Act also enables the Pakistan Telecommunications Authority to censor content based on broad criteria such as the 'glory of Islam' and for 'national interest'.

In October 2015, the government adopted a Policy for the Regulation of International Non-governmental Organisations (INGOs) that restricts the activities of INGOs and human rights defenders. The Policy imposed new registration procedures and restricts the activities of INGOs to specific issues and geographical regions. The Policy allows the authorities wide discretion to demand information from INGOs at any time. INGOs can be denied access to foreign funding, and must secure prior government approval before assisting other NGOs or disposing of their assets.

The National Commission for Human Rights (NCHR) of Pakistan, established by statute in 2012, is not accredited by the Global Alliance of National Human Rights Institutions. While the NCHR submitted a critical report to the Human Rights Council's Universal Periodic Review of Pakistan in 2017, its independence remains constrained by state interference.

3. Implementation of the Declaration

Pakistan does not have specific laws, policies or practices that protect human rights defenders. During the Universal Periodic Review of Pakistan, the government stated that it had been taking measures to protect human rights defenders, including through the use of special investigation teams or joint investigation teams as well as the provision of legal redress through the courts¹⁶¹. However, human rights defenders, lawyers, journalists, and their families continue to be subject to threats and attacks, including killing, abduction, surveillance, arbitrary arrest and detention, judicial harassment and criminalization. Human rights defenders have been subject to smear campaigns accusing them of being 'blasphemers', 'anti-Pakistan', 'anti-Army' and 'anti-Islam'. Impunity for crimes emboldens state and non-state actors in their actions against human rights defenders.

¹⁶¹ A/HRC/WG.6/28/PAK/1

Of serious concern is the abduction of defenders to intimidate and silence them. In August 2017, Punhal Sario, convener of Voice for Missing Persons of Sindh, a group that campaigns against enforced disappearances in Sindh province, was abducted for two and a half months by a group of men wearing police commando uniforms. According to Punhal Sario, he was kept in solitary confinement for a long period of time and suffered physical and mental stress. In December 2017, peace activist Raza Mahmood Khan, was found missing from his home in Lahore after organizing a public event. He was found after seven months by the police and returned home.

In January 2017, five human rights defenders were abducted within a few days of each other. Waqas Goraya and Aasim Saeed, co-administrators of a Facebook page 'Mochi and Group: Citizens for Secular Democracy' reporting on human rights violations, were reported missing from Wapda Town, Lahore; Salman Haider, professor at Fatima Jinnah Women University in Rawalpindi working on minority rights and enforced disappearances, disappeared from Islamabad; Samar Abbas, president of Civil Progressive Alliance Pakistan (CPAP) which campaigns for human rights and religious freedom, became uncontactable while travelling from Karachi to Islamabad for business; and Ahmad Raza Naseer, administrator of a Facebook page reporting on human rights violations by security forces and religious extremists, was taken from his family's shop in Punjab by unidentified men. They were all subject to online smear campaigns labelling them as blasphemers. All were released at the end of January after around three weeks of captivity, except for Samar Abbas, who was released over a year later in March 2018. Several months after his release, Aasim Saeed confirmed that he had been tortured while in detention. The perpetrators have yet to be brought to justice.

Journalist Zeenat Shahzadi was kidnapped in August 2015, allegedly by security agencies and non-state actors, and found only after two years. She had been investigating the case of the missing Indian citizen Hamid Ansari. Security agencies later admitted to the Commission of Inquiry on Enforced Disappearances that they had custody of Hamid Ansari, who was eventually sentenced to three years of imprisonment by a military court for spying on Pakistan. Zeenat Shahzadi received threats for her work on this case before she was abducted. Inconsolably distressed by her disappearance, her younger brother committed suicide in March 2016.

It has been reported that human rights defenders have been subject to sophisticated methods of state surveillance and targeted online through malware and phishing attacks. Women defenders active in online spaces are repeatedly subject to coordinated misinformation campaigns. The risk of surveillance and constant threats have resulted in human rights defenders and journalists engaging in self-censorship, avoiding subjects such as religious freedoms and civil-military relations. Censorship of dissent in online spaces is steadily increasing – articles are routinely taken down and websites publishing material critical of the state often blocked.

Women human rights defenders face particularly high risks, especially those defending the rights of women in tribal areas. Defenders highlighting rights violations in Balochistan, Khyber Pakhtunkhwa (KP), and the Federally Administered Tribal Areas (FATA) are threatened by religious groups, militants, and armed gangs along with security agencies. Brutal sectarian violence and numerous killings of human rights defenders in Balochistan have forced most NGOs to close their offices and to relocate staff outside the area. In October 2017, Mohammad Nawaz Atta, Information Secretary of the Baloch Human Rights Organisation that

monitors human rights violations in Balochistan, was abducted from his home by a group of men.

Transgender rights defenders have also been targeted. In January 2018, two members of TransAction Pakistan: Transgender Community Alliance, which represents thousands of transgender and intersex persons, were brutally attacked in Peshawar for their advocacy on the rights of transgender people. Shama was sexually assaulted by nine men and Sonia was shot by her partner, a member of gang that attacked other trans rights defenders and members of TransAction Pakistan, Taimur Kamal, Arzu Khan and Sunny in December 2017.

Since 2015, the government has been imposing restrictions on the freedom of association of international and domestic civil society organizations. The government has required domestic NGOs to obtain permission before organizing events, subjected them to surveillance both online and offline, and imposed restrictions on the receipt of foreign funding. In January 2017, dozens of domestic NGOs were ordered to shut down some operations, for alleged involvement in 'anti-state' activities. Two of these NGOs, the South Asia Partnership-Pakistan (SAP-PK) and Women in Struggle for Empowerment (WISE) challenged this decision in court, and the Lahore High Court allowed them to resume their functions and restrained authorities from harassing them. In September 2016, the women's rights group Taangh Wasib Organisation (TWO) working in Punjab province was shut down and 8 staff temporarily detained, allegedly for working against the interests of Pakistan and for preaching Christianity. TWO was permitted to resume function by a court order. The Cholistan Development Council, which focuses on the rights of excluded groups in Southern Punjab, was also closed in 2016 without reason. More recently, in October 2018, the government ordered 18 international aid groups to leave the country, on the basis that they pursued an "anti-state agenda". Their appeals against this decision were rejected.

The Special Rapporteur is concerned about reports about reprisals against human rights defenders for their engagement with the UN. In July 2017, human rights lawyer Adil Ghaffar was subject to death threats and intimidation for highlighting cases of extrajudicial killings, torture and enforced disappearances committed by State agents against members of the Muttahida Quami Movement, including those from the Mohajirs community. In April 2017, the NCHR was due to speak to the Committee on Torture during its 60th session, after its submission of an alternative report to the Committee. Permission to travel was denied to the Chair of the Commission on the basis that the NHRI was "not mandated to interact with the UN Committee on the present issue". Instead, the meeting had to be held through a video link. In September 2012, Narullah Baloch, Chair of the Voice for Baloch Missing Persons as well as his Vice Chair, received threats from unidentified individuals after a meeting with the Working Group on Enforced or Involuntary Disappearances during their visit to Pakistan. Narullah Baloch's family members were also beaten and warned that he should stop his activities.

4. Issues and Trends

Human rights defenders operate in a hostile environment, with threats and attacks by state and non-state actors, including abductions, disappearances, and killings. Space for civil society continued to shrink as the government continue to place restrictions on the activities of international and domestic civil society organisations. The Special Rapporteur calls on the government of Pakistan to enact laws, policies and practices that protect the rights and

security of human rights defenders, paying attention to the specific needs of those facing higher risks. The Special Rapporteur urges the State to investigate all crimes committed against human rights defenders and to bring perpetrators to justice. Laws that impose restrictions on the freedom of expression, opinion, association and assembly should be reviewed and amended or repealed. The Special Rapporteur calls for the State to ensure that the NCHR is sufficiently resourced and empowered to operate independently and effectively, in full compliance with the Paris Principles. The government should desist from criminalizing and targeting human rights defenders, and instead, create an enabling environment for the promotion and protection of human rights.

Sri Lanka

1. National Context and Human Rights Defenders

Presidential election were held in Sri Lanka In January 2015 and President Maithripala Sirisena won and formed the National Unity Government after the parliamentary elections of August 2015. This government has been more open to dialogue with civil society and the international community on human rights issues and several reforms were introduced. However, reforms have now almost stalled; there is impunity for serious violations of human rights, including extrajudicial executions, enforced disappearances, torture, sexual and gender based violence; and miscarriages of justice occur under the Prevention of Terrorism Act (PTA).

Sri Lanka was included in the 2006 Survey. The Special Representative expressed concern over the intimidation of and violence against human rights defenders, including where state authorities were perpetrators of violations. She also noted concerns about reports of ill-treatment by the police and the search of the offices of an NGO. She urged the government to investigate violations of human rights and fundamental freedoms promptly.

Under the current government, civil society groups have had greater freedom, as the smear campaigns, surveillance, arbitrary detention, criminalization, extrajudicial killings, and enforced disappearances that occurred under the previous government led by Mahinda Rajapaksa has reduced. A few human rights defenders who were forced into exile abroad have been able to return safely, though at least one was detained and questioned at the airport and others still fear to return. However, abductions, assaults, threats, surveillance and the curtailment of their freedoms is regular and widespread, particularly in the war ravaged Northern province which has a high presence of military.

Defenders who face higher risks are those who work in the war-affected Northern and Eastern provinces; those advocating for accountability for crimes by the military and Buddhist monks; and those working on issues such as enforced disappearances, extrajudicial executions, land, gender and sexuality, and religious freedoms. Some defenders are still under investigation under anti-terror laws initiated under the previous government and there are judicial restrictions on their travel abroad and freedom of expression.

Sri Lanka is a member of the South Asian Association for Regional Cooperation (SAARC).

2. Legal and Policy Framework

Sri Lanka is party to all the core human rights treaties except for the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty (CCPR-OP2-DP). Sri Lanka has accepted the individual complaints mechanism provided in the Optional Protocol to the ICCPR and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It has also accepted the inquiry procedures under the Convention on Torture and the Optional Protocol to CEDAW. In December 2015, the government extended a standing invitation to all special procedures and has since hosted country visit of several Special Rapporteurs and Working Groups in recent years. The Human Rights Council passed two resolutions (30/1 and 34/1) with Sri Lanka's consent to create transitional justice mechanisms – a judicial mechanism with a special council, an office on reparations, an office for missing persons, and a truth and reconciliation commission. However, after three years, only the Office of Missing Persons (OMP) has been established.

The Constitution of Sri Lanka protects civil and political rights and fundamental freedoms in Chapter III. Sri Lanka has passed legislation to ensure greater transparency and independence of institutions, such as the Right to Information Act (RTI) passed in 2016 and entered into force in February 2017 that allows greater access to information, and the Nineteenth Amendment to the Constitution aimed at limiting the powers of the President. In 2018, the International Convention for the Protection of All Persons from Enforced Disappearances Act No. 5 of 2018 was enacted, which criminalises enforced disappearances and reinforces State obligations. However, the OMP highlighted inadequacies in this law in its report of August 2018, including the limited definition of 'enforced disappearance' and the fact that it does not capture the full range of perpetrators that might be involved. Sri Lanka has also enacted legislation on victim and witness protection.

Under the previous government, the Prevention of Terrorism Act (PTA) was used extensively to silence human rights defenders. The PTA allows for prolonged periods of detention, and some human rights defenders detained under this Act still have cases pending. Commitments by the government to repeal this Act have not been realized for three years. There is now a draft Counter Terrorism Act (CTA) to replace the PTA, but defenders have questioned the need for a counter terrorism law, and have expressed fears that it could be used to clamp down on defenders and dissent in general.

The national human rights institution, the Human Rights Commission of Sri Lanka (SLHRC), was recently re-accredited with A Status, indicating its full compliance with the Paris Principles.

3. Implementation of the Declaration

Sri Lanka does not have laws, policies or practices that specifically recognise and protect the rights of human rights defenders. Assaults, threats, surveillance and the curtailment of their freedoms remains regular and widespread and there has been reports of abductions of defenders.

In May 2017, Father Elil Rajendram was repeatedly harassed for organizing a memorial event for those killed in the war in Mullivaikkaal in the Northern province where the war came to a bloody end in May 2009. Father Elil and others involved in the project were visited repeatedly

by the military and police, and he was asked whether those being memorialised were connected to the LTTE. Families of disappeared campaigning for truth and justice, and their supporters have been targeted repeatedly in recent years. In July 2018, a wife of a disappeared person in the East faced interrogation and narrowly escaped injury when an iron rod was thrown at her. Also in July 2018, a woman human rights defender working on disappearances was attacked brutally in Vaddukoddai in Jaffna and had to be hospitalized. While riding her bike with her son, a man came up to her from behind and hit her on her back and head. This is likely linked to her work in assisting a family in the Navatkuli case related to the disappearance of over two dozen Tamil youths in 1996 who were detained by the army.

Other families of disappeared, particularly Tamils from the North and East who have been protesting continuously for more than 600 days, have also faced continuous intimidation and surveillance. In 2017, one of protest leaders, a Tamil female defender, whose husband had disappeared, was assaulted. Sinhalese families of the disappeared have also faced reprisals in and around Colombo. In June 2018, Sandhya Eknaligoda, a woman human rights defender campaigning against enforced disappearances and the wife of cartoonist and journalist Prageeth Ekneligoa who was disappeared in 2010, was subject to intimidation, abuse, harassment and death threats on social media, in what appears to be a coordinated smear campaign. She was taunted as an LTTE supporter, threatened with disappearance, and threatened with death and violence against her children. She had previously been threatened in 2016 by a prominent Buddhist nationalist monk when she was in courts, and the latest threats came when the monk was convicted after she had determinedly pursued justice in courts, despite efforts to settle the matter through mediation. In 2016, police harassed and initiated an inquiry against a woman and some of her supporters, after she had held a vigil with her children, demanding truth and justice in relation to her husband who had disappeared in 2013.

In July 2018, Amitha Priyanti, a woman human rights defender working for the civil society organization Janasansadaya focusing on torture, was attacked by two men on motorbikes who followed her home from her workplace. Her husband and neighbours helped to stop the attack but the assailants stole important documents and her phone. In 2017, leaders of the Prisoners Rights Committee, Attorney-at-Law Seneka Perera and Sudesh Nandimal, received death threats, after they had campaigned intensely for justice in relation to a prison massacre. Nandimal's house was also shot at and he had been threatened and intimidated repeatedly in the past. In January 2017, a trade union leader was abducted and released after few days, after being threatened to not get involved in a protest that was ongoing. Student protests have been regularly attacked by the police and student activists have been injured and detained.

The freedom of opinion and expression is a cause for concern. In June 2017, prominent lawyer Mr Lakshan Dias was subject to threats and stigmatisation following opinions given on a talk show concerning the high number of attacks against Christians and Muslims in Sri Lanka. He expressed his view that Buddhist monks were behind some of the attacks. The then Minister of Justice threatened to disbar him unless he retracted his statement, and a protest march called for his arrest and punishment. Tamil Journalists from North reporting on disappearances, land and other sensitive issues have faced assault, threats, intimidation, interrogation and restrictions regularly, including in 2018.

In March 2018, the government tried to bring in amendments to the Voluntary Social Services Organization (VSSO) Act, which would have severely curtailed the right to freedom of association. After heavy pressure from defenders, the Prime Minister and Minister in charge agreed to withdraw it. Civil society was asked to assist in drafting a new law to replace this, and a group of defenders have been working on this.

Of great concern are reports of reprisals against human rights defenders for engaging with the UN Human Rights Council. Special procedures holders have expressed concern over alleged reprisals against Krishnapillai Ramnan, S. Ganeshnantham, and Sellathurai Suthakaran of the Pupil Salvation Forum, a civil society organisation, for their participation in the 34th session of the Human Rights Council in March 2017. A side event at 38th UN Human Rights Council session in June 2018 was disrupted and one panellist, a wife of a disappeared person, fainted and had to receive medical treatment. Upon return, she was interrogated about her visit to Geneva and narrowly escaped an attempted assault. Another woman defender, also part of the group that went to attend the UN Human Rights Council session, was harassed on return. Similarly, Nimalka Fernando and Sunanda Deshapriya were also subject to reprisals for participating in 34th session of the Human Rights Council. They were subject to smear campaigns, a Facebook campaign branding them as traitors, and media coverage in which they were labelled as “foreign-funded NGOs working against the country”.

Defenders have also been reportedly harassed at the airport and though this has reduced since 2015, it still continues. In 2016, Ruki Fernando was interrogated when he was travelling to the United Kingdom for human rights events, and another human rights defender returning from exile was detained and subjected to intense interrogation at the airport about his activities in 2016.

The Special Rapporteur has sent numerous communications to the Sri Lankan government over the years. Under the current government, these communications have focused on the threats, intimidation and harassment of human rights defenders.

4. Issues and Trends

The Special Rapporteur welcomes the increased engagement of the government with defenders since 2015, but urges the government to seriously consider the input by defenders and consultations in such processes. He urges the government to publicly condemn threats and attacks against defenders, including killings, enforced disappearances, torture, assault and threats that has happened under this government and in previous governments, and to investigate and bring to justice perpetrators – both state and non-state actors. He calls for the government to cease the judicial harassment and criminalisation of human rights defenders, and to drop charges against defenders who were targeted for the legitimate exercise of their rights. The government must refrain from engaging in reprisals against human rights defenders who engage with UN mechanisms and representatives and to act against those who are responsible for such reprisals.

The Special Rapporteur also urges the government to take proactive and practical measures to support defenders in exile to return home, including guarantees of safety and financial support. He also urges the government to welcome and support defenders from other countries who may wish to relocate to Sri Lanka temporarily. And finally, he urges the government to recognise publicly the work of human rights defenders and to develop laws,

policies and practices that protect their rights and ensure their security, in particular, to enact a Freedom of Association Act to replace the present Voluntary Social Services Organizations (VSSO) Act, a draft of which is now being developed by some defenders in collaboration with Ministry of Reconciliation.

South East Asia

Cambodia

1. National Context and Human Rights Defenders

Cambodia was included in the Global Survey of 2006. The Special Representative acknowledged the ratification of most of the main international treaties in human rights and noted that local NGOs played an important role in the defense of human rights in Cambodia. She was concerned that defenders were subject to intimidation, threats, assassination, detention and prosecution. She expressed concern about public hostility for the work of defenders expressed by state authorities and impunity for threats and attacks against them, which increased their vulnerability. She noted that restrictions on the freedom of opinion, expression, assembly, association, and movement were being imposed on human rights defenders.

Violations of human rights significantly increased around elections periods, namely in 2013-2014 and 2017-2018. In late 2013, violent clashes erupted during protests following the results of the national elections, leading to the death or disappearances of many individuals, and the injury of countless more. 2017 witnessed a drastic reduction of civic space with the closure of critical media outlets and several human rights organizations; the imprisonment of political opponents, activists and critics; the violent repression of peaceful protests and a drastic increase of online surveillance. Before, during and after the elections, the government increased its military and police presence, creating an atmosphere of intimidation. In 2017, opposition leader, Kem Sokha was jailed on charges of treason and the main opposition party, the Cambodian National Rescue Party (CNRP), was dissolved by the Supreme Court for violating the Law on Political Parties. The National Assembly elections in July 2018 which led to the landslide re-election of the CPP was considered neither free nor fair by international monitors.

There have been widespread violations of rights to housing, land and property, which disproportionately affect indigenous communities. It is estimated that some 400,000 to one million people have been affected by land disputes, and an estimated 60,000 people forcibly evicted from their homes. Protests are often crushed with force. Land rights defenders, including local villagers, Buddhist monks and land rights activists, often face intimidation, arrest and conviction for their peaceful protest. Women suffer disproportionately from land disputes. Human rights defenders continue to face arbitrary detention, prosecution and even assassination. The defenders most at risk are grassroots land rights activists, union leaders and members, women land rights defenders, as well as journalists and media professionals.

Cambodia is a member of the Association of Southeast Asian Nations (ASEAN).

2. Legal and Policy Framework

Cambodia is party to all the core human rights treaties except for the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty (CCPR-OP2-DP). It has accepted the individual complaints procedure under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and three inquiry procedures – the ones under the Convention against Torture, the International Convention for the Protection of All Persons from Enforced Disappearance, and under the Optional protocol to CEDAW. As a member of the Association of Southeast Asian Nations (ASEAN), Cambodia adopted the ASEAN Declaration on Human Rights in 2012.

The Constitution of Cambodia guarantees various rights of citizens, including freedom of expression, the right to peaceful protest, and the right to non-discrimination. However, several laws restrict the right to freedom of expression, association, and assembly. In July 2015, the Law on Associations and Non-Governmental Organizations (LANGO) was adopted, creating restrictions on the freedom of expression and association. The Trade Union Law adopted in April 2016 restricts the right of workers to strike and the ability of trade unions to carry out their activities freely. In 2017, the Law on Political Parties was amended twice, adding vaguely worded provisions that restrict the creation of political parties significantly, permitting their arbitrary dissolution. The 2016 Telecommunications Law, the 2007 Counter Terrorism Law and the 2018 Law on Minimum Wages restrict the freedom of expression significantly. In February 2018, the Constitution was amended to include provisions requiring that all Cambodian citizens “primarily uphold the national interest”, while the crime of *lèse majesté* was included in the Criminal Code.

In July 2014, the Law on the Organization and Functioning of the Courts, the Law on the Organization and Functioning of the Supreme Council of Magistracy, and the Law on the Statute of Judges and Prosecutors were promulgated. These laws have been criticized by human rights defenders for weakening the separation of powers and the independence of the judiciary significantly, by effectively giving the executive direct control over the judiciary by increasing the level of influence of the Minister of Justice over judges and prosecutors, through its involvement over judicial budgets, appointments, promotions, tenure and removal.

Cambodia does not have a national human rights institution. However, there are three National Human Rights Bodies in Cambodia set up to promote and protect human rights, namely, the National Assembly Commission on Human Rights (NACHR), the Senate Commission on Human Rights (SCHR) and the Cambodian Human Rights Committee (CHRC). However, in practice, they failed to show sufficient independence and often dismiss allegations of human rights violations as being justified by the enforcement of law.

3. Implementation of the Declaration

Cambodian legislation does not include any specific protection for human rights defenders. However, a draft law on access to information, which currently includes protections for whistle-blowers, could provide some form of protection and is supposed to be adopted in 2018.

Press freedom decreased in 2017, with the closure of critical newspapers, radio outlets and radio broadcasts, and the imprisonment of journalists. During the national elections in July 2018, websites of critical media outlets were blocked while those considered as being favourable to the ruling parties were allowed to operate. In May 2018, the government passed a proclamation creating an inter-ministerial surveillance task force that is allowed to operate without any judicial supervision. This proclamation allows legal action to be taken against online users whose activities are perceived as “incitement, breaking solidarity, discrimination and wilfully creating turmoil”; and which permits the shutdown of websites and social media pages found to be disseminating offensive content. It also requires all Internet Service Providers to filter and block social media accounts and webpages deemed illegal.

Fifteen local radio broadcasts known to be critical of public policies were shut down in 2017 based on unclear administrative grounds. Radio Free Asia (RFA) closed its local bureau in Phnom Penh, shortly after several of its radio broadcasts were shut down amidst allegations by the public authorities that it failed to pay taxes and to obtain a proper license. *The Cambodia Daily*, an independent newspaper known for critical investigative reporting was forced to shut down after it was presented with an \$6.3 million tax bill. In August 2017, the authorities charged two *The Cambodia Daily* reporters, Aun Pheap and Zsombor Peter, with “incitement to commit a felony” for election-related coverage in Ratanakiri. In November 2017, two former Radio Free Asia journalists, Yeang Sothearin and Uon Chhin were provisionally charged with espionage, with prosecutors citing evidence the pair was providing “a foreign state with information which undermines national defence”. They were released on bail only in August 2018.

Human rights defenders face arbitrary detention, prosecution, disappearances and killings. In May 2016, four senior staff members from the Cambodian Human Rights and Development Association (ADHOC), Ny Sokha, Yi Soksan, Nay Vanda, and Lim Mony were arbitrarily detained and charged for bribery under Article 548 of the Criminal Code. In April 2012, environmental activist and founder and director of the Natural Resource Protection Group, Chut Wutty, was shot dead by an official of the military police while investigating alleged land grabs and illegal logging with two journalists. In September 2012, journalist Hang Serei Oudom was bludgeoned to death with an axe in Ratanakiri Province, while gathering evidence that linked several powerful and well-connected people to illegal logging in the area. In October 2014, independent journalist Taing Try was shot in Kratie Province while investigating the transfer of illegal luxury timber with a group of journalists. In July 2016, political analyst Kem Ley was killed by gunshot, shortly after having discussed a report incriminating the highest levels of the government and the Prime Minister.

Impunity is of serious concern. Cases involving crimes perpetrated against land rights activists, garment workers such as Khem Sophat, and trade unionists such as Chea Vichea and Ros Sovannareth, as well as journalists including Chan Dara, Hang Serei Oudom and Pich Em are often either not investigated at all or investigated without transparency, independence and impartiality. When perpetrators are convicted, they often receive a lenient sentence or are released early. The 10 July 2016 killing of Kem Ley, a prominent analyst and government critic, is another illustrative example of impunity. The shooter was convicted of premeditated murder in relation to Kem Ley’s death on 23 March 2018, and sentenced to life imprisonment; however, the process that led to his conviction has been heavily criticized. The alleged investigations into other suspects, if they have occurred at all, failed to meet the minimum

requirements of transparency and independence. Since Kem Ley's murder, several people have been arrested and convicted of incitement for accusing the government of being responsible. For instance, in January 2018, a woman who uses the name "Heng Leakhana" on Facebook was sentenced to a year in prison for "incitement to commit a felony" for a live video posted in July 2017 in which she accused Prime Minister Hun Sen of being behind the killing.

The authorities have also harassed NGOs for their work, using legislation – such as LANGO or the Tax Law – to shut down or obstruct their work. In August 2017, after the constant harassment of two of its founders Thomacheat and monk Sok Chantra, environmental NGO Mother Nature requested for its own dissolution as an NGO, preferring instead to act as a movement of concerned citizens. Land rights organisation Equitable Cambodia was suspended by the Ministry of Interior in September 2017 for the alleged breaches of LANGO, and was allowed to reopen in February 2018 after its suspension was revoked. In November 2017, the Prime Minister ordered the investigation and closure of prominent rights organisation the Cambodian Center for Human Rights (CCHR) but retracted his announcement a week later, allowing CCHR to continue its operations. In June 2018, CCHR's Executive Director, Chak Sopheap, was summoned and interrogated as a witness in the treason case of former opposition leader (and founder of CCHR).

In October 2017, the Ministry of Foreign Affairs and International Cooperation and the Council of Ministers accused international NGOs, local NGOs and trade unions of being members of a Cambodian 'colour revolution' network, that is, of seeking to topple the government through popular protest movements. These allegations have been extended to international donors, including representatives of the United States of America and the European Union, who have been accused of propagating regime change through their support of rule of law and democracy programmes.

The judicial system is reportedly often used as a tool to target political opponents, land-activists, journalists and critical social media users alike. The prosecution of political opponents and political analysts for defamation is common, as is the criminal conviction of Facebook users for negative comments about the ruling party. In October, the *lèse majesté* was used for the first time against Ban Somphy, for sharing a Facebook post allegedly criticizing the King. He was sentenced to one year of imprisonment.

State sponsored legal aid is insufficient in Cambodia, depriving many defenders from effective legal defence when they face criminal charges. Tep Vanny, a land rights defender, was detained for more than two years because of her participation in peaceful protests. She was released following a Royal Pardon in August 2018, but still faces criminal charges in relation to other allegations. She has been convicted five times for criminal offences such as insulting public officials, obstructing traffic laws, committing intentional violence against security guards, and occupying land illegally.

Hun Vannak and Doem Kundy, two activists working for environmental NGO Mother Nature Cambodia, were arrested in September 2017 while filming two large vessels they suspected of illegally carrying silica sand for export and sand dredging. They were detained and charged with 'violation of privacy' and 'incitement to commit a felony'. In January 2018, they were given a one-year prison sentence, seven months of which were suspended, and a fine of \$1 million riel each. They were released on 13 February 2018. Union leaders have also been

targeted, such as the Center for Alliance of Labor and Human Rights (CENTRAL) Executive Director Moeun Tola who was subject to politically-motivated prosecution in 2017; and the Coalition of Cambodian Apparel Workers Democratic Union President Ath Thorn, who has faced also threats and judicial harassment. Finally, numerous organisations have reported surveillance and intimidation by the police and local authorities while undertaking activities in the field.

The lack of independence of the judiciary has resulted in defenders being unable to have a fair trial and being unable to gain redress for actions taken against them. It has been reported that when criminal charges are brought against defenders, due process and fair trial rights are not respected. Pre-trial detention is imposed automatically, in violation of both the Cambodian Code of Criminal Procedure and Cambodia's international obligations.

The Special Rapporteur has sent a large number of communications to the State raising a wide range of issues concerning the situation of human rights defenders in the State, including in recent years the situation of land and environmental defenders, journalists, and labour rights defenders. The communications expressed concern concerning the acts of the State against defenders, including arbitrary arrest and detention, prosecution, and unfair trial in response to their activities as human rights defenders. While the Special Rapporteur thanks the State for its response to two communications this past year, he reminds the State that the majority of his communications have not received a reply.

4. Issues and Trends

Human rights defenders experience strict restrictions on their freedom of expression, opinion, assembly, and association. Human rights defenders are subject to intimidation, threats and surveillance, arrests and criminal charges (defamation, incitement, treason), as well as online surveillance, hacking and violations of privacy. Impunity prevails. The Special Rapporteur urges the government to publicly recognize the work of human rights defenders and to desist from stigmatizing and criminalizing them. He calls for the government to introduce laws, policies and practices that protect the rights of human rights defenders, and to review, amend and repeal laws that restrict their right to freedom of opinion, expression, assembly, and association. These include laws that restrict the operation of civil society organisations and the media. He recommends that Cambodia establish an independent national human rights institution that is fully compliant with the Paris Principles. He notes with gravity the impunity enjoyed by perpetrators, and calls for the government to investigate all reports of threats and attacks against human rights defenders in a timely and effective manner. He calls for the government to ensure that business entities fully respect human rights in accordance with the Guiding Principles on Business and Human Rights.

Indonesia

1. National Context and Human Rights Defenders

Indonesia was included in The 2006 Global Survey, which highlighted the killings, disappearances, attacks, arrests, detention (often incommunicado), intimidation and harassment of human rights defenders in Aceh and Papua. In many cases, the police or the military were either involved or failed to protect defenders from attacks by non-state actors.

The Special Representative noted the poisoning of the human rights defender and anti-corruption activist Munir Said Thalib in 2004 and the assassination of three humanitarian aid volunteers in 2001. The Special Rapporteur highlighted the issue of the harassment and intimidation of judges, prosecutors, and lawyers, particularly those handling cases related to human rights.

Human rights defenders continue to experience threats, intimidation, restrictions on their right to freedom of expression and assembly, judicial harassment, stigmatization, arbitrary arrest, ill-treatment, torture, forced disappearances, and killings. Human rights defenders are subject to threats and attacks not only by the police and the military, but also by non-state actors, such as private security contractors, vigilantes, and fundamentalist groups. The right to freedom of expression, peaceful assembly, and association have been restricted by legislation. Anti-terrorism laws have been used to target human rights defenders. Human rights defenders in Aceh and Papua as well as defenders working on sexual orientation and gender identity rights continue to face high risks. Impunity for threats and attacks against human rights defenders persists.

Indonesia is a member of the Association of Southeast Asian Nations (ASEAN)

2. Legal and Policy Framework

Indonesia is party to all the core human rights treaties except for the Optional Protocol of the Convention against Torture (CAT-OP) and the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty (CCPR-OP2-DP). It has signed but not ratified the Convention for the Protection of All Persons from Enforced Disappearance (CED). It has not accepted any individual complaints procedures or inquiry procedures except for the inquiry procedure under the Convention against Torture. As a member of ASEAN, Indonesia adopted the ASEAN Declaration on Human Rights in 2012.

The Constitution of Indonesia (*Undang-Undang Dasar* 1945) has a specific section on human rights, and the Law on Human Rights was established in 1999 (Law No. 39/1999). Several laws restrict the freedom of expression, association and assembly, including the Criminal Code and Law No. 19/2016 on Electronic Information and Transaction. In October 2017, the House of Representatives passed the Regulation in Lieu of Law (Perppu) No. 2/2017 amending the Law on Mass Organizations (Ormas), thus extending the government's powers to impose restrictions on freedom of association, expression, thought, conscience, and religion. Perppu permits the government to ban an organization without judicial procedures, and provides criminal penalties for those found in violation of the law, including the death penalty for blasphemy. This regulation was then adopted as Law No. 16/2017 in November 2017. Human rights defenders had already expressed concern about the Law on Mass Organizations when it was enacted in 2013 as it introduced onerous registration requirements and had vague and overly restrictive provisions enabling the government to target its critics.

Indonesia's national human rights institution (NHRI), the National Commission on Human Rights (Komnas HAM), has been accredited with an A, recognizing its full compliance with the Paris Principles. In 2014, Komnas HAM appointed one of its commissioners as a Special Rapporteur on Human Rights Defenders, however, the post has been inactive due to lack of funding. It has also developed an internal policy for providing protection to human rights defenders. The National Commission on Violence Against Women (Komnas Perempuan), a specialized NHRI that focuses on the elimination of all forms of violence against women on

the fulfilment of women's rights, has also been actively involved in promoting and protecting the rights of women human rights defenders. The Witness and Victims Protection Agency (LPSK) has also been involved in the protection of human rights defenders who are witnesses or victims of crime.

3. Implementation of the Declaration

There are no national level laws and regulations that specifically refer to human rights defenders. However, the 1999 Law on Human Rights (Law No. 39/1999) does recognize the right of people to "participate in protecting, upholding and promoting human rights" (Article 100), the right to submit reports of human rights violations to competent agencies (Article 101), the right to submit proposals concerning human rights matters and policy (Article 102) and the right to engage in human rights education (Article 103). Furthermore, Law No. 32/2009 on the Protection and Management of the Environment states that "Everybody struggling for a right to proper and healthy environment may not be charged with criminal or civil offense" (Article 66), thus providing some legislative protection for environmental defenders. There are other laws that protect legal aid providers, whistle blowers, witnesses, and journalists in their work, but they are often not implemented. In 2009, the human rights NGO Imparsial initiated a draft law for the protection of human rights defenders, but this was not passed. In the third cycle of the UPR process in 2017, Komnas HAM recommended that the government revise the Law on Human Rights (Law No. 39/1999) to include the protection of human rights defenders, but this has yet to be implemented.

The Special Representative made a country visit in June 2007, and noted that while there were laws to promote and protect human rights, there were no laws or mechanisms that recognized and protected the rights of human rights defenders and which ensured accountability for violations against them¹⁶². She expressed concern about restrictions on the freedom of association for NGOs; impunity for violations against human rights defenders perpetrated by the police and military; the lack of impartiality of the National Police Commission; and the high risks faced by particular groups of human rights defenders, including women human rights defenders; defenders working on the rights of LGBTI persons; defenders working on AIDS; defenders working on the rights of indigenous people; and church workers.

According to numerous reports, criminalization is a common method for attacking human rights defenders. Human rights defenders have been charged under the Criminal Code for 'rebellion' (Article 106, 107, 108 and 110), blasphemy (Article 156a), 'incitement' (Article 160), property damage and violence (Article 170) and defamation (Article 310 and 311). Human rights defenders have shown concern regarding amendments to the Criminal Code under deliberation by The House of Representatives, that could be used against them. These include punishment of up to five years of imprisonment for the defamation of the President and Vice President, and the criminalization of co-habitation and consensual same sex relationships between adults that could deepen the stigmatization of LGBTI persons. Vague language in the 2008 Electronic Information and Transaction Law allows for the wide interpretation of what constitutes defamation and blasphemy. In May 2018, the amended Eradication of Criminal Acts of Terrorism Law was passed amending Law No. 15/2003 on Counter-Terrorism and allowing the military to be involved in counter-terrorism operations

¹⁶² A/HRC/7/28/Add.2

and internal security matters. It allows the police to detain terrorist suspects for up to 21 days without charge, and for this to be extended up to 290 days.

The right to protest is a key area of concern. For example, in January 2018, Heri Budiawan (also known as Budi Pego), an environmental rights defender protesting gold mining activities in his hometown, Tumpang Pitu in East Java, was sentenced to ten months of imprisonment for “crimes against State Security” (Article 107a, Criminal Code). He was found guilty of spreading communism during a rally, the first time this basis has been used to curtail peaceful protest. In October 2015, the police used excessive violence to disperse labour rights protesters voicing their disagreement with a government regulation on the annual minimum wage. 25 protesters and two lawyers of the Jakarta Legal Aid Institute accompanying the protests were beaten and detained. All 27 were prosecuted and subsequently acquitted. There have been reports of numerous occasions when the police and military have also used excessive force to quell protests by Papuans both within and outside of West Papua. Violence, intimidation and threats are particularly evident in protests around 1st December which commemorates the right of Papuans to self-determination. The government also issued Governmental Regulation No. 60/2017 that extended the period to notify and obtain a permit to two weeks, contradicting Law No. 9/1998 on freedom of speech that requires a shorter notice period to the Police.

Land and environmental rights defenders have been killed across Indonesia, such as Indra Pelani, a farmer who was killed by security officers from a pulp plantation after a disagreement with them in Jambi in 2015. and Salim Kancil, an environmental activist who was beaten and tortured to death after organizing a protest about an illegal sand mine in East Java in 2015. WALHI (Indonesian Forum for the Environment), an environmental NGO, recorded that in 2014 alone, 173 human rights defenders were arrested, seven abused, and two died. Similarly, human rights defenders working on anti-corruption have been killed, such as Matur Husaini who was shot in Madura in East Java in January 2016. Unlawful killings continue to occur in the eastern provinces of Papua and West Papua. Amnesty International recorded such 69 cases with 95 victims between January 2010 and February 2018, allegedly perpetrated by the police forces and the military.

Human rights defenders working on issues related to sexual orientation, gender identity and expression are facing more risks than they have in decades. Research by the NGO Front Line Defenders in 2017 highlighted how a government-led crackdown on LGBTQI* rights in 2016 emboldened perpetrators, including extremist groups, local religious police, and state police. In several cases, the state police ignored requests by human rights defenders for protection. Defenders were concerned about the impact of defamation in the media and violent rhetoric from high-level government officials on their security.

Human rights defenders are concerned about impunity. In April 2017, Novel Baswedan, a prominent investigator in the Corruption Eradication Commission (KPK) was subject to an acid attack by strangers near his house, which likely related to his involvement in graft cases. Despite the publicity around this case, and the resources devoted to its investigation, the police have yet to identify his attackers. Human rights defenders continue to call for the State to bring perpetrators of the killing of Munir Said Thalib to justice. They press for the public release of a 2005 report by an independent fact-finding team on his killing. Munir’s case is emblematic of the culture of impunity that undermines the security of human rights

defenders. Komnas Ham has called for 7 September, the day Munir died, to be established as a day commemorating the protection of human rights defenders.

The Special Rapporteur has sent a number of communications to the State expressing concern about the situation of human rights defenders, raising many of the issues noted above. Over the past year, the Special Rapporteur has raised the issues of the mistreatment, arrest and detention of twelve waria (transgender women) in Aceh and the excessive use of force by police officers during protests in and about West Papua. The Special Rapporteur thanks the State for its response to his recent communications but notes that most earlier communications continue to await a reply.

4. Issues and Trends

The criminalization of human rights defenders has been a worrying trend in Indonesia, as has been the amendment and introduction of laws that further restrict rights and freedoms. The public stigmatization of groups of defenders contribute to their insecurity, as does impunity for threats and attacks. The Special Rapporteur recommends that Indonesia ratifies CAT-OP, CCPR-OP2-DP and CED; adopts legislative measures to prevent and combat intimidation, repression or violence against human rights defenders, journalists and civil society organizations; and takes further steps to ensure a safe and enabling environment for all human rights defenders, including those representing the lesbian, gay, bisexual and transgender community and *adat* communities, as was recommended by States and supported by Indonesia in the 3rd cycle of the UPR in 2017.

The Special Rapporteur urges the State to refrain from criminalizing human rights defenders, and to repeal and revise laws that restrict the right of everyone to promote and protect human rights. The Special Rapporteur urges the State to ensure that threats and attacks against human rights defenders are investigated in a timely way with impartiality and independence, and that perpetrators brought to justice. He recommends that the State of Indonesia formalize a protection mechanism for human rights defenders at risk that is rights-based, gender-sensitive, holistic, and tailored to their specific circumstances.

Lao (People's Democratic Republic)

1. National Context and Human Rights Defenders

Lao People's Democratic Republic (Lao PDR) was not covered in the 2006 Global Survey.

The government exercises tight control over the freedom of opinion, expression, assembly and association. The media is unable to operate with freedom and independence. Human rights defenders face intimidation, harassment, arrest and detention, and are at risk of enforced disappearance when carrying out their work. Those who resist government directives concerning the practice of their religion and for protesting economic initiatives that threatened their right to land, livelihoods, and food security have been harassed, arrested and detained. Defenders who criticise the government as well as defenders working on land and environmental rights face particularly high risks.

Lao PDR is a member of the Association of Southeast Asian Nations (ASEAN).

2. Legal and Policy Framework

Lao PDR is party to most of the core human rights treaties; however, it is not party to the Optional Protocol of the Convention against Torture (CAT-OP), the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty (CCPR-OP2-DP), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW). It has signed but not ratified the Convention for the Protection of All Persons from Enforced Disappearance (CED). As a member of the Association of Southeast Asian Nations (ASEAN), Lao PDR adopted the ASEAN Declaration on Human Rights in 2012.

The government established the Lao National Steering Committee on Human Rights in 2012, which consists of high level officials and representatives of mass organisations. Existing regulations concerning states of emergency, including the Law on National Defence, do not define permissible derogations for public emergencies. Lao PDR's domestic legal framework has a broad definition of terrorism, such as in Article 7 of the Law on Money Laundering and Combating the Financing of Terrorism. The legal safeguards for persons suspected of or charged with terrorist acts or similar crimes are unclear. Enforced disappearance has neither been defined in domestic law nor criminalised.

Several laws restrict the right to freedom of opinion, expression and assembly. The Penal Code has vague and broad definitions of defamation, libel and insult (Articles 94 and 95), 'propaganda against the Lao People's Democratic Republic' (Article 65), and 'gatherings aimed at causing social disorder' (Article 72). Decree No. 327 on Internet-Based Information Control / Management, entered into force in October 2014, criminalizes online criticism of the government and the LPRP as well as the circulation of false information online. Decree No. 377 on the Press Activities of Foreign Media Agencies, Diplomatic Missions, and International Organizations, entered into force in January 2016, enables the government to exercise strict control over the media.

Decree No. 238 on Associations, entered into force in November 2017, introduces cumbersome and intrusive registration processes for associations and enables the government to control and prohibit the formation of associations; to inspect, monitor, and curtail the activities and finances of associations; to order the dissolution of associations on arbitrary grounds and without the right of appeal; to discipline associations and individual members; and to criminalize unregistered associations and allow for the prosecution of their members.

Lao PDR lacks a national human rights institution that has been accredited according to the Paris Principles.

3. Implementation of the Declaration

Lao PDR does not have laws, policies or administrative practices that recognise and protect the rights of human rights defenders. The Special Rapporteur has sent a number of communications to the State regarding the alleged arrest, detention, torture and enforced disappearances of human rights defenders. The Human Rights Committee and states engaged in the UPR process have also expressed concern about the treatment of human rights defenders, especially their enforced disappearance.

It has been reported that human rights defenders are at risk of arbitrary arrest, incommunicado detention, imprisonment, and enforced disappearances. The enforced disappearance of the prominent human rights defender Sombath Somphone, who was taken away at a police outpost in Vientiane in December 2012, is of ongoing concern. Despite repeated calls by the international community, the State has failed to make adequate progress on investigations. Other victims of enforced disappearances include: Kha Yang, a Lao ethnic Hmong refugee arrested in 2011 after being forcibly returned twice from Thailand; Wuthipong Kachathamakul, a Thai national activist in exile abducted in Vientiane in 2017; Keochay, a student leader imprisoned for peaceful protest in 1999; Kingkeo, Somchit, Soubinh, Souane, Sinpasong, Khamstone, Nou, Somkhith, and Sourigna, detained in November 2009 for planning to participate in pro-democracy demonstrations; and Somphone Khantisouk, a critic of agricultural projects abducted in 2007.

Human rights defenders critical of the government and its policies have been arrested, detained and imprisoned. The media is strictly controlled by the government, and restrictive laws promote self-censorship. The government monitors internet activity, including opinions expressed on social media outlets. In 2016, Somphone Phimmason, Soukane Chaithad, and Lodkham Thammavong who were working in Thailand were arrested when they returned to Lao PDR for criticising the government on social media and for engaging in peaceful protest outside the Lao embassy in Bangkok in 2015. They were held in incommunicado detention and sentenced to 12 to 20 years of imprisonment. Similarly, in June 2008, a Polish citizen of Lao heritage Bounthanh Thammavong was given a sentence of four years and nine months for criticising the government on Facebook. In 2012, National Assembly Representative Khampheuy Panemalaythong was suspended for criticizing the LPRP and subject to threats, intimidation and inquisition. Also in 2012, the country director of Swiss NGO Helvetas focusing on agricultural development, Anne-Sophie Gindroz, was expelled for criticizing the government in a letter to donors. Human rights defenders tend not to participate in international human rights meetings or engage with UN mechanisms for fear of reprisals.

Human rights defenders have been criminalised for engaging in peaceful protest. In 1999, five student leaders with the Lao Students Movement for Democracy (LSMD) were arrested and sentenced to imprisonment for planning peaceful demonstrations calling for democracy and respect for human rights. Mr. Thongpaseuth Keuakoun and Mr. Sengaloun Phengphanh, who were sentenced to 20 years, remain in prison to this day; Mr. Bouavanh Chanmanivong, sentenced to 12 years, has been released; Mr. Khamphouvieng Sisa-at died in custody as a result of ill-treatment in 2001; and Mr. Keochay has been disappeared. In November 2009, the government arrested 346 people engaged in peaceful protest opposing the government and commemorating the 10th anniversary of the LSMD demonstrations of 1999.

The Special Rapporteur has sent communications to the State concerning the situation of human rights defenders, expressing concerns about some of the defenders and legislative developments noted above. He has not received a response to any of his most recent communications, expressing concerns about the arrest, detention, prosecution, unfair trial and enforced disappearance of defenders due to their human rights activities and the noted legislative developments restricting freedom of expression and association.

4. Issues and Trends

Human rights defenders expressing criticism of the government are criminalised and subject to severe punishment. The enforced disappearance of human rights defenders is a critical

issue, as is impunity for perpetrators. The Special Rapporteur recommends that the Lao PDR become party to OP-CAT, ICCPR-OP2, and the CMW, and to ratify the CED as it committed to in the first and second UPR cycle. He recommends that the State establishes a national human rights institution with a mandate to protect the full range of human rights that is fully compliant with the Paris Principles. He recommends that the government review, amend and repeal laws that restrict the freedom of opinion, expression, assembly and association.

The Special Rapporteur urges the State to respect, protect and fulfil the rights of human rights defenders through its laws, policies and practices. He calls for the State to ensure that all threats and attacks against human rights defenders are investigated promptly, impartially and effectively, including cases of enforced disappearances. He welcomes prompt updates on the progress of investigations into the enforced disappearance of Sombath Somphone and other human rights defenders, with the identification of those responsible.

Malaysia

1. National Context and Human Rights Defenders

The Special Rapporteur thanks the State of Malaysia for their response to the questionnaire he transmitted for the preparation of this report. The situation of human rights defenders in Malaysia was reported in the 2006 Global Survey, which noted that Malaysia was party only to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and to the Convention on the Rights of the Child (CRC), and not to the other core human rights treaties. It noted that restrictive laws such as the Internal Security Act 1960 (since repealed) was used against human rights defenders, and that the government exercised tight control over the media, over the registration of human rights organisations, and over the freedom of assembly. The Special Representative noted grave human rights issues such as abuses by the police, torture and ill-treatment, deaths in custody, constraints in judicial independence, and abuses against refugees and migrants. A request for a country visit was made in 2002 and a reminder sent in 2010; however, this has yet to be taken up by the government of Malaysia.

In May 2018, there was a change of government in Malaysia for the first time since the formation of Malaysia in 1963 and the independence of Malaysia in 1957, with the Pakatan Harapan alliance defeating the Barisan Nasional coalition. Under the previous government, led by Prime Minister Najib Razak, civil society and human rights defenders were subject to increasing levels of repression, the lasting effects of which have yet to be rectified. Human rights defenders have been criminalised and subject to threats, intimidation, smear campaigns, arrest, detention, and travel bans. Anti-corruption activists and leaders of social movements such as The Coalition for Clean and Fair Elections (BERSIH) have been specifically targeted. Popular discussion concerning human rights issues has been curtailed through the censorship of the media. Defenders working on sexual orientation and gender identity rights experience pervasive discrimination and harassment. Women human rights defenders, especially those working on rights related to religion and minority rights, have been publicly shamed and harassed. Refugees and migrants who advocate for their own rights have been arrested. While the recent change in government has brought greater freedom of expression to human rights defenders, changes in laws, policies, and practices are necessary to ensure that the rights of human rights defenders are respected, protected and fulfilled.

Malaysia is a member of the Association of Southeast Asian Nations (ASEAN).

2. Legal and Policy Framework

Malaysia is party to a small number of human rights treaties. Since the 2006 Global Survey, in addition to the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention of the Rights of the Child (CRC), Malaysia has become party to the two Optional Protocols of the CRC, and the Convention on the Rights of Persons with Disabilities (CRPD). Human rights defenders continue to call for the reservations in these treaties to be removed and for Malaysia to become party to the other core human rights treaties. In addition, Malaysia has not accepted any treaty-based individual complaints procedures and inquiry procedures. However, Malaysia did vote in favour of UNGA Resolution 70/161 on Human Rights Defenders when it was adopted in 2015.

The Federal Constitution of Malaysia guarantees fundamental liberties in Article 5 to 13, including the freedom of speech, opinion, assembly and association for citizens. Since the 2006 Global Survey, the Emergency (Public Order and Prevention of Crime) Ordinance 1969 and the Internal Security Act (ISA) 1960 – both of which allowed for detention without trial – have been repealed. However, the ISA was replaced with the Security Offences Special Measures Act (SOSMA) 2012, which enables the Royal Malaysian Police to detain persons suspected of security offences for up to 28 days. SOSMA has been used to arrest human rights defenders, such as the chairperson of BERSIH, Maria Chin Abdullah, who was held for 10 days in November 2016 in relation to the organisation of a mass rally. She was placed in solitary confinement and held without charge or access to a judge in stark conditions in an unknown location before her eventual release. In addition, the government is also able to detain people without trial using the Prevention of Crime Act 1959 (POCA), the Prevention of Terrorism Act 2015 (POTA) and the Dangerous Drugs (Special Preventive Measures) Act 1985.

Several laws in Malaysia place restrictions on the right of people to promote and protect human rights. These include the National Security Council Act 2016, the Societies Act 1966, the Sedition Act 1948, the Printing Presses and Publications Act 1984, the Prevention of Terrorism Act 2015, the Peaceful Assembly Act 2012, and the Communications and Multimedia Act 1998. A 2015 amendment to the Sedition Act added the criticism of religion to the list of sedition offences and has been extended to include the sharing of information through electronic media and social media.

Malaysia's national human rights institution, the National Human Rights Commission (SUHAKAM), has been given full accreditation (level A), noting its full compliance with the Paris Principles. SUHAKAM investigates complaints from human rights defenders, including those that concern the restriction of their rights and freedoms.

3. Implementation of the Declaration

Malaysia does not have any laws or mechanisms that specifically recognise and protect the rights of human rights defenders. Human rights defenders have been threatened, harassed and criminalised when exercising their right to promote and protect human rights. Through communications, the Special Rapporteur has previously expressed concerns about the shrinking of civil society space in Malaysia, especially about restrictions on the freedom of opinion, expression, assembly, and association. The CEDAW Committee in its concluding observations of March 2018 expressed concern that women human rights defenders –

especially those working on rights of Muslim women, LGBTQI* rights, and democratic reforms – have been subject to arbitrary arrest, harassment and intimidation by state authorities and religious institutions¹⁶³. These include the adoption of fatwas by religious institutions against women’s organisations working on such issues.

Over the years, the government has obstructed peaceful street rallies that criticise the government. This has been most evident in relation to the five public rallies organised by BERSIH between 2007 and 2016, where organisers have been intimidated, harassed, arrested and subject to travel bans. In 2012, more than 400 peaceful protesters were arrested while in 2011, more than 1,600 people were arrested. Other types of peaceful protests have been repressed by the government. In November 2016, the police arrested over 40 indigenous human rights defenders from the Temiar people in the northern state of Kelantan engaged in protest of logging activities that destroyed their natural resources. In August 2017, police arrested 11 indigenous human rights defenders protesting a logging company in Perak.

The government has repeatedly used the Sedition Act 1948 to limit the freedom of expression of human rights defenders, journalists, lawyers, and artists. These include Haris Ibrahim, a human rights lawyer and leader of the Negaraku People’s Movement, who was charged in April 2016 and found guilty of making seditious statements in a gathering in 2013 and sentenced to eight months of imprisonment; Eric Paulsen, a human rights lawyer and co-founder of Lawyers for Liberty, who was charged in February 2015 for a tweet accusing the Malaysian Islamic Development Department (JAKIM) of promoting extremism; and Adam Adil Abdul Halim who was charged and found guilty of sedition in November 2014 for a speech he made at a post-election forum in 2013. He was eventually acquitted in February 2018.

Lena Hendry, a human rights defender with the NGO Pusat KOMAS was charged under the Film Censorship Act 2002 for screening a documentary on Sri Lanka in July 2013 and convicted in February 2017. The Communications and Multimedia Act 1998 has also been used against human rights defenders such as Fahmi Reza and Khalid Ismath. In 2017, the government authorities prevented several human rights defenders from entering Malaysia, including Bangladeshi activist Adilur Rahman Khan and Singaporean activist Han Hui Hui, who were deported after attempting to attend human rights events. Human rights defenders such as women’s rights activist Maria Chin Abdullah, lawyer Datuk Ambiga Sreenevasan, film director Hishamuddin Rais, and political cartoonist Zunar have been subject to travel bans.

According to SUHAKAM, the Registrar of Societies Malaysia records the registration of 66,300 NGOs of whom 269 work on human rights issues. The government has subjected human rights organisations to investigations, office raids, and smear campaigns. In November 2016, the police raided the office of EMPOWER, an NGO working on women’s rights, removing boxes of documents. Also in November 2016, the police raided the offices of BERSIH, confiscating equipment, documents, and personal effects. In both cases, these organisations were being investigated under the Penal Code for activities “detrimental to parliamentary democracy” (Section 124c). In January 2014, the Ministry of Home Affairs declared the Coalition of Human Rights NGOs (COMANGO) an ‘illegal entity’ as it was not registered under the Societies Act 1966, an act of reprisal for COMANGO’s participation in the 2nd cycle of the UPR in 2013. Defenders have also experienced restrictions on their rights to access funding. In November

¹⁶³ CEDAW/C/MYS/CO/3-5

2016, more than 20 organisations, including the Bar Council, were investigated for receiving foreign funds and accused of using these funds to ‘undermine democracy’.

It has been reported that women human rights defenders have experienced threats, intimidation and reprisals for their work by state and non-state actors. These include the public sharing of personal information; threats of sexual violence; the issuance of fatwas by religious institutions against their organisations; and physical attacks. In July 2017, human rights lawyer Siti Kasim made a police report against a man calling for her to be killed on an online platform, prompting dozens of his followers to make death, rape and acid attack threats against her. These threats were related to her work on LGBTQI* issues. Violence against and the killings of trans women and gender-diverse persons are of serious concern – human rights groups note the lack of political will in investigating these cases.

The Special Rapporteur has sent a number of communications to the State expressing concern about the situation of human rights defenders. The communications have raised many of the issues noted above, including in recent years restrictions on free expression by the media (including in online spaces) and reprisals by the State against defenders seeking to organize peaceful public protests. The Special Rapporteur thanks the State for its willingness to engage with the mandate and respond to most of his communications.

4. Issues and Trends

In summary, under the previous government, human rights defenders were harassed, criminalised, and their rights curtailed under restrictive laws. Under the new government, the repression of civil society has subsided. The government of Malaysia communicated to the Special Rapporteur that it has promised to revoke the Sedition Act 1948, the Prevention of Crime Act 1959, the Printing Presses and Publications Act 1984, the National Security Council Act 2016 and mandatory death penalty in all Acts. The government has also pledged to abolish certain provisions in Communications and Multimedia Act 1998, the Security Offences (Special Measures) Act 2012 (SOSMA), the Peaceful Assembly Act 2012, and the Prevention of Terrorism Act (POTA) 2015.

The Special Rapporteur recommends that the State become party to all remaining human rights treaties and removes reservations from CEDAW, CRC and CRPD. The Special Rapporteur notes that the current government has promised to ratify more international conventions, including the ICCPR. The Special Rapporteur urges the government to recognise the right of everyone to promote and protect human rights publicly and in legislation, policy, and practice. The Special Rapporteur encourages the new government to adopt a comprehensive policy on human rights defenders, consistent with many of the campaign promises on which it was elected.

Groups of defenders who are subject to higher levels of risk – in particular, those working on sexual orientation and gender identity rights, women’s rights, land and environmental rights, religious freedom, and anti-corruption – must be given additional protection by the State. The development of a national plan of action for the implementation of the Declaration should be a priority for the new government.

The Special Rapporteur echoes the CEDAW Committee’s recommendations that the State ensure that women human rights defenders can freely undertake their important work without fear or threat of arbitrary arrest, harassment or intimidation, including the issuance

of fatwas by religious institutions, by fully guaranteeing their rights to freedom of expression, assembly and association; and that it provide capacity-building on women's rights and gender equality to law enforcement officials, members of the judiciary and members of religious institutions. Threats and attacks against human rights defenders must be investigated promptly and perpetrators brought to justice. The State should cease from criminalising human rights defenders and instead create an environment where people are able to exercise their rights without fear or hindrance.

Myanmar

1. National Context and Human Rights Defenders

Myanmar was included in the 2006 Global Survey. The Special Representative expressed concern about severe restrictions on the rights to freedom of expression, association, and assembly. She noted that the government did not permit national or international NGOs working explicitly on human rights to operate in Myanmar. She noted concern over the detention of more than 1,100 political prisoners; serious human rights violations against ethnic minorities; the harassment and imprisonment of human rights defenders for their exercise of civil and political rights; reports of torture, ill-treatment, lack of access to healthcare and solitary confinement of human rights defenders while they were in detention; and the plight of human rights defenders who were forced to flee Myanmar because of the risks they faced.

In September 2018, the UN Independent International Fact-Finding Mission on Myanmar released a report detailing genocide, crimes against humanity, and war crimes committed by the Tatmadaw in Kachin, Rakhine, and Shan States¹⁶⁴. For years, human rights defenders highlighting violations by the military have face high risks, including arrest, detention, imprisonment, and torture. Other groups of defenders who face high risks include journalists, land and environmental defenders, women rights defenders, students, and community members in conflict affected areas.

Myanmar is a member of the Association of Southeast Asian Nations (ASEAN).

2. Legal and Policy Framework

Myanmar is party to the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All forms of Discrimination against Women; the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography; and the Convention on the Rights of Persons with Disabilities. It has neither accepted any individual complaints procedures nor any inquiry procedures. As a member of ASEAN, Myanmar adopted the ASEAN Declaration on Human Rights in 2012.

Several laws restrict the right to freedom of opinion, expression, assembly and association. Those that have been used against human rights defenders include the 2011 Peaceful Assembly and Procession Law which imposes strict rules on how assemblies should be conducted; the 2013 Telecommunications Law which criminalizes defamation (section 66d)

¹⁶⁴ A/HRC/39/CRP.2

and allows the government to intercept information that threatens national security or the rule of law; the 1923 Official Secrets Act; the 1908 Unlawful Associations Act; and Sections 500 and 505 of Penal Code concerning defamation and incitement. While the 2014 News Media Law contains protections for press freedom, all types of media remain under the unrestricted control of the government through the Media Council.

The Myanmar Human Rights Commission (MHRC) is the national human rights institution of Myanmar. Established in September 2011, it was given a B status accreditation in November 2015, thus noting only partial compliance with the Paris Principles.

3. Implementation of the Declaration

There are no laws, policies and practices that specifically identify and protect the rights of human rights defenders. The government has stated carrying out seminars, training courses, workshops, and educational activities on human rights in cooperation with international organizations and that it is actively providing for a complaints mechanism through the MHRC. The government has been releasing political prisoners since 2011. In April 2018, the government released 36 political prisoners along with over eight thousand other prisoners under a presidential pardon. However, human rights groups were disappointed that around 90 other political prisoners were not released.

It has been reported that human rights defenders highlighting human rights violations by the military have been criminalised. In September 2018, two Reuters journalists, Wa Lone and Kyaw Soe Oo, were sentenced to seven years of imprisonment under the Official Secrets Act for reporting on military abuses against Rohingya Muslims. In May 2016, Khaing Myo Htun, deputy information officer of the Arakan Liberation Party (ALP) was charged with sedition and incitement under sections 505(b) and (c) of the Penal Code for releasing a statement saying that the Army had imposed forced labour and committed other violations against civilians in Rakhine State while it was fighting the Arakan Army. He was sentenced to 18 months of imprisonment, and was only released in February 2018 after serving his sentence.

In another case in December 2016, Kachin pastors Dumdaw Nawng Lat and Langjaw Gam Seng were detained for assisting journalists reporting on military air strikes near the town of Monekoe. In November 2017, both were sentenced to two years and three months of imprisonment under the 1908 Unlawful Associations Act and the 2012 Import and Export Law. Dumdaw Nawng Lat was sentenced to an additional 2 years for defamation under Section 500 of the Myanmar Penal Code. They were released in April 2018 through a Presidential amnesty.

According to credible sources, lawyers and journalists have been threatened, killed, tortured, and disappeared. In January 2017, Ko Ni, a prominent Muslim lawyer, democracy advocate and advisor to the NLD was shot dead at Yangon International Airport while returning from an interfaith conference in Indonesia. Another human rights lawyer, Robert Sann Aung, received numerous death threats in 2017 connection with his work on reforming the 2008 Constitution drafted by the military. In September 2014, Aung Kyaw Naing (also known as Par Gyi), a freelance journalist covering a fight between the Army and fighters from the Democratic Karen Benevolent Army (DBKA) was arrested and detained near Kyaikmayaw Township in Mon State. While in detention, he was shot dead, and forensic examination of his body showed signs of torture. In December 2016, Soe Moe Tun, a journalist with Eleven Media Group, was murdered while reporting on the illegal logging industry.

Journalists and media workers have also been criminalised. In June 2017, three media workers, Aye Nai, Pyae Phone Naing and Lawi Weng were arrested and charged under the Unlawful Associations Act for communicating with an unlawful group after returning from an area controlled by an armed ethnic group operating in Shan State, northern Myanmar. They were subsequently released in August 2017. In 2016, Wai Phyo and Than Htut Aung of Eleven Media were subject to defamation charges under section 66d of the Telecommunications Law for their report alleging corruption dealings by Rangoon's chief minister. Similarly, Ko Swe Win, chief editor of Myanmar Now, who was arrested in July 2017 for defamation charges under the same law for Facebook posts he wrote about a Buddhist monk.

Land and environmental defenders face very high risks. As an example, in December 2014, Daw Khin Win, a land rights activist in Mandalay region was killed by the police and others injured while protesting the Letpadaung copper mine. This occurred after a high profile parliamentary commission released a report investigating violence against thousands of protesters in November 2012, in which water cannons, tear gas, and white phosphorus (prohibited in internal law) were used. A committee set up to implement recommendations made by the commission has been criticized widely for its lack of transparency and slow implementation of change. Other cases include the killing of Karen woman defender Naw Chit Pandaing (Eh Paw Tel), who was working with the Mine Advisory Group (MAG) and was stabbed to death by an unknown assailant in Dawei township, Tanintharyi Region in November 2018; the killing of Mr. O. Moo by Tatmadaw soldiers in Karen State in April 2018; and the killing of Mr. Htay Aung, a member of the Federation of National Peasant Union (FNPU), who was beaten to death by a mob in Shan State in October 2017.

Freedom of assembly in Myanmar is of serious concern. In May 2018, three Kachin activists, Lum Zawng, Zau Jat, and Nang Pu, who have organized a rally to demand safe passage for civilians trapped in conflict in Kachin state were charged with defamation under section 500 of the Penal Code. Lum Zawng and another organizer of the rally, Sut Seng Htoi, were also charged and sentenced to pay a fine for violating the Peaceful Assembly and Peaceful Procession Law. In May 2016, student leaders – including Htet Aung Lin, Phone Htet and Jue Jue Than – leading an interfaith “peace walk” of almost 100 people in downtown Rangoon were charged with violating Article 19 of the Peaceful Assembly and Procession Law for following an unauthorized route. In March 2015, 127 students and monks were arrested in protests calling for changes to the education reform.

Human rights defenders have been criminalized for opinions expressed through social media and online platforms. In November 2016, NLD official Myo Yan Nuang Thein was subject to criminal defamation charges under section 66(d) of the 2013 Telecommunications Law for his post that criticized the military's handling of the 9 October 2017 attacks on border guard posts and subsequent violence in northern Rakhine State. Ma Sandi Myint Aung was again charged with criminal defamation for insulting Aung San Suu Kyi and Aung Win Hlaing was jailed nine months for calling the President “idiot” and “crazy” on Facebook. Ko Hla Phone was also charged for allegedly posting digitally altered images of Thein Sein and military chief Min Aung Hlaing. Aung Ko Ko Lwin charged for posts critical of a State chief minister in January 2018.

The Special Rapporteur's communications have focused on the threats and attacks against laws, the criminalization of journalists on charges of defamation, and the release of political dissidents and human rights lawyers. Some defenders were accounted for and released by the state, whilst others were not.

4. Issues and Trends

Human rights defenders have faced serious risks for highlighting human rights violations by the military and for defending their right to land and the protection of the environment. Women human rights defenders have been subject to gendered attacks, including sexual violence. The Special Rapporteur urges the State to desist from harassing and criminalizing human rights defenders, especially journalists, media workers, lawyers, and others working to expose human rights violations committed by the military. Of grave concern is the use of sexual violence, torture, and killings to silence human rights defenders, as well as the culture of impunity that prevails for such acts. All reports of threats and attacks against human rights defenders must be investigated promptly and with independence and impartiality. Perpetrators must be held accountable for their actions. The Special Rapporteur calls on the government to release all remaining political prisoners who were imprisoned for the legitimate exercise of their rights.

The Special Rapporteur calls for the government to review, amend and repeal all laws that restrict the right to freedom of opinion, expression, association and assembly. He urges the State to adopt laws, policies and practices that protect the rights of human rights defenders. Such protection mechanisms should be sensitive to the specific needs, circumstances, and risks of defenders, including women human rights defenders, land and environment rights defenders, journalists, and defenders working on conflict zones. He calls on the government to support and strengthen the MHRC so that it fully complies with the Paris Principles. The MHRC should develop a programme of work on the security and protection of human rights defenders. The Special Rapporteur recommends that the government become party to the other core human rights treaties, in particular, the ICCPR and its two Optional Protocols, the ICESCR and its Optional Protocol, the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and its Optional Protocol, and the Convention for the Protection of All Persons from Enforced Disappearance.

Philippines

1. National Context and Human Rights Defenders

Rodrigo Roa Duterte serves as the President of the Philippines since 2016. The government's War on Drugs has created a climate of insecurity and impunity for extrajudicial killings that affects human rights defenders. The Duterte Administration Year-End Report released by the government suggests that there were 20,322 deaths from 1 July 2016 to 27 November 2017 related to his anti-drug war. Duterte has fostered very harmful rhetoric against human rights defenders, labelling them as 'anti-nation', 'protectors of drug lords', 'communists', 'terrorists', and others. In 2018, through a court petition filed by the Department of Justice, the government released a list of 649 alleged terrorists which included many human rights defenders such as the UN Special Rapporteur on the rights of indigenous peoples, Vicky Tauli-Corpuz. President Duterte has also repeatedly threatened to harm and kill human rights defenders.

There is ongoing conflict between the government and communist groups, and between the government and Islamic extremist groups. Martial law was declared in Mindanao in May 2017

and was extended by Congress to last until the end of December 2018. The extension request cited threats of ISIS-inspired terrorists, local terrorist groups, and the New People's Army (NPA), the armed wing of the Communist Party of the Philippines (CPP). However, civil society groups have expressed deep concerns that martial law enables human rights violations – particularly against human rights defenders – to occur in the region.

The Philippines was included in the 2006 Global Survey. The Special Representative expressed serious concerns over the killing of defenders and noted that their work was particularly dangerous. The Special Rapporteur has requested to visit the Philippines but has been unsuccessful. Human rights defenders who face higher risks are those who defend farmers' rights, land and environmental rights, peasant rights, indigenous rights and labour rights. Activists and politicians aligned with the left, journalists, and lawyers are also subject to higher levels of threats and attacks.

The Philippines is a member of the Association of Southeast Asian Nations (ASEAN)

2. Legal and Policy Framework

The Philippines has ratified all the core human rights treaties except for the Convention for the Protection of All Persons for Enforced Disappearance. It has accepted individual complaints procedures under the Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and accepted the inquiry procedures under the Convention against Torture and the Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

The Constitution includes the protection of a range of rights but recognizes that they can be limited by domestic legislation for reasons of public interest, including safety, morals, and health. Administrative Order No. 35 (AO No. 35) which was adopted in 2012 by the previous government, provides for the creation of an inter-agency committee to address extra-legal killings, enforced disappearances, torture and other grave violations of the right to life, liberty and security of persons. AO No. 35 aims to secure the arrests and eventual convictions of perpetrators of human rights violations and to confront the continuing culture of impunity.

In 2007, the Supreme Court declared the Writ of Amparo, a “remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity. The writ shall cover extra-legal killings and enforced disappearances or threats thereof.” (Section 1, The Rule on the Writ of Amparo), and the Writ of Habeas Data which is a twin remedy concerned with violations or threats caused by the gathering, collection or storage of information about the aggrieved party.

However, several repressive laws threaten or restrict the rights of human rights defenders. The Human Security Act of 2007 (Republic Act No. 9372) defines terrorism and was used as the basis for the government to declare 649 people – including human rights defenders – as terrorists. This Act also enables the Court of Appeals to authorize the government to conduct interception and surveillance activities of suspected terrorists. In March 2018, the government passed Republic Act 10973 giving the Philippine National Police (PNP) chief and two senior officials of the Criminal Investigation and Detection Group the power to issue subpoenas to hasten crime investigations, thus enabling the police to compel persons to give

a testimony or documents. The Cybercrime Prevention Act of 2012 increases the punishments for criminal libel and give authorities excessive powers to monitor online information and shut down websites. Human rights defenders have also been criminalized using Articles 353-359 of the Philippines Revised Penal Code, concerning libel, defamation, and slander and Article 201 concerning immoral doctrines, obscene publications and exhibitions, and indecent shows. Despite an overwhelming call from defenders and others to disband paramilitary groups, President Duterte has further emboldened their use, through the use of ‘force multipliers’ in his counter-insurgency program “Oplan Kapayaapan”.

The Commission on Human Rights of the Philippines (CHR) is the constitutionally mandated national human rights institution that monitors the State’s compliance with human rights obligations. It has been fully accredited (level A), noting its full compliance with the Paris Principles. There is a focal point for rights defenders within the CHR. Over the years, the CHR has remained independent from the government, and has provided a critical voice against government actions on issues that affect human rights defenders. Due to its persistent efforts in defending rights, government officials have criticized the CHR and tried to drastically reduce budgetary funding for it. The CHR and its Chairperson Chito Gascon have also been subject to a defamation campaign, with threats and intimidation against them by high level public officials including the President. The CHR remains under resourced. It has yet to fully carry out investigations of alleged cases of extrajudicial killings and other human rights violations against defenders that has been brought to its attention, and has yet to develop a programme specifically for the protection and support of human rights defenders.

3. Implementation of the Declaration

There are no specific protection mechanisms for human rights defenders at risk in the Philippines. The Philippines has been considering legislation or a decree to protect defenders, and there are three pending legislative measures for the enactment of laws related to the legal recognition and protection of the rights of human rights defenders: House Bill No. 1617 filed by Rep. Carlos Isagani T. Zarate; House Bill No. 8128 filed by Rep. Edcel C. Lagman, one of the leaders of Mambabatas Para sa Karapatang Pantao (MAKATAO); and Senate Bill No. 1699 filed by Sen. Leila de Lima.

In their review of the Philippines in 2016, the UN Committee on Economic, Social and Cultural Rights (CESCR) expressed deep concern at the violence against and the killing of human rights defenders and called on the government to take positive steps to protect defenders, to ensure a safer and enabling environment for their work, to investigate all cases of threats and attacks, and to bring perpetrators – both state and non-state actors – to justice¹⁶⁵. Risks highlighted to the Committee included intimidation, judicial harassment, detention, disappearances, and extrajudicial killings. Furthermore, the Human Rights Committee in its review of the Philippines in 2012 expressed concern over reports of the surveillance of human rights defenders and political dissidents¹⁶⁶. The protection of defenders was a repeated recommendation by States in the third UPR review of the Philippines in 2017.

Of deep concern is the killing of human rights defenders. By January 2018, Karapatan has recorded the killing of 697 human rights defenders since 2001, of which 84 occurred under the Duterte administration. Front Line Defenders recorded 60 killings of human rights

¹⁶⁵ E/C.12/PHL/CO/5-6

¹⁶⁶ CCPR/C/PHL/CO/4

defenders in 2017 alone. Recent cases include Butch Rosales, a labour organizer working on issues related to the urban poor who was shot and killed by unknown assailants in Cebu August 2018 and Father Marcelito “Tito” Paez, a former priest and regional coordinator of the Rural Missionaries of Philippines in Central Luzon who was shot dead by unidentified assailants in Nueva Ecija in December 2017.

The stigmatization, defamation, judicial harassment, arbitrary arrest and criminalization of defenders is a key area of concern. It has been reported that human rights defenders are subject to smear campaigns and online harassment. Government officials have tried to connect human rights defenders with the drug trade, communist groups, or terrorist groups. In what could be considered to be part of a politically motivated defamation campaign, Senator Leila M. De Lina, former justice secretary and a critic of Duterte’s War on Drugs, was arrested in February 2017 and detained under the Dangerous Drugs Act for allegedly accepting money from ‘drug lords’. She has also been subject to intimidation, persecution and threats. In March 2018, Godfrey Pahang of the Rural Missionaries of the Philippines was arrested and charged with possessing live ammunition with allegations that he was linked to the Communist Party of the Philippines. Additionally human rights defenders have been subject to arbitrary arrest and prosecution, including over trumped up charges. Human rights defenders and political dissidents also report some form of surveillance by law enforcement personnel.

Human rights defenders are also vilified publicly, often through media and online campaigns, with accusations of crimes, and accusations that they are part of or support terrorist groups. In May 2018, the UN Assistant Secretary General for Human Rights, Mr. Andrew Gilmour, raised concerns about the inclusion of human rights defenders in the government’s list of terrorists.

The Philippines also continues to be considered one of most dangerous places in the world for journalists. Reporters Without Borders highlighted the killing of four journalists in 2017. In October 2017, Christopher Iban Lozada, a radio broadcaster with DBXF Prime Broadcasting Network was shot and killed by unidentified men in Bisling in Surigao del Sur province. In March 2017, Joaquin Briones, a columnist for a national tabloid newspaper Remate was shot in the back and killed in Milagros in Masbate province by unknown assailants. In 2009, 32 journalists were amongst 58 people massacred in the town of Ampatuan in Maguindanao province on the island of Mindanao in one of the worst cases of election-related violence. Aside from physical attacks and killings, journalists have also been subject to intimidation, website attacks, libel, and judicial and administrative harassment. In January 2018, the Securities and Exchange Commission (SEC) revoked the Certificate of Incorporation of Rappler, an independent online newspaper that has been openly critical of the government, on the basis that it violated laws barring foreign ownership.

According to Global Witness, 48 environmental defenders were killed in 2017, making the Philippines one of the countries with the highest number of killings in Asia. In February 2017, Renato Anglao, Secretary General of the Tribal Indigenous Oppressed Group Association (TINDOGA) working on human rights violations related to agri-business plantations was shot and killed by unidentified men in Quexon in Bukidnon province in Northern Mindanao. In December 2017, Sherwin De Vera, coordinator of regional environmental network Defend Ilocos in North Western Philippines, was arrested and charged for rebellion and multiple counts of attempted murder. In October 2017, indigenous rights defender Julito M. Otacan,

a member of Tagdumahan Indigenous Peoples' Organization, was arrested along with five others during a military raid and charged for the alleged possession of firearms and explosives. Additionally, in December 2017, eight indigenous rights defenders who were members of T'boli–Manubo Sdaf Claimants Organization (TAMASCO), were killed after being fired during an alleged firefight between the 33rd and 27th Infantry Battalion of the Philippine Army and the New People's Army (NPA).

From September 2013 to September 2016, the Task Force Detainees of the Philippines (TFDP) documented 76 cases of human rights violations and abuses affecting 330 defenders including the prominent cases of the extrajudicial killing of women human rights defenders Elisa Tulid and Gloria Capitan; the killing of urban poor rights defender Sixto Bagasala, Jr. and land rights defender Menelao Barcia; the attempted killing of indigenous rights defender Nestorio Ampudi; and the arrest and detention of land rights defender Antonio Tolentino (known as Apung Tony).

The risks faced by women human rights defenders are related to the promotion and reinforcement of misogynistic and hetero-patriarchal norms. Since taking office in June 2016, Duterte has ordered soldiers to shoot female rebels “in the vagina,” and made many other sexist remarks. The President made lewd comments towards the UN Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions whom he derided as a “daughter of a whore” after she attempted to investigate extrajudicial killings related to the War on Drugs.

The Association of Women HRDs in the Philippines (Tanggol Bayi) reports the killing of at least 17 women defenders between June 2016 and November 2017. As an example, Elisa Tulid, a leader of the farmer's group, Samahan ng Magsasaka sa Barangay Tala at Camflora, was killed in October 2013 due to her leadership of farmers in claiming their right to land. Moreover, in November 2017, Elisa Badayos, coordinator for Karapatan, and Eleuterio Moises, an organizer for the urban poor, were shot and killed in Negros Oriental province while on a fact-finding mission investigating human rights violations by a member of private army of a political clan. These are but a few examples of the systematic attacks faced by women defenders in the Philippines.

There are other legal remedies enshrined in the 1987 Constitution, and guaranteed under current legal system to uphold human rights, but recently the impartiality of the judiciary has been put into question. In June 2018, the Supreme Court granted the quo warranto petition to disqualify Maria Lourdes Sereno from her appointment as Chief Justice of the Supreme Court. The petition, filed by the Solicitor General, aroused much controversy; there are speculations that it has been politically motivated. This adds to the public's eroding trust in the proper checks and balances between the three branches of the government. In many cases, complaints by defenders about the alleged violations of their rights are not investigated or are dismissed without justification. For instance, complainants and witnesses on the killing of indigenous rights defender Datu Victor Danyan of TAMASCO in December 2017 feared for their lives and had to go into hiding, as reportedly violence continued in their community where complainants and witnesses reside and are accessible to suspected perpetrators.

Since 2006, the Special Rapporteur has sent numerous communications to the Philippines, receiving some replies. These expressed concerns over the treatment of human rights lawyers and activists, including threats, harassment, criminalization, enforced disappearances, and killings. The Special Rapporteur raised concerns about the hostile treatment of defenders by

the President and senior government officials, the culture of impunity, and the lack of adequate protection for journalists and human rights defenders.

4. Issues and Trends

The Special Rapporteur calls on the government to end immediately all forms of violations against human rights defenders, including extrajudicial killings and enforced disappearances. He urges the government to cease immediately the public stigmatization of human rights defenders, which can incite perpetrators to act against them, and instead to publicly recognize the legitimacy and importance of their work. As recommended in the 2017 UPR review, the State should develop protection mechanisms that protect and support human rights defenders. In doing so, the government should recognize the specific needs and circumstances of groups of defenders facing high risks, such as women human rights defenders, indigenous human rights defenders, land and environmental rights defenders, and journalists. He urges the government to strengthen support for the Commission, including through the provision of specific resources dedicated to the security and protection of human rights defenders.

The Special Rapporteur calls for the government to review, amend and/or repeal laws that restrict the right to freedom of opinion, expression, assembly, and association. The government should review and desist from employing counter-insurgency measures which result in extra-judicial killings, enforced disappearances, and human rights violations. The government should ensure that law enforcement officials are properly trained and equipped to respect and protect human rights, and that their actions are subject to effective oversight. Special Rapporteur encourages the government to strengthen witness protection mechanisms to inspire confidence and encourage victims and witnesses to provide testimony without fear of reprisals. The government must reaffirm its commitment to the rule of law and ensure that human rights violations are properly investigated, including those allegedly committed by state actors, to make the perpetrators accountable and mitigate the culture of impunity.

Singapore

1. National Context and Human Rights Defenders

Human rights defenders are subject to restrictions on their freedom of speech, assembly and association. The media is censored by the government; the freedom of association and assembly is restricted. Those who express political dissent have been prosecuted for defamation, contempt and/or sedition, or more generally on grounds of national security and public order. The human rights defenders most at risk are those who criticize the government or the judiciary and those engaged on political and civil rights issues, such as politicians, civil society actors, or as artists.

Singapore was not included in the 2006 Global Survey. It is a member of the Association of Southeast Asian Nations (ASEAN).

2. Legal and Policy Framework

The State is a party to a few human rights treaties, namely Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), CRC and its Optional Protocol on the involvement of children in armed conflict, CERD and CRPD. Singapore has not withdrawn reservations to articles 2, 11 and 16 of CEDAW. As a member of ASEAN, Singapore adopted the ASEAN Declaration on Human Rights in 2012.

The Constitution of Singapore guarantees the right to freedom of speech, expression, assembly and association, but permits these rights to be restricted by Acts of Parliament on specific grounds. In relation to the freedom of speech and expression, these include restrictions to provide against contempt of court, defamation or incitement to any offence (Article 14(2a)).

The Administration of Justice (Protection) Act of 2016 sets out the law of contempt of court, identifying different types of contempt and the punishment for such offences. Of concern is the offence of ‘contempt by scandalizing court’ and sub judice contempt, which discourages expressions of criticism about the administration of justice. Prior the enactment of this law, the government used common law to bring contempt proceedings against critics of the judiciary.

Human rights defenders are concerned that the Public Order and Safety (Special Powers) Act (POSSPA) passed in March 2018 and which gives the police powers to deal with “any incident or likely incident involving serious violence or large-scale public disorder” might be used to prevent peaceful protests. Amendments to the Public Order Act in April 2017 tightened restrictions on the right to freedom of peaceful assembly. It provides the police commissioner with the authority to reject a permit application for an assembly or procession “directed towards a political end” and that is organized by or involves a non-citizen or a non-Singaporean entity (section 7h).

In relation to the freedom of association, the Societies Act requires all societies to be registered. The Registrar can however refuse to register a society on the basis that the society might be used “for purposes prejudicial to public peace, welfare or good order in Singapore” (section 2b) or that it “would be contrary to the national interest” (2d). Similarly, applications for registration as an entity under the Limited Partnership Act can be rejected on these same grounds.

The media is tightly controlled through the Newspaper and Printing Presses Act, the Broadcasting Act and the Undesirable Publications Act which, inter alia, enable sanctions on broadcasters of content deemed critical of the government, offensive of public interest or order, national harmony or good taste and decency. The Info-communications Media Development Authority (IMDA) has power to ban films. In January 2018, the Film Act was amended, giving IMDA officers powers to enter, search and seize evidence from private homes. The Board of Film Censors must pre-approve all films and videos shown in Singapore. Theatre productions must submit their scripts for government approval to obtain a mandatory license under the Public Entertainments and Meetings Act.

The Internal Security Act (ISA) and the Criminal Law (Temporary Provisions) Act (CLTPA) permits indefinite detention without trial. Singapore does not have a national human rights institution, despite recommendations made under the UPR process.

Singapore lacks a national human rights institution that has been accredited according to the Paris Principles.

3. Implementation of the Declaration

There are no national laws or policies on human rights defenders. Speakers' Corner, in Hong Lim Park, is the only space where an assembly can be held without a police permit. However, every person or entity intending to speak or participate in organizing an event there must apply to book a place on the National Parks website. There are CCTV cameras in the area and only citizens and permanent residents are permitted to participate in assemblies there. In May 2017, the organisers of Pink Dot, an annual event expressing support for LGBT persons, were instructed by the police to place barricades around Speakers' Corner and check the identity cards of every participant, which increased the cost and difficulty of holding the event considerably. A group of 10 foreign companies wrote to the Singapore police for permission to sponsor 2017's Pink Dot event but their application was refused. At Speakers' Corner, speeches should not touch on language, race, religion and politically sensitive issues.

Those who criticize the government have been subject to criminal and civil defamation, sedition, and contempt proceedings. In July 2010, Mr Alan Shadrake, a UK citizen, was fined and imprisoned for 6 weeks in Singapore for publishing a book which was critical of Singapore's death penalty. In 2018, artist Mr Seelan Palay was charged under 16(2)(a) of the Public Order Act for participating in a solo public performance as he walked from Hong Lim Park to the National Art Gallery and Parliament House in protest of the detention without trial of the elected Member of Parliament, Mr Chia Thye Poh, who was finally released after 32 years. In 2017, lawyer Eugene Thuraisingam was fined for contempt of court after posting a poem on Facebook about the execution of his client, Muhammed Ridzuan Mohd Ali, for heroin trafficking. In 2015, the Prime Minister Lee Hsien Loong successfully sued the blogger Roy Ngerng for a blog post criticizing the Prime Minister's role in managing the government's Central Provident Fund. In 2013, cartoonist Leslie Chew was arrested, detained and questioned under the Sedition Act for expressing criticism of the judiciary.

Human rights defender Jolovan Wham has been charged repeatedly for exercising his right to freedom of expression and assembly, including for an indoor forum on activism and democracy during which an activist from Hong Kong, Joshua Wong, was skyped in to speak; a silent and peaceful protest commemorate the Marxist Conspiracy of 1987; and for a peaceful candlelight vigil to mark the hanging of a person who was convicted of drug trafficking. In July 2018, he and a politician from the Singapore Democratic Party John Tan were the first to be charged under the Administration of Justice (Protection) Act for comments on Facebook expressing a critical view of the judiciary.

Migrant workers do not have the legal rights to form their own associations or to be elected as leaders of trade unions (unless given permission by the Registrar of Trade Unions) and are vulnerable to deportation. In 2012, 171 migrant workers employed as bus drivers went on strike over unequal pay, an action deemed as illegal strike by the government. Filmmaker, Lynn Lee, who documented the cases of 4 drivers who alleged that they were threatened and physically abused while in police custody, was called in for questioning and had her property seized. The Attorney General subsequently warned her for contempt of court. In 2013, 21 Malaysians protesting election results in Malaysia in a public place were arrested; the work pass of one was revoked and the visit passes of two others cancelled.

T Project, which provides support to transgender persons in Singapore, had their application for registration as a non-profit organization rejected by the Registrar of Companies on the basis that it would be “contrary to the national security or interest” (section 20(2)(b) of the Companies Act). Similarly, the Registrar of Societies, under the Societies Act, has refused organisations working on LGBT issues on the basis that “it is contrary to the public interest to grant legitimacy to the promotion of homosexual activities or viewpoints”.

The Special Rapporteur has sent several communications with respect to the introduction of laws that restrict rights related to the promotion and protection of human rights (in 2017); the harassment and criminalization of human rights defenders, including for expressing concerns through social media and online platforms (in 2016); the prosecution and detention of bloggers, including a child (in 2015); a contempt of court charge against a prominent LGBT rights defender (in 2013); legal sanctions against migrant workers related to a trike for equal pay (in 2012); the denial of entry and deportation of members of civil society groups wishing to attend meetings in Singapore (in 2006); and the arrest and subsequent forcible commitment of a human rights lawyer to a mental hospital, which the government denied (in 2006).

4. Issues and Trends

Singapore criminalizes human rights defenders who express criticism of the government or the judiciary. The government monitors social media websites and online platforms, and restricts the freedom and independence of the media. It censors films, theatre performances, and publications. It imposes strict restrictions on the freedom of assembly and association. The Special Rapporteur recommends that Singapore ratify the International Covenant on Civil and Political Rights and its Optional Protocols; the International Covenant on Economic, Social and Cultural Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party. He recommends that Singapore establish an independent national human rights institution in accordance with the Paris Principles with the mandate to promote and protect the rights of human rights defenders. He urges the government to amend and/or repeal laws that restrict the right to freedom of opinion, expression, association and assembly and to desist from criminalizing human rights defenders.

Thailand

1. National Context and Human Rights Defenders

The Kingdom of Thailand (Thailand) is currently led by a military government, the National Council for Peace and Order (NCPO). The current Prime Minister, General Prayut Chan-o-cha, has repeatedly pushed back dates for elections, which are now scheduled for February 2019.

Thailand was included in the Global Survey 2006. The Special Representative expressed concern about the numerous cases of the arrest, detention, prosecution and alleged or attempted murder of human rights defenders; widespread instances of extrajudicial killings; and reports of ill-treatment by the police and members of armed forces. The Special

Representative was also concerned about public statements made by government officials denigrating NGOs, efforts to control NGO funding, and the alleged surveillance and harassment of some NGOs through State security mechanisms. The Special Representative also highlighted the lack of sufficient resources allocated to the National Human Rights Commission of Thailand, and concern over the Decree on Government Administration in State of Emergency that came into effect on 16 July 2005 which allowed, inter alia, detention without trial for seven days, wiretapping by court approval, news censoring, the banning of the sale of publications, and authorities to be exempt from civil and criminal charges.

The military government suppresses dissents, restricts the freedom of expression and assembly, and criminalises human rights defenders, including hundreds of pro-democracy activists, academics, civil society leaders, journalists, lawyers, and members of political groups. Many defenders have been subject to investigation and prosecution with lengthy proceedings. Defenders most at risk include land and environmental defenders, defenders working on business and human rights, and defenders working in conflict zones in the border provinces of Southern Thailand where impunity is widespread.

Thailand is a member of the Association of Southeast Asian Nations (ASEAN).

2. Legal and Policy Framework

Thailand is party to most of the international human rights treaties. It has signed but not ratified the Convention for the Protection of All Persons from Enforced Disappearance (CED). Thailand has accepted individual complaints procedures for Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities. It has accepted inquiry procedures for the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), CEDAW and CRC. As a member of the Association of Southeast Asian Nations (ASEAN), Thailand adopted the ASEAN Declaration on Human Rights in 2012.

After the coup, the NCPO promulgated the 2014 Interim Constitution, replacing the 2007 Constitution, which itself was enacted to replace the 2006 Interim Constitution introduced after the coup that year. Article 44 of the 2014 Interim Constitution provides the Prime Minister with wide powers to issue orders without legislative, judicial or parliamentary oversight. The Interim Constitution was replaced with the Constitution of the Kingdom of Thailand B.E. 2560 in 2017. Written by a committee appointed by the army, the 2017 Constitution was approved through a tightly controlled national referendum in August 2016. The 2017 Constitution limits the powers of political parties during elections, enables the formation of a junta-appointed Senate, and adopts a proportional voting system that limits the influence of major political parties.

Since 2014, the NCPO has implemented a new institutional and legal framework that severely limits the right to promote and protect human rights. In April 2015, using the powers provided by Article 44 of the Interim Constitution, Prime Minister General Prayuth issued the Head of the NCPO Order Number 3/2558 (3/2015) on Maintaining Public Order and National Security, thus lifting martial law. This Order provides 'prevention and suppression officers' (drawn from the armed forces) with powers to arrest, investigate, search premises without a warrant, freeze assets, and to carry out other acts that prevent and suppress offences against the King, against the security of the state, and violations of announcements or orders of the NCPO or

the Head of the NCPO. This Order also prohibits political gatherings of five or more persons and allows a person suspected of committing an offence to be detained for up to seven days without charge.

The Head of the NCPO Order Number 3/2558 (13/2016) provides the Royal Thai Armed Forces with sweeping powers to prevent and suppress categories of crime. This Order grants a form of immunity from prosecution for those acting under it; that actions taken under this Order are not subject to judicial review; and that this Order provides untrained military personnel with broad powers.

Other laws inconsistent with international human rights standards that have been used to harass and criminalise human rights defenders include the Criminal Code of Thailand, which sets out the offences of sedition, defamation (carrying both criminal and civil punishment), lèse majesté, and libel; the Public Assembly Act 2015 sets out strict rules for public gatherings, imposing penalties of up to 10-years imprisonment; and the Computer Crimes Act (No. 2) BE 2560 (AD 2017) amending the Computer Crimes Act BE 2550 (AD 2007) allowing the government to restrict free speech, conduct surveillance, conduct searches of personal data without a warrant, and undermines the freedom to use encryption and anonymity.

The National Human Rights Commission of Thailand (NHRCT) is the national human rights institution of Thailand. Its accreditation was downgraded to B in November 2015, noting only partial compliance with the Paris Principles. The NHRCT has been weakened by the introduction of an organic law on the NHRCT in August 2017. Since the coup, there have been several measures to reduce its effectiveness as an independent human rights body, including a non-transparent selection process for Commissioners and a proposed merger between the NHRCT and the Ombudsman Office in 2015. Human rights defenders have criticised the NHRCT for its failure to respond to human rights issues in a timely manner, and its lack of functional immunity, neutrality, and independence.

3. Implementation of the Declaration

Thailand does not have laws or policies that recognize and protect the rights of human rights defenders. In the second cycle of the UPR in 2016, the Thailand delegation stated that in relation to the killing of land rights defenders, the government acknowledged its responsibility in bringing perpetrators to justice and in supporting the families of those defenders through the available public redress and compensation scheme. In August 2017, the Ministry of Foreign Affairs stated in a press release that Thailand was fully aware of the importance of ensuring the rights of all human rights defenders, including women human rights defenders; that the Ministry of Justice has published a Handbook to Protect Human Rights Defenders in 2016; and that human rights defenders have also been included as a target group specifically in the draft 4th National Human Rights Plan for 2019 – 2023. Thailand National Action Plan on Business and Human Rights has a chapter on human rights defenders, but civil society groups highlighted that they were not given sufficient time to comment meaningfully on the draft. On the whole, there is stark contrast between these positive affirmations about human rights defenders and their treatment on the ground.

There are numerous allegations of serious acts of reprisals, threats and attacks against human rights defenders, including journalists, community leaders, and their relatives, with reports of torture, ill-treatment, extrajudicial executions and enforced disappearances of human rights defenders, including in the context of the southern border provinces. Enforced disappearance

is used as a method of harassment and repression against human rights defenders by the security and military forces. Impunity remains for the disappearance of Pholachi Rakcharoen (known as “Billy”), a human rights defender from the Karen community in 2014; and the disappearance of Thai-Muslim lawyer Somchai Neelaphaijit in 2004, Lahu tribe community member Jahwa Jalo in 2003, and Myaleng Maranor.

The right of defenders to freedom of expression remains of serious concern. Criminal proceedings, especially criminal defamation charges, have been brought against human rights defenders, including activists and journalists. One example is the student leader Jatupat Boonpattaraksa, known as Pai Dao Din, who was sentenced in August 2017 to two and a half years of imprisonment for violating Article 112 of the Criminal Code related to *lèse majesté*. In February 2016, criminal charges under the Computer Crimes Act were also brought against Pornpen Khonkachonkiet, Somchai Homla-or and Anchana Heemmina of the Cross-Cultural Foundation and Duay Jai Group (Hearty Support Group) for releasing a report documenting 54 cases of torture and ill-treatment in Thailand’s southern provinces, allegedly perpetrated by the Royal Thai Police and Royal Thai Army. In March 2017, the Thai military announced that it would drop this criminal case.

Excessive restrictions have been imposed on the freedom of peaceful assembly since the military coup of 2014. It has been reported that the military and police have forced organisers or hosting venues to cancel political events, seminars, and academic panels on political and human rights issues on grounds that the events threatened stability and national security. Hundreds of people have been arrested for having organized or taken part in peaceful gatherings. As an example, in a peaceful pro-democracy protest on 27 January 2018 where around 100 individuals gathered on a walkway outside a central Bangkok shopping centre, MBK, criminal proceedings were brought against 39 individuals for violating the Public Assembly Act 2015. Nine of them were also charged with sedition. Similarly, in May 2018, fifteen pro-democracy activists participating in a peaceful march calling for elections were arrested and charged with sedition and for violating the Public Assembly Act 2015.

According to credible sources, land and environment defenders and those working on corporate accountability have faced particularly high risks and have been targeted by both state and non-state actors, sometimes operating in collusion. Vigilantes associated with business actors threaten, intimidate and attack community members. As an example, in May 2014, more than 100 masked men attacked, injured and detained villagers from Na Nong Bong and leaders of the community-based organization Khon Rak Ban Kerd Group advocating for the protection of the environment against mining operations in Loei Province. Other examples are the alleged killing of Mr. Payao Panroj, a farmer and environmental human rights defender who had been campaigning against illegal encroachment into rainforest around Tako Mountain; the disappearance of land rights defender Mr. Den Kamlae who opposed the Kohn San Forest Project; the attempted killing of human rights defender Mr. Supoj Kansong, a relative of a member of the Southern Peasants Federation of Thailand (SPFT), and threats and intimidation against members of the Network of Individuals Affected from Gold Mining. Many women human rights defenders, particularly indigenous people, landless peasants, rural women, have been targeted, prosecuted, attacked, and, in extreme cases, even killed, such as Montha Chukaew and Pranee Boonrat, members of the SPFT who resisted the Jiew Kang Jue Pattana palm oil company and were brutally killed in 2012.

An issue of serious concern is the use of Strategic Lawsuit Against Public Participation (SLAPP) to intimidate and silence dissent. These lawsuits burden human rights defenders in terms of time and cost for legal defense. As an example, migrant rights defender Andy Hall was sued in February 2013 by the Thai company Natural Fruit for defamation and allegedly broadcasting false information to the public in violation of the Computer Crime Act. In December 2016, he was found guilty and sentenced to three years of imprisonment and a fine of 150,000 THB. However, in May 2018, more than five years later, the Appeals Court overturned this decision, ruling that he had not acted unlawfully and deemed his work to be of public interest.

Since the Global Survey, the Special Rapporteur has issued several communications raising concerns about the treatment of human rights defenders, and the government has provided replies to many of them, justifying actions taken against human rights defenders.

4. Issues and Trends

Since 2014, the situation for human rights defenders has become grave. Despite assurances by the government that it will protect human rights defenders, state and non-state actors continue to harass, intimidate, and criminalizing them. Restrictive laws limit the freedom of opinion, expression, assembly and association. Of deep concern is the treatment of pro-democracy activists, land and environmental defenders, and defenders working on corporate accountability. Accountability is lacking, impunity persists, and the perpetrators of many defenders who have been killed or disappeared have not been brought to justice.

The Special Rapporteur recommends that Thailand become party to the other core human rights treaties, to remove reservations on treaties where it is a State Party, and take steps to ensure that the NHRCT operates independently and in full compliance with the Paris Principles. He urges the government to review, amend and repeal laws that have been used to curtail the right to freedom of opinion, expression, assembly and association. He urges the State to protect human rights defenders and to investigate cases of threats and attacks so that perpetrators can be brought to justice. He recommends that the government end all legal proceedings against human rights defenders who were arrested, charged and prosecuted for exercising their rights and fundamental freedoms. He strongly encourages the State to implement the Guiding Principles on Business and Human Rights and to ensure that businesses enterprises fully respect human rights.

Viet Nam

1. National Context and Human Rights Defenders

In the 2006 Global Survey, the Special Representative thanked the government for responding to all her communications except one. She noted that the government in almost all its replies denied that the persons mentioned were human rights defenders. The government considered the allegations to be inaccurate and falsified and in one response stated that the person in question was involved in “acts of espionage”. She noted that defenders were perceived with hostility; that they were at risk of arrest and detention based on vaguely defined ‘national security’ grounds; that defenders had been placed under house

arrest, and had been subject to physical assault and killings. The Special Rapporteur has requested a visit, but this has not been taken up by the government.

The government systematically restricts the right to freedom of expression, assembly and association. Citizens do not enjoy the right to a fair trial and to due process. Arbitrary detention is frequently used. The government tries to silence human rights defenders and bloggers, including through physical attacks, torture, criminalization, solitary confinement and degrading treatment in detention. The government exercises strict control on the media and the work of journalists. It takes harsh action against peaceful protests.

There are more than 100 political prisoners in Viet Nam, some serving lengthy prison sentences for the legitimate exercise of their rights. The right to fair trial and due process is not respected. Human rights defenders who face particularly high risks are those who criticize the government, including journalists, bloggers, labour rights defenders, and land and environmental rights defenders.

Viet Nam is a member of the Association of Southeast Asian Nations (ASEAN).

2. Legal and Policy Framework

Viet Nam is party to most of the core human rights treaties, except for the Optional Protocol of the Convention against Torture (CAT-OP), the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty (CCPR-OP2-DP), the Convention for the Protection of All Persons from Enforced Disappearance (CED), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). It has neither accepted any treaty-based individual complaints procedures nor treaty-based inquiry procedures. As a member of ASEAN, Viet Nam adopted the ASEAN Declaration on Human Rights in 2012.

Human rights and citizen's fundamental rights are guaranteed in Chapter 2 of the Constitution of Viet Nam, adopted by the National Assembly in 2013. However, several laws restrict the rights of human rights defenders. Decree 45 (2010) on the Organization, Activities and Management of Associations states that only "associations with special characteristics" – that is, national umbrella organisations affiliated with the CPV – are permitted to conduct advocacy and comment on policies (Article 33 and 34). Other articles in Decree 45 prohibit civil society organisations from engaging in activities harmful to "national security, social order, ethics and national fine customs [and] practices", and state that they can only participate in programmes, projects, research and consultations if requested by government agencies. A draft law proposed to increase registration requirements for civil society organisations and prohibit the receipt of foreign funding has been met with widespread protest and has since stalled.

The 2016 Law on Belief and Religion that came into effect in 2018 imposes strict registration requirements and enables state interference into the activities and internal affairs of religious groups. It provides the authorities with discretion to penalise unsanctioned religious activity. It includes a clause prohibiting religious practices that damage "the national great unity, harm state defence, national security, public order and social morale" (Article 5).

The Penal Code, with amendments from 2015 that came into effect in 2018, is often used against human rights defenders. Offences include "activities aiming to overthrow the people's administration" (Article 109, previously Article 79 in the 1999 Penal Code); "undermining

national unity policy” (Article 116, previously 87); “conducting propaganda against the State” (Article 117, previously 88); “disrupting security” (Article 118, previously 89); “causing public disorder” (Article 318, previously 245) and “abusing democratic freedoms to infringe upon the interests of the State” (Article 331, previously 258). The amended Penal Code also has a provision through which defense lawyers can be held liable for not reporting some types of serious crimes committed by their client.

The government regulates the use of the Internet through Decree No. 72/2013/ND-CP of July 15, 2013, on the management, provision and use of internet services and online information. This Decree lists prohibited acts, which include using the internet to oppose the State, undermine national security, sabotaging the “great national unity bloc”, sowing hatred, disclosing state secrets, and slandering organisations and individuals (Article 5). Decree No. 174/2013/ND-CP of November 13, 2013 on penalties for administrative violations against regulations on post and telecommunications, information technology and radio frequency, which came into effect in January 2014, provides harsh fines of VND 100 million (approx. US\$4,283) for anyone who “criticizes the government, the Party or national heroes” or “spreads propaganda and reactionary ideology against the state” on social media.

The new Cyber Security Law passed in June 2018 requires global technology firms such as Facebook and Google to store ‘important’ personal data in Viet Nam, open local offices, remove offensive content upon the request of the government. It also allows the government to conduct and audit of their information systems. The 2016 Law on Access to Information states the information that citizens are not allowed access to and enables the authorities to penalise those found share public information that might harm State interests and national security, amongst others.

In 2005, the government adopted Decree 38/2005/ND-CP of March 18, 2005, on promulgating a number of measures to guarantee the public order. This Decree prohibits gathering in large numbers outside state agencies and public places, and that obstruct the normal operation of the CPV or the government. It requires organisations to apply for permission to assemble. In 2006, the Ministry of Public Security issued a circular for the implementation of Decree 38, which prohibits gatherings of more than five people without permission.

Viet Nam does not have an independent national human right institution that is compliant with the Paris Principles. Viet Nam has established a Human Rights Steering Committee, chaired by the Minister of Foreign Affairs and supported by the Standing Office of the Committee in the Ministry of Public Security. The Committee is mainly responsible for coordinating human rights activities at ministerial level.

3. Implementation of the Declaration

There are no laws, policies, or practices that protect the rights of human rights defenders. The UN Special Rapporteur on freedom of religion or belief noted in his report on his visit to Viet Nam in 2014 the dismissive and negative attitude towards the rights of minorities and individuals practicing unregistered religions or beliefs and the invocation of “majority interests”, “national unity and harmony” or “public disorder” to regulate, limit or restrict freedom of religion or belief.

Of deep concern is the judicial harassment, criminalization, detention without trial, and imprisonment of human rights defenders in the exercise of their rights. In April 2018, eight members of the Brotherhood for Democracy, an association of activists founded in 2013 that provide human rights education and legal assistance to victims of human rights violations were found guilty of carrying out activities aimed at overthrowing the people's administration (Article 109, Penal Code). Nguyen Van Dai, Truong Minh Duc, Nguyen Trung Ton, Nguyen Bac Truyen, Le Thu Ha, Pham Van Troi, Nguyen Van Tuc, and Tran Thi Xuan were given lengthy sentences of between 13 years imprisonment and three years of probation to 7 years imprisonment and 1 year probation. They were held in prolonged detention awaiting their trial and have extremely limited access to families and legal counsel. In June 2018, Nguyen Van Dai and Le Thu Ha were released from prison and exiled to Germany.

In November 2016, pro-democracy activist Luu Van Vinh and founder of the Coalition for Self-determined Vietnamese People was subject to arbitrary arrest and held in incommunicado detention for one year before being transferred to a detention facility in Ho Chi Minh City. He was arrested under Article 79 of the 1999 Penal Code for "carrying out activities aimed at overthrowing the people's administration". He remains detained. In September 2018, his family was told that he would likely be put on trial in October.

In December 2016, Tran Anh Kim and Le Thanh Tung were also arrested under Article 79 of the 1999 Penal Code, for attempting to form a pro-democracy organisation. Tran Anh Kim was sentenced to 13 years of imprisonment and five years of house arrest while Le Thanh Tung was sentenced to 12 years of imprisonment and four years of house arrest. They had already been arrested and served other prison sentences for their human rights work.

Human rights defenders report being physically attacked by policemen or provocateurs believed to be acting on behalf of the authorities. In August 2018, woman defender, blogger and journalist Pham Doan Trang was detained, taken to a police station, interrogated and beaten. She was hospitalised for her injuries, and subsequently released.

There are consistent reports of torture, cruel, inhuman and degrading treatment in Viet Nam's prisons and detention centres. In August 2018, pro-democracy activist Nguyen Viet Dung and blogger, activist and trainer Nguyen Van Hoa testified at the trial of Le Dinh Luong that their written confessions implicating him had been obtained under torture. After their testimony, they were forcibly removed from court, placed back into detention, and denied access to their lawyers. Nguyen Viet Dung had been arrested in September 2017 for disseminating anti-state propaganda under the Penal Code for Facebook posts, while Nguyen Van Hoa had been sentenced to seven years of imprisonment in November 2017 for his reports on the incident of the toxic waste spill by the Formosa Ha Tinh Steel plant in 2016.

Similarly, in June 2018, woman human rights defender and blogger Nguyen Ngoc Nhu Quynh, imprisoned in Prison Camp No. 5 in Northern Thanh Hoa Province, reported to her mother during a visit that she was placed for long periods of time in solitary confinement, frequently in darkness, and subject to verbal abuse by fellow inmates. She reported that prison guards did not protect her from abuse and instead might be encouraging this behavior. Nguyen Ngoc Nhu Quynh, also known as Me Nam (Mother Mushroom) was arrested in May 2017 for advocating for the victims of the Formosa toxic waste spill and kept in detention until her trial in June 2017 when she was sentenced to 10 years for "conducting anti-state propaganda".

She has been repeatedly targeted for her work, including through smear campaigns, arrests, and physical attacks.

As the above examples show, bloggers have been specifically targeted. Tran Thi Nga was arrested in January 2017 under Article 88 of the 1999 Penal Code for “conducting propaganda against the State” because of her posts on social media and online platforms that criticize the government. Before her arrest, she had already experienced years of harassment, intimidation, and violent physical assault. She was sentenced in July 2017 to nine years of imprisonment followed by five years of house arrest. The CPV and government control all types of media and private ownership or operation of media outlets are prohibited.

The government suppresses demonstrations and disperses public assemblies. When people gathered in 2016 to demonstrate against the Formosa company after the waste spill, the authorities used teargas and excessive force to disperse the crowd. In June 2018, when thousands of people gathered in different places to protest a proposal to allow foreign firms to have 99 year leases in new special economic zones. The police detained protesters and subject some to beatings before releasing them.

Since 2006, the Special Rapporteur has raised a number of communications concerning the threats, physical assault, harassment, arbitrary arrest and detention of human rights defenders. In most cases the government did not provide a reply.

4. Issues and Trends

Human rights defenders are physically attacked, criminalized, given long sentences, held in detention without trial, and tortured and subject to degrading treatment while imprisoned. The government retains strict control over the media, restricts the registration and activities of civil society organisations, and suppresses peaceful assemblies. The Special Rapporteur urges the government to cease the criminalization of human rights defenders and to release all who have been detained and imprisoned for the legitimate exercise of their right to freedom of opinion, expression, assembly and association. He urges the government to ensure that the detention of prisoners adheres to the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and that everyone enjoys the right to a fair trial and due process. He calls for the government to review, amend and/or repeal laws that restrict the rights of human rights defenders, and to introduce legislation, policies and administrative practices that protect human rights defenders. He recommends that the government become party to the other core human rights treaties and to establish a national human rights institution that is fully compliant with the Paris Principles.

Western Asia

Armenia

1. National Context and Human Rights Defenders

Armenia is a parliamentary republic. The political landscape of the State has been moving through a period of transition from a semi-presidential to a parliamentary system of government, with Nikol Pashinyan elected to the position of Prime Minister in May 2018.

National elections followed weeks of mass protests across Armenia, against the ruling party and its veteran leader Serzh Sargsyan. This “Velvet Revolution” has had a significant positive effect on the situation of human rights defenders in Armenia, though the long term sustainability of various positive developments is unclear. Unemployment and poverty have remained significant challenges in the State. The unresolved conflict over Nagorno-Karabakh colours domestic politics and public discourse, including making more prominent State security concerns.

Civil society in Armenia is open, active and diverse, particularly relative to other countries in the region. A number of civil society organisations engage on human rights issues, including through participation in local networks and in international fora. Human rights defenders have been active regionally through the emergence regional networks of defenders, including the now closed South Caucasus Network of Human Rights Defenders.

At least before recent political developments, there has been a deterioration in the working conditions of human rights defenders in Armenia, with “increasing de facto restrictions on their activities.” The State controlled media have regularly sought to stigmatize and discredit the work of human rights defenders. There has been a lack of accountability for violations of the rights of defenders, particularly in regard to restrictions placed upon freedom of assembly and expression. Women human rights defenders and defenders of sexual orientation and gender identity rights (including defenders who are members of the LGBTQ community) face particular challenges in their work promoting and protecting fundamental human rights,

Armenia was included in the 2006 Global Survey. The Global Survey noted that the State had cited a wide range of legislation as implementing the rights articulated in the Declaration. While much of this legislation remains in force, it has only a tangential relationship to the Declaration (eg. the Diplomatic Service Act). The Global Survey also noted that the national human rights institution submission had concluded that “the implementation of the provisions of the Declaration in the national legislation of the Republic of Armenia remains insufficient, especially the obligation of the state defined by the article 2 of the Declaration to protect, promote and implement human rights and fundamental freedoms is insufficiently presented in the national legislation.”

More recently, the Special Rapporteur conducted a country visit to Armenia in 2010. The Special Rapporteur noted, at that time, a “pervasive sense of impunity and corruption which has profoundly impacted upon the context within which human rights defenders operate in Armenia.” The Special Rapporteur expressed concern over patterns of harassment and intimidation of defenders, the forcible dispersal of peaceful demonstrations, as well as cases of continued denial of the right to an effective remedy. Many of these concerns remain.

Armenia is a member of the Council of Europe and in 2017 signed a Comprehensive and Enhanced Partnership agreement with the European Union.

2. Legal and Policy Framework

Armenia is party to most international human rights treaties except for the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (which it has signed but not ratified). As a member of the Council of Europe, the State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

In 2016, the State amended the Law of Non-Governmental Organisations to distinguish between organisations receiving public resources and those privately funded and to otherwise reduce the level of regulation and expand permitted activities. These amendments were generally welcomed by human rights defenders. More recent amendments to the Law in 2018 have removed the right of non-governmental organisations to intervene in and initiate litigation in the public interest, despite earlier jurisprudence recognizing this power an important right of non-governmental.

The Office of the Human Rights Defender (OHRD) is the national human rights institution and has been rated as fully compliant (level A) with the Paris Principles. The OHRD has continued to grow in the scope and range of its activities, and has begun to establish regional offices across the State. In 2017, the Committee on the Elimination of Racial Discrimination noted its concern at the lack of adequate resources available to the OHRD, limiting its capacity to effectively carry out its mandate.” Human rights defenders have also expressed concern about the trend to merge in the OHRD previously independent monitoring and investigation processes; this reduces the variety of protection mechanisms and increases the burden (given limited resources) on the OHRD.

Since 2016, the Group of Public Monitors, independent monitors of jails and prisons, has had its access to political prisoners restricted.

3. Implementation of the Declaration

Armenia does not have a law or policy implementing the Declaration or a national protective mechanism for human rights defenders at risk. The rights articulated in the Declaration are generally enjoyed in law, though in practice human rights defenders partaking in protest face violations of their rights, there are restrictions on the freedom of expression of defenders and human rights defenders remain remain at risk of threats and violence; perpetrators of attacks against human rights defenders, often allied with the State, enjoy impunity. For example, Artur Sakunts, the director of one of the most prominent human rights organisations in Armenia, the Helsinki Citizens Assembly of Armenia, received death threats as a result of his vocal criticism of the human rights violations of the State.

The mass protests of April 2018 that formed part of the Velvet Revolution were met with mass arrests by the State. At the peak of the demonstrations, human rights defenders documented the arrest and detention at police station of more than 1,200 peaceful protesters. The State responded to the protests of the Velvet Revolution by arresting protesters and by investigating and charging perceived “instigators” of the mass protests. For example, Levon Barseghyan, chairman of the Asparez Journalists Club, was arrested and detained due to charges of organizing “mass unrest”.

The State has a history of prosecuting and detaining defenders who are critical of its policies. However, since the change in government, most acknowledged “political prisoners” have been released.

Human rights defenders have faced threats and retribution for their exercise of free expression, including journalistic reporting. There is an absence of full and impartial investigations into acts of violence against defenders and there has been a downward trend in respect of freedom of the press. The Committee Against Torture has condemned the impunity enjoyed by those attacking journalists as well as the practice of initiating, “criminal

proceedings against journalists in retaliation for their reporting of police violence.” Marianna Grigoyan, the editor of Medialab, and her family members have also been threatened.

Women human rights defenders have frequently received little support from their families, and have been subjected to online and verbal harassment. Sexual orientation and gender identity defenders have faced incidents of verbal and physical assault by law enforcement authorities, discrimination in media outlets and marginalization within the human rights defender community. In 2017, Mamikon Hovespyan, co-founder of PINK Armenia, spoke of the division within the defender community, remarking, “some defenders use discriminative phrases... If you are a human rights defender there should not be segregations in rights.”

The Special Rapporteur has sent a small number of communications to the State concerning the situation of human rights defenders since the Global Survey of 2006 and has received a prompt response to all of his communications. Recent communications have raised concerns about the use of excessive force, arrest and detention in responding to peaceful public protests and the situation of women human rights defenders.

4. Issues and Trends

Armenia is undergoing a political transition in response to the mass protests of earlier this year. It is opportune to reflect on the role of human rights defenders and the importance of their rights, including notably the right to peaceful assembly, in the success of the protests. While early indications are that the new government will better respect the rights articulated in the Declaration, many of the concerns expressed in the 2006 Global Survey and after the 2010 country visit remain. These concerns have been echoed in the Special Rapporteur’s communications with the State, which have raised allegations of excessive use of force by police forces to disperse demonstrations, and threats against and harassment of women’s non-governmental organisations and of WHRDs. The Special Rapporteur is encouraged by the State’s engagement with the mandate, however he urges the State to adopt substantive reforms to address his underlying concerns.

The national human rights institution supports human rights defenders within its limited resources and capacities. The Special Rapporteur urges the State to ensure the OHRD has adequate resources; he also urged the OHRD to ensure that any centralization of remedies in the OHRD does not impede access or disregard the diversity of defenders that may need to seek a remedy. The Special Rapporteur is encouraged by the release of defenders who have been detained but urges the State to reform its policing practices to ensure that force is not used disproportionately and that all complaints by defenders are fully investigated. The Special Rapporteur suggests that the State should consider the implementation of a protective mechanism for human rights defenders at risk.

Azerbaijan

1. National Context and Human Rights Defenders

The territory of Nagorno-Karabakh remains a contested space, within Azeri borders but under Armenian control. Armed conflict in the region continues; skirmishes in the territory occurred in April 2016, leaving several hundred people dead. The State has criticised human rights violations carried out by Armenian soldiers within the territory.

Azerbaijan has systematically dismantled the country's once vibrant civil society through the targeting of human rights defenders through politically motivated charges as well as by laws and regulations restricting the activities of independent groups and their ability to secure funding. Over the last decade (particularly since mid-2012), the State has targeted the political opposition, journalists, lawyers, and youth leaders. More recently, other groups have been targeted by the State, including defenders of sexual orientation and gender identity rights. The State exerts control over the media and, as a result, there is little public discussion of human rights issues or human rights defenders.

The State was included in the 2006 Global Survey. The 2006 Global Survey noted restrictions on the rights of defenders, including that television was under state control, and civil society organisations faced complicated registration processes and were required to pay heavy social security charges, severely limiting their ability to operate. The situation for human rights defenders has rapidly worsened, as the Special Rapporteur observed during his 2016 country visit.

The Special Rapporteur visited Azerbaijan in September 2016 at the invitation of the State. He was able to meet with political prisoners and state officials. He observed that there are severe restrictions on freedom of expression, freedom of assembly and freedom of association which put human rights defenders at risk. The Special Rapporteur expressed concern that the situation for human rights defenders was worsening, noting that human rights defenders at that time in Azerbaijan faced "the worst situation since the independence of the country." The situation has continued to deteriorate even since his country visit. The Special Rapporteur thanks the State for responding to his request for information for this report.

2. Legal and Policy Framework

Azerbaijan has ratified the majority of core international human rights treaties. It has signed but not ratified the International Convention for the Protection of all Persons from Enforced Disappearance, and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, establishing complaint and inquiry mechanisms.

The Constitution guarantees freedoms which should provide a solid legal base for human rights defenders to carry out their work safely and legally, including the right to association (Article 58), freedom of information and freedom of press (Article 50); and freedom of assembly (Article 49). However, in practice defenders face a range of measures which are used to restrict and impede their work.

In 2016 the constitution was amended to include a law against defaming or insulting the president, an offence that is punishable by up to three years in prison. This includes internet-based insults and has severe implications for the work of human rights defenders.

The Commissioner for Human Rights (Ombudsman) was established in 2001 and was fully accredited (level A) in 2012 as complying with the Paris Principles. The Ombudsman does not have any specific policies on human rights defenders, and human rights defenders have criticised the Ombudsman as lacking independence and effectiveness in cases considered politically motivated.

3. Implementation of the Declaration

The State does not have a national law or policy addressing the situation on human rights defenders nor is there a protective mechanism for human rights defenders at risk. The State increasingly restricts the rights articulated in the Declaration, in law and in practice, and targets human rights defenders through a variety of human rights violations. The State does not tend to apply the term human rights defender, or discuss their human rights activities. Civil society actors have previously noted that human rights defenders are often referred to as “national traitors”.

When human rights defenders attempt to exercise their rights to freedom of expression, assembly and association, they often face repercussions from the state. Punitive measures tend to fall into three categories: policing and criminal justice (including police harassment, arbitrary arrest, detainment and torture, spurious and fabricated charges, and imprisonment); associational (including imposing bureaucratic hurdles on the establishment of associations, restrictions on websites, heavy charges and barriers to receiving funding, and applying pressure on private companies not to advertise with independent press); and personal (including freezing of defenders’ bank accounts, imposing travel bans, and harassment of defenders’ families). The State frequently employs a strategy of escalating punitive measures in all three categories to silence human rights defenders.

The case of Khadija Ismayilova is indicative of the long-term and multi-faceted manner in which human rights defenders are targeted by the State. Following her investigative reporting on government corruption, Ms. Ismayilova was targeted for blackmail by individuals connected with the State’s security services. The police investigation deliberately revealed further details of Ms. Ismayilova’s private life. In 2013, she was arrested after a peaceful demonstration and sentenced to public community service – a sentence that was commuted to private community service after members of the public sought to accompany her in her ordered street sweeping. In 2014, the State sought an informant to infiltrate the opposition movement and gather information about Ms. Ismayilova and she was accused of collaborating with Armenia. When she sought to expose the State’s efforts to target her, she was charged with revealing state secrets and defamation. In 2014, Ms. Ismayilova faced charges of inciting a colleague to suicide (ironically underscoring the well-being issues facing defenders working in such environments). She was subsequently convicted of various charges that appeared to have been fabricated in order to shut down her investigative work to expose corruption. As part of her sentence she was banned from her professional activities and prohibited from traveling abroad. She was released from prison in May 2016 after almost two years of imprisonment.

Human rights defenders face arbitrary arrest, detention or imprisonment. For example, Bakhtiyar Hajiyev and Jabbar Savalan attempted to organise anti-government rallies via Facebook and were charged in 2011 with evading military service and drug dealing respectively. The State has periodically released some political prisoners in recent years owing to international pressure, for example Jabbar Savalan was released in late 2011 following a campaign by Amnesty International. The State has also released political prisoners in response to opinions by the European Court of Human Rights and in advance of diplomatic visits.

Numerous human rights defenders including journalists and high-profile defenders have fled Azerbaijan, and continue their human rights work in exile. For example, Javid Nabiyez, a gay

rights activist who founded the NGO Nefes, fled Azerbaijan fearing for his life following harassment, violence and intimidation from police. However, human rights defenders who pursue their work outside of Azerbaijan, have also experienced harassment of their family members who remain inside the country. For example, the family of Emin Milli, the founder of Meydan TV, an independent news site which Milli now operates out of Germany, was targeted and harassed in Azerbaijan, and two relatives were charged and imprisoned.

The State has used professional regulatory bodies to target defenders. A growing number of human rights lawyers have been disbarred or targeted with spurious criminal charges. Particularly vulnerable are those involved in high-profile political cases. For example, Yalchin Imanov was suspended from practicing law on 20 November 2017 after he spoke out against the torture of his client while in detention. Imanov has filed a lawsuit against the Prosecutor General's Office, arguing that his suspension is unlawful.

Youth defenders have also been targeted by the State. N!DA, a political youth movement established in 2011 that focuses on education initiatives to encourage political change, was targeted by authorities after using Facebook to organise two peaceful protests against suspicious conscription deaths in 2013. Three leading members - Mammad Azizov, Shahin Novruzlu and Bakhtiyar Guliyev - were detained before the second march, arrested, and tortured into confessing to a plot to overthrow the government. They were sentenced to between six and eight years in jail. The marches themselves were met with force by the police who used water cannons and stun guns on the peaceful protesters.

Women human rights defenders are subject to the same punitive measures as men. For example, Matanat Azizova, a women's rights defender, fled Azerbaijan in 2014 under pressure and harassment from police. She and her family face a travel ban, and she now operates the Woman Crisis Centre from the Czech Republic. Although Azerbaijan has ratified Convention on the Elimination of Discrimination Against Women and criminalised domestic violence in 2010, defenders say that levels of domestic violence remain high and support for survivors low. As noted by Azizova, the charge of not supporting "Azeri values" is one that is used in particular against women human rights defenders but that has implications for all defenders: "unfortunately they are used against vulnerable groups such as LGBT, women and others and if society wants, they can be used against men too."

The Special Rapporteur has received a number of communications concerning the situation of human rights defenders in Azerbaijan. The matters most often raised in communications are prosecutions, convictions and lengthy jail terms for human rights defenders. In 2013, the State asserted in its submission to the UPR that "all kind of violations of law, including violations against journalists and human rights defenders are widely investigated, relevant measures are taken and those committing such violations are necessarily brought to justice and accordingly punished." However, the evidence refutes this blanket denial, as attested to by the supporting opinions of numerous human rights organisations and defender, the European Court of Human Rights, the Council of Europe, and the OSCE Representative on the Freedom of the Media.

4. Issues and Trends

The situation for human rights defenders in Azerbaijan has worsened since the 2006 Global Report, in a context of tightening political control by the dominant party, and with it, a crack down on dissenting voices. Key areas for concern are the lack of freedom of press, freedom

of assembly and freedom of association. When attempting to carry out activities such as expressing dissent on social media, organising or attending peaceful rallies, or setting up associations, human rights defenders experience high levels of risk and are faced with debilitating restrictions which can be related to policing and criminal justice, associational, and personal. Examples of punitive reactions from the state include arbitrary arrest and detention, torture, imprisonment on falsified charges, travel bans, interference with professional practice, and harassment and threats to human rights defenders' families.

After his state visit in 2016, the Special Rapporteur highlighted his concerns regarding the increasing hostile environment towards human rights defenders and set out a list of recommendations for the government and the national human rights institution of Azerbaijan, human rights defenders, and the international community. His recommendations remain, and now require even more urgent action by all stakeholders. Illegitimately imprisoned human rights defenders must be released and the State must refrain from criminalising their legitimate activities. The State must also refrain from the interference in the professional practice of defenders, including the practice of lawyers and journalists. The Special Rapporteur calls on the national human rights institution to become better acquainted with the Declaration and use it to strengthen its work. The international community must continue its support of human rights defenders in Azerbaijan and give practical support to and engage with Azerbaijan on human rights defenders' issues.

Bahrain

1. National Context and Human Rights Defenders

Bahrain was included in the 2006 Global Survey. The Global Survey noted that while the rights to freedom of expression, assembly and association were constitutionally protected, other laws undermined them. For example, no more than five people were permitted to meet in public and the formation of political parties was banned, although political societies were allowed.

At that time of the Global Survey, the entry noted that the State was taking steps towards reducing the use of torture and arbitrary detention, as well as seeking to form a national human rights institution compliant with the Paris Principles, and a government-level human rights committee. The Global Report also expressed concerns regarding the disproportionate use of force by the Bahraini security forces against demonstrators. The Global Survey noted the case of Ms. Ghada Yusif Jamsheer, a women's rights defender who was facing a possible sentence of up to fifteen years for her peaceful activities in support of reforming family courts.

In the initial years since the Global Survey of 2006, Bahrain witnessed the opening up of politics, with three elections, and expressions by the State that it would become party to core international treaties such as the ICCPR. However, since 2011 civil society space has shrunk considerably as the State reacted to the Arab Spring protests.

In early 2011, the State experienced mass public protest drawing in excess of 150,000 people into the streets. In February, the State responded to the protests with excessive force that resulted in the deaths of more than 300 people. After prolonged protests, a state of

emergency was declared. In the aftermath of the protests, numerous defenders were arrested and detained.

One of the most prominent of defenders arrested was Abdulhadi Abdulla Hubail al-Khawaja, former the Middle East and North Africa Protection Coordinator with Front Line Defenders, an international non-governmental organisation founded to support the protection of human rights defenders. Al-Khawaja was arrested, charged under anti-terrorist legislation for his role in the protests, subjected to torture, given an unfair trial in military court, and sentenced to life in prison. Al-Khawaja remains in custody and his family members, some of whom are also defenders, have also faced targeting and mistreatment by the State.

In July 2011, the State created the Bahrain Independent Commission of Inquiry to investigate the protests and its response concluded that the violence was a result of “the result of an escalating process in which both the Government and the opposition have their share of responsibility in allowing events to unfold as they did.” Several key recommendations by the Commission of Inquiry have not been implemented.

Bahrain is a member of the Organisation of Islamic Cooperation, Arab League and the Gulf Cooperation Council.

2. Legal and Policy Framework

Bahrain has ratified seven core international human rights treaties, significantly the ICCPR in 2006 and ICESCR in 2007. It has also become party to the Convention on the Rights of Persons with Disabilities in 2011. The Constitution of Bahrain states that Islam is the official religion and that Sharia law is the principal source for legislation, leading to some difference of interpretation of human rights. There is no law on human rights defenders and no national protective mechanism for human rights defenders at risk.

Article 165, 214 and 216 of the Penal Code (and similar provisions in anti-terrorism legislation) are vaguely worded and can be used against to silence a wide range of critical speech considered to be hostile towards the State, including “incitement of hostility towards the system of government” or offense of the Emir or various institutions of the State.

The State’s anti-terrorism legislation, going back to the Protecting Society from Terrorism Act of 2006 (as subsequently amended in 2013), define terrorism very broadly as acts that “obstructing the public authorities from doing their work” and “harming National Unity” and terrorist organisations as groups that “obstruct the provision of the constitution or the law” or “harming national unity”. The anti-terrorism legislation imposes strict penalties, including the death penalty, allows lengthy pre-trials detention, and allows trials to occur in secrecy.

Other laws such as the Public Gatherings Law and Citizenship Act are also used to silence anyone who expresses opposition to the state, through restrictions on the right to protest and the deprivation of citizenship as punishment for defenders.

The National Institution for Human Rights (NIHR) in Bahrain was established in 2009 (and its authority amended in 2012). The NIHR is not internationally recognised as complying the Paris Principles.

3. Implementation of the Declaration

The State has increasingly restricted key freedoms of defenders since 2011. Freedoms of expression, association, and assembly are particularly restricted. Defenders who are arrested face lengthy periods of detention, with reports of torture and forced confessions. The rights to freedom of expression, assembly, association and movement are under particular threat. The State has intensified its clampdown and oppressive security measures on defenders and civil society since the events of the Arab Spring in 2011.

Freedom of association is heavily restricted. As noted, anti-terror legislation criminalises a broad range of organizational goals and activities. The State has created the National Non-Governmental Organisation Support Centre (NNGOSC), which would support the development of civil society. However, in the context of the broad range of restrictions on the right to associations, the ability of the NNGOSC to support civil society organisations, and in particular human rights organisations, appears severely limited.

The State has severely curtailed the right to freedom of expression online. Many human rights defenders and political activists face trials over statements made on social media. For example, the President of the Bahrain Center for Human Rights, Mr Nabeel Rajab was arrested, detained, prosecuted and released on multiple occasions since 2012 on charges relating to his human rights work. As of August 2018, he faces up to fifteen years in prison in retaliation to television interviews that he gave in 2015 and 2016, and comments made on Twitter in March 2015 alleging torture in Bahraini prisons and criticising the Saudi-led campaign in Yemen. Mr. Rajab has been the subject of a significant number of joint communications by special procedure mandate holders, and the conditions of his arrest, detainment and subsequent charges are in breach of international laws including the right to freedom of expression and the right to a fair trial.

The right to freedom of assembly is severely limited by the Public Gathering Laws of 1973 and Law 32/2006. Participating in public gatherings without government authorisation is a crime. There are reports that the State regularly use this legislation as grounds to violently disperse protests and arrest defenders. Furthermore, anti-terrorism legislation has been used to charge defenders for their participation in anti-Government protests. Under the legislation, fifty individuals associated with the “February 14th Coalition” as well as the “Bahrain Thirteen” have been tried and convicted. Their convictions were preceded by arbitrary detention and evidenced torture while in detention.

The State also dismissed thousands of workers in both the public and private sector, including university lecturers, school teachers, medical doctors and nurses, for joining protests during the 2011 unrest. Claims were generally that the employees had breached the terms of their employment by joining the protests. Dismissed workers also faced interrogations by the authorities. Women participating in the protests were especially likely to experience ill-treatment and intimidation by law enforcement officials and dismissals, suspensions and downgrading of professional positions in the public and private sectors.

Defenders in detention face forced confessions, denial of access to adequate medical care, and torture. In 2017, the Committee Against Torture remarked that they were deeply concerned by reports that numerous persons who were deprived of their liberty have been subjected to torture or ill-treatment. It is particularly concerned about the situation of human rights defenders Abdulhadi al-Khawaja, Naji Fateel, Nabeel Rajab, Abduljalil al-Singace,

Hussain Jawad and Abdulwahab Hussain, especially with regard to their access to medical care.

Travel bans against defenders are commonplace. Between June and September 2016, 24 individuals, including human rights defenders, former prisoners of conscience, a lawyer and a journalist, have faced official travel bans or been prevented from travelling abroad to participate in human rights advocacy meetings, including to attend the Human Rights Council. In 2017, Ebtisam al-Sayegh was arrested, questioned and detained without trial for more than four months upon returning from advocacy before the Human Rights Council. Since 2012, the authorities had revoked the citizenship of over 250 religious figures, defenders and political activists. The revocation of citizenship is also levied against the children of defenders.

Women defenders are at risk of sexual assault, as well as the same punitive measures faced by men. Rihana Almousawi, a member of the “February 14th Coalition,” described being stripped of all her clothes during detention and made to stand in full view of passers-by. She was allegedly also threatened with rape and electric shocks by male officers. The judge recorded in the trial report that she received “improper moral treatment”. In July 2017, defender Ebtisam al-Saegh was arrested following tweets in which she accused the State of sexually assaulting detained women. She had been sexually assaulted herself by the National Security Agency while detained in May 2017. She was released in October 2017 and is awaiting trial for offences under anti-terrorism legislation.

Labour rights defenders face restrictions. Collective organisation is barred from many sectors of the economy, including public employees and many migrant workers. Harassment, criminal prosecution, and firing of unionist workers occurs in practice.

The Special Rapporteur has received a large number of communications concerning the situation of human rights defenders, including many in response to the crackdown on defenders involved in the 2011 protests. The Special Rapporteur requested to visit Bahrain in 2012, but the request has gone unanswered.

4. Issues and Trends

The State has reversed the progress made in recognizing the important role of human rights defenders before 2011. Since the protests of 2011, the State has further restricted the rights of human rights defenders. Several restrictive laws impede defenders’ right to freedom of expression, assembly, association and movement. Anti-terrorism legislation has been used to target defenders and to further stigmatise them in public discourse. In direct retaliation for their work, defenders are subject to arbitrary arrest and detention, torture including sexual assault, lengthy sentences, travel bans and the revocation of citizenship.

The Special Rapporteur calls on the State to address the situation of human rights defenders. Defenders should not be charged under terrorism legislation for their legitimate criticism of the State or its policies. Defenders who are facing charges or imprisoned for their human rights activities should be released. The Special Rapporteur calls on the State to amend its anti-terrorism legislation to make clear that legitimate human rights activities are not prohibited. The State should also ensure that denaturalization is not used to punish human rights activities and, in any case, does not render anyone stateless; children must never be denaturalized in response to acts of their parents. The State should review and fully implement the recommendations of the Commission of Inquiry. The national human rights

institution should be afforded independence and sufficient resources, including the ability to receive and respond to complaints of human rights violations.

Iran

1. National Context and Human Rights Defenders

Iran was featured in the 2006 Global Survey. At that point it had ratified four of the core international human rights treaties. Around 100 organisations defending human rights were known to exist and the concept of human rights was beginning to be discussed more widely; there were MA programmes in human rights and talk of PhD programmes. Despite these positive steps, in 2005 it was one of twelve countries across the globe given special attention because of high number of UN communications received, the majority of which were ignored.

Human rights defenders campaign against a range of issues: the unjust imprisonment of human rights defenders, the death penalty, child marriage and other children's rights issues, compulsory wearing of the hijab and other discriminatory gender-based issues, discriminatory employment laws and personal status laws, persecution of labour leaders and the inability of trade unions to effectively function, and environmental destruction, to name but a few. Defenders operate in an increasingly hostile environment where their rights to freedom of expression, assembly, association and movement are routinely impeded and peaceful dissent is met with severe repression and persecution. The State also responds violently and with excessive force to protests, harasses and intimidates defenders, and is one of the most oppressive countries in the world for journalists and bloggers.

Iran is a member of the Organisation of Islamic Cooperation (OIC). The Human Rights Council has established a special procedure to address the situation of human rights in Iran, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.

2. Legal and Policy Framework

Iran is party to five core international treaties, however it still has not ratified Convention on the Elimination of Discrimination Against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention for the Protection of All Persons from Enforced Disappearance. It has been party to the ICCPR since 1975.

Provisions are made in the Constitution which should allow human rights defenders to carry out their work legally and legitimately. For example, the Constitution allows for the formation of political parties, associations, demonstrations, marches and freedom of expression. However, alongside such guarantees as described above, the Constitution does not allow anything to take place that does not conform to Islamic principles, or which would cause insecurity, create 'anxiety and unease in the public's mind' or 'confus[e] people's minds.'

Human rights defenders face a variety of punitive legal measures when carrying out their work. They are arbitrarily and unlawfully detained; frequently held for prolonged periods without charge and often in solitary confinement; routinely denied counsel and/or their choice of counsel; subjected to intense pressure during interrogations, which can include threats to the detainee and/or the detainee's family, other forms of psychological pressure

(known as “white torture”), physical pressure and torture; given extortionate bail conditions; convicted in trials that are often brief, closed and in which evidentiary standards are well below international standards; refused medical treatment (including cancer treatment) during detainment and imprisonment; and there are several reports of suspicious deaths of human rights defenders while detained. There are also cases of defenders facing execution. The legal system is used as a tool for these mistreatments of defenders, rather than as a source for their prevention and remedy. The judiciary is ineffective in protecting the rights of defenders and too frequently condones, fails to investigate, and seeks to legitimate the actions of the State’s security services.

The Iranian Islamic Human Rights Commission (IIHRC) is the national human rights institution. The IIHRC has only been partially accredited (level C) by the Global Alliance of National Human Rights Institutions and only partially complies with its Paris Principles.

3. Implementation of the Declaration

The State views human rights defenders as threats to national security. Therefore, there is no national law or policy to protect human rights defenders, and the rights of the Declaration are not respected. The State has argued that “the West” uses the term human rights defender to protect what it describes as terrorists, spies or a feature of Western infiltration propaganda. The rights to freedom of expression, assembly, association, movement and others are consistently undermined and repressed by the State. Furthermore, the State similarly does not accept the term political prisoner, instead referring to prisoners charged with opposition to the regime as threats to national security.

Prominent human rights organisations have consistently expressed concern over the relentless persecution of human rights defenders including journalists, lawyers, women’s rights defenders, student activists, political and civil rights activists and members of minority communities (particularly their leaders) such as Ba’hai (this community is especially persecuted, including for any open practice of their faith—they are denied education and their business are routinely shuttered/confiscated), Christian converts (primarily Protestant Christian faiths), Azeri and Kurdish activists. Defenders have been subjected to torture, including mock executions, beatings, sleep deprivation and denial of access to adequate medical care; arbitrary arrest and detainment followed by unfair trials; violent dispersal of peaceful protests; travel bans and harassment of human rights defenders’ family members including their children.

The persecution of human rights lawyers has intensified since February 2018. In June 2018, Iran barred human rights lawyers from ‘national security cases’ and compiled a list of 20 state-approved lawyers to defend political prisoners, many of whom have dubious human rights records. Human rights lawyer Nasrin Sotoudeh was arrested in June 2018 for a five-year sentence handed to her in absentia in September 2016. The authorities had not previously informed her of the sentence. More cases were later brought against her, all related to her human rights work, including her involvement with international human rights organisations. The Court notes reveal that Sotoudeh was sentenced for her ‘activities against national security...with a human rights cover to increase pressure of enemy governments [on Iran] and to condemn Iran as a human rights violators.’ In September 2018, three more prominent human rights lawyers were arrested, including Payam Derafshan, who was involved in the case of Kavous Seyed-Emami, a Canadian-Iranian environmental defender who died under suspicious circumstances while in police custody. Almost one hundred lawyers have signed a

letter denouncing the increased persecution of human rights lawyers under the pretext of national security as unconstitutional.

The ability of defenders to enjoy their right to freedom of association is limited. Labour rights defenders and works, in particular, as noted below, face targeting and restrictions. More generally, the laws governing the registration and operation of non-governmental organisations in Iran have been criticized as over-complicated and cumbersome. Abdolfattah Soltani is currently serving a thirteen-year prison sentence explicitly described by the Court as being for having received the “illegal” Nuremberg International Human Rights Award (in 2009) and co-founding the Defenders of Human Rights Center. His organisation was closed as a result of alleged deficiencies in complying with the onerous registration procedures.

Freedom of expression is limited through State control of media and punishment of dissenting voices. In November 2016, President Rouhani declared the necessity of the news media to feel safe while doing their jobs. Unfortunately, this declaration was followed by concrete measures to change the current situation.

In 2018, the State banned the use of the most popular messaging app in the country and it regularly shuts down online communication in the face of protests. As the State controls the mainstream media, less formally organized “citizen-journalists” on social networks battle to provide news and information in Iran. Foreign journalists have been banned from the State and foreign media are frequently labeled as instigators of protests.

In August 2018, journalist Amir Hossein Miresmaili was convicted of and sentenced to 10 years imprisonment for “insulting the sacredness of Islam” for a tweet that indirectly Ayatollah Sayyid Ahmad Alamolhoda, a fundamentalist mullah who is Supreme Leader Ali Khamenei’s representative in the city of Mashhad. Other journalists, bloggers and defenders have faced arrest, unfair trial, flogging and lengthy imprisonment for similarly vague crimes related to their free expression.

The State restricts, effectively prohibiting, defenders’ right to protest. In December 2017, anti-government demonstrations took place across the country to protest against poverty, corruption and political repression. Between December 2017 and January 2018 official figures claim that at least twenty-one people were killed and more than 1,000 detained for their roles in the protests, although observers have actual numbers that are considerably higher. The unrest swept across at least eighty cities in the State. Security forces used firearms, water canons, tear gas and further excessive violence to disperse the peaceful protests. Furthermore, the State blocked access to social media sites used by activists to promote and support the protests. At least twenty-five demonstrators were killed in nationwide, anti-government protests in June 2018. The State continues to dole out lengthy prison sentences to those who attended protests, charging them with threatening national security. At least nineteen university students have been sentenced for attending protests. For example, Kasra Nouri, a graduate student in human rights at the University of Tehran, was given 12 years in prison, 74 lashes, a two-year exile to Salas Babajani county in Kermanshah Province, a two-year ban on traveling abroad, and a two-year prohibition on political and social activities including social media.

Women human rights defenders face additional risks as a result of social tradition and the State’s perception of the comportment (including the dress) of women as a central pillar of its Islamic policies. In December 2017, Vida Movahed, originally referred to as the “Girl of

Enghelab Street” removed her hijab and waved it on a stick to protest the strict dress code women are required to observe. She was arrested and detained for several weeks for her actions, which garnered worldwide attention. The State is responding with the full force of the law to the growing number of women peacefully removing their hijabs as part of the White Wednesday movement. Record numbers of women are being arrested for removing their hijabs; in February 2018, 29 women were arrested in Tehran for removing their hijabs. Many are charged and given excessive sentences. In July 2018, Shaparak Shajarizadeh was sentenced to two years in prison and an 18-year suspended sentence for removing her hijab during the protests. She has fled the country. In June 2018, Shima Babaei was made aware that she was facing more charges along with her husband Dariush Zand, primarily for removing her headscarf but also for participating in the December 2017 protests. She said, “During 21 days of detention in solitary confinement in Ward 2-A of Evin Prison [in early February 2018], I was interrogated 13 or 14 times but only two or three sessions were about inappropriate hijab charges...that’s when I realised my husband and I were facing many charges; having no hijab was just one of them.”

Women are very active human rights defenders in Iran, and those involved in human rights activism range from high profile lawyers to grassroots women’s groups and individual defenders. Scores of women defenders are persecuted for their legitimate work. Hoda Amid, Najmeh Vahedi and Rezvaneh Mohammadi were arrested and arbitrarily detained in unknown locations in September 2018 in retaliation for their involvement in workshops on equal marriage rights and other peaceful activities related to women’s rights. Atena Daemi and Golrokh Ebrahimi Iraee are detained for fighting for women’s rights, opposing child labour, and opposing the death penalty. They are being kept in ‘quarantine’ and have restricted contact with the outside world.

Women also participate in activist groups such as the Mothers of Khavaran and the Mothers of Laleh Park, which are comprised of family members of victims of mass executions and forced disappearances in the late 1980s. Mansoureh Behkish is a vocal member of these groups; she is currently facing an eleven and half year prison sentence and has previously endured three other prison terms, continuous harassment, and the confiscation of her passport. Shadi Amin and Kiana Firouz are lesbian human rights defenders who have both fled Iran for their safety. Homosexuality is punishable by death in Iran making it extremely difficult to campaign, and indeed other countries have come under fire for refusing asylum applications from lesbian, gay and bisexual Iranians.

Defenders of labour rights face constant barriers to freedom of expression, association and assembly. Independent trade unions are banned and defenders working in this field are unjustly imprisoned. Workers’ peaceful protests are dispersed with excessive force. On International Workers’ Day in 2018, thousands of protestors participated in banned, peaceful protests in Tehran and Saqqez, demanding job security, better conditions, and a guaranteed minimum wage, among other things. Several were arrested, including Osman Esmaeili, who had recently been released from prison for his activist work, and many more were beaten when plainclothes officers violently dispersed the gatherings. Across the State in recent months, defenders of labour rights have gone on strike, including steelworkers and hospital staff in Ahvaz, railway employees near Tabriz, bus drivers in Tehran and teachers in Yazd. In August 2018 a wave of industrial unrest swept across the State, with workers demanding unpaid wages and protesting widespread privatisation, and became one of the most important features of the State’s political scene in recent months. Workers at Hepco, sugar

cane workers in Haftappeh, and truck drivers all went on strike. Esmail Abdi is the General Secretary of the Iranian Teachers' Trade Association and was sentenced to six years in prison in 2016 for his human rights work. He said, "the wave of repression has actually increased and now extended directly to the presence of security forces in schools and factories".

Recently, the State has begun to clamp down on human rights defenders concerned with the environment. Six staff of the Persian Heritage Wildlife Foundation have been detained without charge, although accused of espionage, since January 2018. The organisation's Managing Director Kavous Seyed Emami died under suspicious circumstances while imprisoned. Furthermore, 'fifteen negotiators representing protesting farmers in the southern Iranian province of Kohgiluyeh and Boyer-Ahmad were arrested on May 29, 2018, as they showed up for talks over a water dispute.'^[8]

The State does not engage with the United Nations on themes of human rights defenders. In their treaty reporting between 2008 and 2015, the State made no reference to human rights defenders. In its submission to the UPR process in 2010, the State condemned Western support of what it defines as terrorists by granting individuals asylum as human rights defenders. The State made no reference to defenders in the second UPR cycle in 2014. The Special Rapporteur regrets that he, alongside other United Nations special procedures mandate holders, are refused entry to Iran. In 2016 the Special Rapporteur on the situation of human rights in Iran Asma Jahangir held consultations with civil society representatives in Geneva, and in August 2018, the new UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Javaid Rehman, requested a further visit to the State.

The Special Rapporteur welcomes the improved response rate to communications in 2016 and 2017, given that in previous years almost no replies had been given to the large number of communications sent. He was also pleased that in response to communications, the lengthy prison sentences of the journalists Issa Saharkhiz, Afraine Chitsaz, Ehssan Manzandarani and Saman Safarzai had been reduced. However, he is gravely concerned that many journalists and other human rights defenders remain arbitrarily detained. In 2017 the Special Rapporteur raised his concerns in communications with the State regarding the prosecution of Ms. Raheleh Rahemipor, the sister of Mr. Hossein Rahemipor, whose case is under review by the Working Group on Enforced or Involuntary Disappearances; the situation of Mr. Arash Sadeghi, Iranian human rights defender and his wife Ms. Golrokh Ebrahimi Iraee; and the alleged continuous arbitrary detention of Ms. Fatemeh (Atena) Daemi as well as the sentencing of her two sisters, Mses. Hanieh and Ensieh Daemi.

4. Issues and Trends

The Special Rapporteur continues to express his serious concern at the appalling and worsening situation of human rights defenders in Iran. Human rights defenders face persecution for carrying out their work, and cannot rely on constitutional or legal protection. The already hostile legal environment was made significantly worse in 2018 with the unprecedented crackdown on human rights lawyers. The State continues to severely restrict their activities by violently repressing peaceful protests, harassing and intimidating human rights defenders and their families, arbitrarily arresting and detaining them, subjecting them to torture and dangerous conditions in prison (there are several reports of suspicious deaths in prison and denial of urgent medical treatment), unfair trials and lengthy sentences or execution. Since December 2017, the situation for human rights defenders in Iran has become significantly more dangerous, as scores of protestors were arrested, detained, charged and

even killed in anti-government protests which swept across the country. The State has also intensified its crackdown on women defenders in general, and particularly for their peaceful protests in removing their hijabs.

The Special Rapporteur urges the State to cease its relentless persecution of all human rights defenders. The State should acknowledge the productive and legitimate social and political role played by human rights defenders in Iran and elsewhere, and cease trying to silence them by labeling them as foreign voices or threats to national security. He calls for the release of human rights lawyers and other defenders who are currently languishing in prison for their peaceful and legitimate work. The Special Rapporteur calls upon the international community, the State and other stakeholders to work towards strengthening protective mechanisms within Iran, including through judicial and law reform and the development of an effective and completely independent national human rights institution fully compliant with the Paris Principles.

Iraq

1. National Context and Human Rights Defenders

In 2003, Iraq was invaded by a coalition organized by the United States of America and the longstanding Ba'ath Party government of President Saddam Hussein was overthrown. Security Council Resolution 1790 extended the mandate of the multinational force in Iraq until the end of 2008; the U.S.–Iraq Status of Forces Agreement subsequently extended the presence of U.S. combat forces until the end of 2011. The first three years of the conflict produced at least 100,000 fatalities, and by some estimates in excess of 600,000 fatalities. Iraq was also involved in the Gulf War (1990–1991) and a war with neighbouring Iran (1980–1988).

Since 2013, there has been an increase in sectarian violence, which continues to produce political instability and threats to safety and security. Between 2014 to 2017, Iraqi government forces, alongside the Kurdish (Peshmerga) forces, supported by international air strikes, engaged in a conflict with the self-proclaimed Islamic State of Iraq and the Levant (ISIL). During this period, the State was not in effective control of significant parts of its territory, including Ramadi, Fallujah and Mosul. The conflict, as well as the violence perpetrated by the activities of ISIL, has had serious and sustained impacts on human rights within the State.

In September 2017, the Kurdistan Region of Iraq voted overwhelmingly in favour of independence during a referendum. The Iraqi national government has since declared the result illegal and unconstitutional and, following a period of conflict, the region has remained as a part of Iraq.

Iraq has faced an extremely challenging transitional period since the overthrow of the Ba'ath Party and President Saddam Hussein, compounded by the emergence of ISIL as a threat to its national security. As independent civil society largely did not exist during the earlier regime, the majority of civil society organisations in Iraq are in their early stages of development. Human rights defenders and civil society have been active on a range of issues in Iraq, despite

operating within a challenging environment. Defenders are vulnerable to physical attack, harassment, arbitrary arrest and detention.

Journalists and media workers are particularly vulnerable to interference with their rights, including in the form of abductions and death threats, for uncovering incidents of corruption and militia abuses. Women human rights defenders face particular challenges in the line of their work arising from discrimination on the basis of gender and perceptions of traditional norms, encountering harassment from their own communities and local authorities.

Iraq was not included in the 2006 Global Survey. Iraq is a member of the Arab League and the Organisation of Islamic Cooperation.

2. Legal and Policy Framework

Iraq has ratified almost all international human rights treaties. However, the State has yet to become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and most optional protocols, including those covering complaints procedures and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Restrictions on the rights of human rights defenders guaranteed by the State's international treaty obligations have been regularly noted by treaty bodies, special procedures mandate holders, in submissions to the UPR process, and by local and international human rights organisations.

The Constitution, which was adopted following a referendum in 2005, serves as the primary instrument for the guarantee of observance and protection of human rights. Articles 36, 37, 38 and 40 guarantee freedom of expression, assembly and association 'in a way that does not violate public order and morality'.

The right to freedom of association was strengthened by the Law on Non-Governmental Organizations (Law 12 of 2010), easing restrictions on foreign funding and affiliation with foreign organisations and limiting the State's ability to reject registration applications. The Law also removes criminal penalties, restricts the state's ability to carry out audits and internal inspections and creates a judicial check on the state's ability to suspend a non-governmental organisation.

In 2017, the State proposed a draft law on freedom of expression and peaceful demonstrations which civil society organisations criticised as being too restrictive. The draft law would have, for example, imposed debilitating restrictions on the right to freedom of assembly, including requirements that permission must be obtained for any assemblies, imposing a restriction on the number of protestors permitted, and requiring that the names of all members of the organisation running the protest be provided to authorities. The Special Rapporteur is encouraged that in May 2017, in light of these criticisms and popular protest, the State decided to indefinitely postpone a vote on the draft law.

The Iraqi national human rights institution, the High Commission for Human Rights (HCHR), has been accredited (level B) as partially compliant with the Paris Principles. However, the HCHR has been described as an 'empty box' by civil society actors due, in part, to the perception of that its Committee of Experts have a close affiliation with political parties, the insufficient resources it has with which to carry out its mandate, and the relative absence of activities promoting human rights and the work of defenders in the State.

The Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI) was established in 2004. The UNAMI Human Rights Office (HRO) conducts all activities in an impartial manner with the aim of assisting the government of Iraq in promoting and protecting human rights. The mandate has been annually renewed by the Security Council, at the request of the Government of Iraq. The HRO provides training of members of civil society and employees of the State on human rights obligations and the ways and means to undertake human rights advocacy. The HRO issues periodic reports on the human rights situation in Iraq.

3. Implementation of the Declaration

Against the backdrop of a succession of sustained armed conflicts, the implementation of the rights of the Declaration has remained inconsistent. The State does not have a national law or policy explicitly addressing the situation of human rights defenders.

The right to freedom of expression of defenders is restricted, especially for journalists. Iraq has been described as one of the most dangerous places in the world for journalists, with at least 144 journalists killed between 2006 and 2015. Defenders have criticised the State for failing to provide a safe environment for journalists and for treating their aggressors with impunity. Journalists and bloggers practice self-censorship for fear of reprisals, particularly in areas under ISIS control or influence. In May 2018 the Iraqi Journalists' Syndicate expressed hope that the State would create a national mechanism for the protection of journalists. The Special Rapporteur encourages the State to develop such a mechanism, including for human rights defenders at risk more generally.

Despite abandoning the introduction of restrictive laws, defenders still face interference with their right to protest, including their freedom of peaceful assembly. In January 2017, defenders gathering to protest the abduction of journalist Afrah Shawqi were beaten with rifles and threatened, with the police firing shots into the air. In May 2017, seven students were abducted and tortured for their regular attendance at peaceful anti-corruption protests in Tahrir Square in Baghdad. In July 2018, there were reports that the State was deliberately disabling the internet in certain areas before violently repressing protestors. One protestor said, "when there is no internet, people are being beaten and killed because we can't upload it. Iraqis now know the value of social media. We need it to raise our voice." The police have used water cannons, tear gas, and even live ammunition to disperse peaceful assemblies; protesters have been subjected to beatings and tasers upon arrest.

Human rights defenders cooperating participating in United Nations processes and fora have faced reprisals from the State. In March 2016, Mr. Imad Amara and Mr. Faisal Al Tamini, defenders working for a human rights organisation documenting cases of enforced disappearances and engaging with United Nations human rights mechanisms, were detained, physically assaulted and interrogated about their work. More recently, in 2018, Mr. Al Tamimi and Mr. Al Roumy were threatened and shot at after attending a meeting discussing Iraq joining the International Criminal Court.

Women human rights defenders face particular risks when carrying out their work, as well as being vulnerable to the same violence, threats and intimidation as male defenders. Defenders who concentrate on improving women's rights are vulnerable to attacks when they campaign to change traditional gender roles, or protect women and girls who are threatened by honour crimes. According to Ms Bushra AL-Ubady, the Legal Advisor of the Iraqi Women's Journalist

Forum, one of the most effective ways to constrain women's activities is through smear campaigns attacking their honour or reputation, and this strategy is often used against women defenders. The State must immediately refrain from the use of force against peaceful protesters; the use of live ammunition to disperse peaceful demonstrations should be immediately discontinued and prohibited.

In February 2016, Nibras Al-Maamouri, Head of the Iraqi Women Journalists Forum, received anonymous death threats and was the focus of a smear campaign linking her to acts of terrorism and collusion with extremist organisations. In ISIS controlled areas, women are at risk of abduction, slavery, rape and murder. In 2014, Lamiya Aji Bashar was abducted, tortured and systematically raped by ISIS as part of the group's onslaught and ethnic cleansing against the Yazidi. Following her escape, in 2016 she was awarded the Sakharov prize for freedom of thought for her work on defending human rights by speaking out on her ordeal. On September 17, 2014, lawyer and human rights defender, Samira al-Nuaimi, was arrested in Mosul by ISIS forces after criticising ISIS on Facebook. She was executed by firing squad.

Defenders in Kurdistan faced mistreatment, including violence, threat and lawsuits, particularly when criticising the regional government. Defenders from the minority communities in Kurdistan and those defending their rights face repression if their activities are perceived as undermining the political project of Kurdish autonomy.

The Special Rapporteur has received a number of communications concerning the situation of human rights defenders in the country. The communications raised concerns regarding acts of intimidation and reprisals against defenders cooperating with United Nations human rights treaty bodies, the arbitrary arrest and detention of defenders and the use of excessive force to disperse peaceful demonstrations.

4. Issues and Trends

The State has made some positive progress towards implementing the Declaration, and is vocal in its recognition of defenders and their rights. However, the rights to freedom of expression, assembly and association have been severely curtailed through instances of harassment and intimidation, arbitrary arrest and detention, and enforced disappearance. Violations of the rights of defenders have occurred in the context of the lack of a safe and enabling environment in which defenders may carry out their work. Perpetrators of human rights violations against defenders generally enjoy impunity.

The Special Rapporteur calls on the State to address the risks faced by human rights defenders, including by the development of a protective mechanism for human rights defenders at risk. He is encouraged by the willingness of the State to pause law reform initiatives in response to public outcry and concern expressed by defenders; the Special Rapporteur calls on the State to ensure that the opinions of defenders and other stakeholders are considered from the outset of any such initiatives.

Israel

1. National Context and Human Rights Defenders

The State was included in the Global Survey of 2006, where it was observed that the situation for defenders in Israel was inseparable from the conflict between Israel and the Palestinians. Israel has occupied the Gaza Strip and the West Bank (also known as Judea and Samaria), collectively the Occupied Palestinian Territories (OPT), since the Six-Day War of 1967. Since 1993, Israel has recognised the jurisdiction of the Palestinian Authority in the West Bank and since 2005 has implemented unilateral disengagement from Gaza. Nonetheless, Israeli Defense Forces (IDF) continue to be present in the West Bank and have made periodic incursions into the Gaza Strip since 2006. The situation of human rights defenders in the OPT is dealt with in a separate entry which should be read alongside this entry.

At the time of the Global Survey, there had been an increase from 2003 to 2006 in cases brought to the attention of the Special Representative. The 26 communications sent reflected a culture of violent reprisal against Palestinian defenders; at least five had dealt with defenders killed by the IDF. The Special Representative was also worried by allegations of torture, and had reservations as to the ability of defenders to enjoy effective remedies through the Israeli judicial system due to limitations on access to counsel and disclosure that often apply.

In the years since the Global Survey of 2006, the situation of defenders in Israel has continued to be intertwined with the Israeli occupation of the OPT and the conflict between Israel and Palestinians. Israeli civil society is autonomous, vibrant and diverse, enjoying a high degree of freedom of association and expression, except where the subject matter is Palestine and the actions of the IDF. Recent legal developments such as the Anti-Boycott Law (2011), NGO Transparency Law (2016), and the recent amendments to the Entry into Israel Law (2017) have seriously curtailed defenders' ability to carry out their legitimate work, and can be read together as an attempt to shame and silence defenders critical of government policy. In addition to defenders of Palestinian rights, defenders of people on the move and defenders working on religious freedom and sexual orientation and gender identity rights face risks. Beyond State actions, Israeli society harbours lively discussion of human rights and their defenders, but many defenders are now demonised as traitors. The arrest of various activists, especially Palestinians, has attracted much criticism from Israeli civil society. However, an undercurrent in the public rhetoric of State officials and broader society views these outspoken defenders as enemies of the Israeli state.

2. Legal and Policy Framework

Israel has signed and ratified most core international human rights treaties except notably the Optional Protocol of the Convention against Torture, Convention for the Protection of All Persons from Enforced Disappearance, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Israeli Constitution is formally unwritten, although a series of "Basic Laws" are frequently described as having quasi-constitutional status. Article 1 of the Basic Law: Human Dignity and Liberty, adopted in 1992, proclaims that "the basic human rights in Israel are based on recognition of the value of man, the sanctity of his life and his being free, and they will be respected in the spirit of the principles (mentioned) in the proclamation of the establishment of the State of Israel."

The State does not have an explicit law or policy on the protection of human rights defenders. The State asserted in its submission to the Global Survey of 2006 that "the provisions of the Declaration have not been made a part of internal Israeli law by a specific enactment of the

Knesset, but that the Government considers the provisions in accordance with Israeli practice.”

Despite the overarching legal framework being consistent with the rights articulated in the Declaration, a number of legislative initiatives in recent years have restricted the rights of defenders, notably the Anti-Boycott Law (2011), NGO Transparency Law (2016), and the recent amendments to the Entry into Israel Law (2017). This legislation combined with the legal state of exception from the rule of law in the OPT and in matters concerning the activities of the IDF significantly restrict access to and enjoyment of the rights articulated in Israel’s international treaty obligations and constitutional legal framework. The recently passed Jewish State Bill (2018), which officially defines Israel as the Jewish nation-state, further heightens the public rhetoric about the identity of the State and potentially plays into the portrayal of those opposed to the particular vision of the State expressed in the Bill as enemies of the State.

Israel has no national human rights institution. The Committee Against Torture has voiced concerns over the State’s continued failure to establish a national human rights institution in accordance with the Paris Principles.¹⁶⁷

3. Implementation of the Declaration

In recent years, key rights under the Declaration have come under attack in Israel. All defenders face a tightening net of legislation that aims to delegitimise and restrict their work, but defenders of Palestinian (and Arab) minorities in particular are subject to State-sanctioned intimidation and violence. Furthermore, administrative detention and torture are used disproportionately against Palestinian defenders. Aside from the risks faced by these human rights defenders, defenders of sexual orientation and gender identity rights face risk from ultra-religious sections of society.

Human rights defenders in Israel face restrictions on their freedom of expression. A growing number of libel claims have been made against defenders seeking to criticise the policies of the State. Human rights lawyer and human rights defender Ishay Shneydor has commented that, “suing for libel, or writing a letter threatening such a suit, is an inexpensive procedure through which powerful forces succeed in deterring civic participation, placing their critics in a defensive position and preventing or dampening public dialogue on issues of importance.”¹⁶⁸ In 2017 independent journalist David Sheen was arrested and charged with libel in retaliation for an article he wrote highlighting violent racist and discriminatory practices committed against populations of African origin in Israel. He faced a fine of up to 200,000 USD. Many of these libel actions are made by former State officials or individuals closely associated with the State.

The Anti-Boycott Law (formally the Law for Prevention of Damage to State of Israel through Boycott of 2011) expands tortious liability against defenders who call for an economic, cultural or academic boycott of the State. Such defenders may be liable for damages caused by such calls. The Law also authorises the State to withdraw various benefits to organisations calling for boycott, including tax relief and government contracts. The Law was largely upheld by the Supreme Court in 2015. Defenders have heavily criticised the Law as impeding a fuller

¹⁶⁷ CAT/C/ISR/CO/5, para 10.

¹⁶⁸ Avner Pinchuk “The silencer: Libel Litigation as a Threat to Free Speech” (Association for Civil Rights in Israel, 2013) available online at <https://www.acri.org.il/en/2013/02/24/the-silencer-report/>

discussion of the Boycott, Divestment and Sanctions (of Israel) movement to which it responds.

The right to freedom of assembly is again heavily impacted by the Israeli / Palestinian conflict. As well as an extensive range of human rights violations committed by the Israeli state against protestors and other defenders in OPT, including the alarming rate at which IDF kills and seriously injures protestors, other public events are affected. For example, in 2017 a joint workshop on workers' rights was banned by the State due to the participation of human rights organisation Association for Civil Rights in Israel (ACRI). Parents who had lost children to terror attacks levied unsubstantiated claims at ACRI, labelling them an extremist group that defends terrorists.¹⁶⁹

Freedom of movement of defenders is heavily policed by the Israeli state. The Special Rapporteur remains concerned about the Knesset's passing of the amended Entry into Israel Law. Under the Law, in 2017, Amnesty International reported that one of its staff had been denied entry after he was questioned about the organisation's work on settlements.¹⁷⁰ In May 2018, Human Rights Watch's regional director Omar Shakir was ordered to leave Israel within 14 days on account of his support for boycotts. Human Rights Watch condemned the decision as an attempt to muzzle them and shut down criticism of Israel's rights record.¹⁷¹ When defenders are allowed to leave the State, they are often subjected to interrogation upon their return. The Special Rapporteur is concerned by recent reports that in 2018, the number of detentions of workers in civil society organisations at Ben Gurion Airport and associated "warning conversations" has increased.¹⁷² He calls on the State to respect the right of defenders to participate in international conversations about human rights, in keeping with the Declaration and resolutions of the Human Rights Council.¹⁷³

The State has also restricted access to the State and the OPT by defenders critical of its policies. The State regularly bars activists, journalists, and protestors from travelling into Israel and the OPT, limiting the ability of local defenders from participating in the global discussion of human rights. The administrative detention that is often associated with restricting (and ultimately deporting) defenders has been described by defenders as amounting to cruel, inhuman and degrading treatment.

All defenders face a tightening net of legislation that aims to restrict and delegitimise their work, but defenders of Palestinian and Arab minorities in particular are subject to state-sanctioned intimidation and violence. Furthermore, Palestinian defenders on Israeli soil are harassed, threatened and stigmatised, as defenders say they are generally seen as "a fifth column and a demographic threat" and as such are targets of State reprisal.¹⁷⁴ Furthermore, administrative detention and torture are used disproportionately against Palestinian defenders.

Defenders of sexual orientation and gender identity rights also face risk when carrying out their activities, especially their right to freedom of assembly. Attitudes to homosexuality vary;

¹⁶⁹ <https://www.acri.org.il/en/2017/11/29/haaretz-israeli-minister-axes-workshop-with-ngo-that-defends-terrorists/>

¹⁷⁰ Amnesty International 'Israel denies entry to Amnesty International staff member' (2017)..

¹⁷¹ Human Rights Watch, 'Human Rights Watch: "Israel Orders Human Rights Watch Official Deported' (2018).

¹⁷² <https://www.acri.org.il/en/2018/08/06/warning-conversations-at-ben-gurion-international-airport/>

¹⁷³ Resolution 12/2 of the Human Rights Council; see also A/HRC/39/41.

¹⁷⁴ Association for Civil Rights in Israel, "ACRI State of Human Rights Report 2012" (2012) at 48.

same-sex relations became legal in 1988 and much of the population supports homosexuality, but sections of the religious community are still dangerously homophobic. There have been three serious attacks in Tel-Aviv, in 2005, 2009 and 2015. In 2005 and 2015, participants in Pride marches were stabbed in religiously motivated homophobic attacks. In other parts of Israel, authorities have tried to deter and prevent defenders of sexual orientation and gender identity rights from carrying out marches. In 2016, following a meeting between the Chief Rabbi of Be'er Sheva and that the authorities of that city, a Pride march was diverted to smaller streets at the last minute, given the Rabbi's opposition to the march. In May 2018, an LGBTQ youth group in Kfar Saba sued regional police, following the authorities' attempts to make them pay for their own security measures (at a cost of over 6,500 USD) if they allowed them to carry out the city's first Pride march. The petitioners claim this is unreasonable and that the police are required to ensure the safety of the protesters. In July 2018, planned large-scale strikes over new surrogacy laws which exclude gay men caused controversy, as some leading companies and institutions announced support for the action and permitted their employees to strike.

Since the last Global Survey in 2006, the Special Rapporteur has sent a total of 59 communications to the Israeli state. Responses were received for 27 of the communications, 32 remained unanswered. These communications illustrate four broad trends faced by Israeli defenders: legal overregulation, travel restrictions on foreign activists or journalists, detention of domestic human rights activists and violence against defenders of sexual orientation and gender identity rights. The Committee on the Elimination of Discrimination against Women has also noted the emerging problem of restriction of civil society organisations and called upon Israel to respect civil society organisations. The Committee cited the boycott, *Nakbah*, and NGO transparency laws as examples of "severe restrictions" on the activities of defenders.¹⁷⁵

4. Issues and Trends

The biggest human rights issue facing the Israeli State arises from its occupation of the OPT, which continues to cause great risk for defenders and journalists attempting to report or generate discussion about the state of affairs in Palestine. In Israel itself, there is concern that overregulation is shrinking civil society. This is an issue that affects all human rights defenders in Israel irrespective of the topic(s) on which they are active. The Special Rapporteur notes that the Anti-Boycott Law (2011) and NGO Transparency Bill (2016) are part of both a broader trend within the State to constrict civil society and neutralise its ability to voice meaningful opposition to the State action as well as human rights in other spheres of society and the international constriction of civic Space.

The Special Rapporteur calls on the State to commit to a public rhetoric that acknowledges the legitimate and valuable role played by human rights defenders. The State must review its recent legislative measures to ensure that they both comply with the State's international obligations, including those articulated in the Declaration, and are in practice not used to restrict or undermine the work of human rights defenders. Defenders should be free to travel within and beyond the State without interference. Defenders who face prosecution by the State should be accorded a fair trial, access to counsel, full disclosure and only detained if necessary and always in humane conditions. The Special Rapporteur notes the risks faced by Palestinian and Arab defenders and reminds the State of its obligation to protect all

¹⁷⁵ CEDAW/C/ISR/CO/6, para 38.

defenders. The Special Rapporteur also calls on the State to consider establishing, in consultation with defenders, a national human rights institution in accordance with the Paris Principles.

Kuwait

1. National Context and Human Rights Defenders

Kuwait has been perceived as relatively stable within the region, with positive relations with international human rights organisations. There were comparatively low numbers of popular demonstrations during the 2011 Arab Spring period.

Civil society and the human rights defenders community have continued to be active in Kuwait, despite confronting institutional, societal and judicial challenges in their work. Activism has traversed multiple areas, for example, the Kuwait Society for Human Rights has launched a hotline and e-platform for migrant workers to submit complaints about their conditions. Defenders have been subjected to arbitrary arrest and detention by authorities, judicial harassment and the use of excessive force to disperse peaceful protests. Those acting in the defense of Bidun rights, working as online activists and monitoring protests face greater difficulties in conducting their work, as do women human rights defenders and people defending women's rights.

The State was included in the 2006 Global Survey, although the Special Representative regretted not receiving a response from the State. However, she was heartened by some then recent developments, such as the Kuwait Human Rights Society being granted official status in 2004, making it the first official human rights non-governmental organisation in the country, and the State's assertion in 2000 that 'the defence of human rights is a praiseworthy act that deserves commendation.' Despite these positive steps, the Special Representative remained concerned by reports that freedom of expression was being suppressed through State censorship and self-censorship, and that freedom of association was threatened following the arrest of a lawyer and member of a human rights civil society organisations who had met with defenders in Cairo.

2. Legal and Policy Framework

Kuwait has ratified most international human rights instruments, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearances. Concerns have been expressed by a number of treaty bodies at reports of the State government utilising measures to restrict fundamental rights, including freedom of assembly and association.

Kuwait's constitution is one of the most liberal in the region and enshrines a number of fundamental rights and freedoms, serving as the political and legal umbrella for human rights principles in Kuwait, although in some cases constitutional provisions have been used to stifle freedom of expression. The Constitution guarantees freedom of opinion and expression (Article 36), press (Article 37), secrecy of communication (Article 39), association (Article 43) and assembly (Article 44), among other rights relevant to the Declaration.

Freedom of expression came under renewed threat in 2016 with the implementation of the Cyber Crimes Law No. 63, which expanded existing print prohibitions to online activities, including online journalism and the use of individual social media and blogs, and provides for punishments such as prison sentences and fines for insulting religion, religious figures, and the emir.

In 2015, the adoption of national legislation for the establishment of a national human rights institution was welcomed by civil society and United Nations mechanisms. The institution, known as the Diwan Huquq al Insan (Human Rights Bureau), has not yet been accredited by the Global Alliance of Human Rights Institutions. In its most recent concluding observations on Kuwait, the Committee on the Elimination of Racial Discrimination voiced concern that the institution is not yet operational and reports by civil society indicate that it is not fully independent from the national government.

3. Implementation of the Declaration

The implementation of the Declaration has been varied. The State does not have a national law or policy explicitly addressing the situation of human rights defenders. While a number of fundamental rights are provided for within the Constitution, the working environment for human rights defenders has remained challenging.

The work of independent journalists has been restricted by judicial legislation and the Human Rights Council has expressed concern about excessive restrictions on freedom of expression. As well as the Cybercrimes Law, Kuwaiti authorities have invoked the Printing and Publication Law, Misuse of Telephone Communications and Bugging Devices Law, Public Gatherings Law, and National Unity Law in a crackdown on free speech which has led to scores of bloggers, journalists and other defenders to be prosecuted for criticising the emir, the government, and governments of allied states on social media. For example, human rights defender Mohammed Al-Ajmi has been arbitrarily arrested and detained repeatedly for his work in documenting violations of freedom of expression. Blogger and YouTuber Abdullah al-Saleh is currently in exile and seeking asylum after being sentenced to twenty-five years in prison in February 2018 for criticising Saudi Arabia, the Emirates and Bahrain. The Special Rapporteur is pleased that blasphemy charges levied against academic, writer and human rights defender Shaikha Binjasim were dropped in June 2016. He supports the Prosecutor's conclusion that "freedom of speech cannot be curtailed and not every discussion on religious matters is blasphemy".

Realisation of the right to freedom of assembly is not yet fully protected in Kuwait, with local and international civil society frequently reporting the forcible disruption of peaceful protests and the arrest and detention of demonstrators, and a number of international human rights organisations highlighting the increased criminalisation of peaceful dissent through a system of law that is vaguely-worded and sweeping. Human rights defender Mr Nawaf Al Hendal was charged with participating in an illegal protest after monitoring peaceful protests calling for judicial reform and the release of political detainees in 2015. He was issued with a travel ban. In November 2017, authorities sentenced 67 people to between one and seven years in prison for allegedly storming parliament in 2011, when protests turned violent and demonstrators sought shelter in the parliament building. The arrested include human rights defender Sulaiman Bin Jassim.

A further case involving Mr Nawaf al-Hendal suggests that engagement with United Nations mechanisms has not been protected by the State. In 2015 al-Hendal travelled to Geneva to participate in Kuwait's second UPR cycle, and was informed that a warrant for his arrest upon return to Kuwait had been issued, due to allegations of damaging foreign relations and using Twitter to insult late Saudi King Abdullah.

Women human rights defenders are active in Kuwait and face particular risks when carrying out their work. Like male defenders, they are at risk of extrajudicial killings, arbitrary arrests, trumped up charges, torture, exile, travel bans, revocation of citizenship and defamation campaigns. Gender-based punitive measures also include the refusal to issue birth certificates or official documentation for newborn children, threats of imprisonment without their infant children, extreme forms of defamation, stigmatisation, social pressure, gender and sexual-based violence as well as marginalisation and discrimination. Sara Al-Drees faces charges for defamation following tweets insulting the emir, and women's rights defender Hadeel Buqrais has received e-mails, phone calls, and messages on social media threatening her life and her family after participating in a peaceful demonstration calling for women's rights in Saudi Arabia.

The Special Rapporteur has received a number of communications concerning the situation of human rights defenders in Kuwait, indicative of the breadth of challenges human rights defenders have faced, including allegations of judicial harassment related to engagement with the Universal Periodic Review process, continued patterns of intimidation and arrest and forcible demonstration dispersal.

Several communications have been sent on behalf of Mr. Abdulhakim al-Fadhli, a Bidun human rights defender continually targeted by authorities for his work promoting and protecting the rights of stateless people in Kuwait. The Bidun (stateless) population within the State has been estimated to range from 90,000 to 180,000 includes a diverse group of people who do not have Kuwaiti nationality yet have long lived and worked there. The bidun face a difficult and marginalising environment within the State. Over a number of years, Mr. al-Fadhli has been charged with a number of criminal offences related to participation in peaceful demonstrations, having been arbitrarily arrested and subjected to torture in detention. Following a one-year prison sentence, Mr. al-Fadhli was released in August 2017, reportedly after having signed a declaration precluding his future involvement in protests, providing that the deportation order issued against him would be lifted. Mr. al-Fadhli's case highlights the existence of incidences of systematic harassment that human rights defenders have routinely faced in their work in Kuwait.

4. Issues and Trends

The Special Rapporteur is encouraged by some positive steps taken by the State in regards to the situation for human rights defenders, such as the adoption of national legislation for the establishment of a national human rights institution, and the acquittal or release of some human rights defenders. However, he remains gravely concerned by the continued crackdown on freedom of expression, particularly online, and especially when defenders discuss the policies of neighbouring, allied States. The Special Rapporteur is concerned that individual defenders are systematically targeted for carrying out their legitimate and peaceful work.

The State is urged to continue its efforts to establish a national human rights institution that is adequately resourced and fully compliant with the Paris Principles. The State should review its legislative frameworks, including concerning online expression, to ensure that they fully protect the rights set out in the Declaration. The Special Rapporteur calls on the State to allow independent access to defenders in detention and to ensure that it fully complies with its obligations concerning their treatment, including specifically the duty to prevent cruel, inhuman, and degrading treatment and punishment as well as torture.

Oman

1. National Context and Human Rights Defenders

The State was not included in the Global Survey of 2006

The State is home to a number of civil society organisations, including human rights organisations. Domestic legislation severely restricts many of the rights articulated in the Declaration, including the freedoms of expression, association, and assembly. Defenders critical of the State have faced investigation by the security services of the State, administrative detention without charge, and prosecution under a wide range of broadly framed criminal and quasi-criminal statutes. Women human rights defenders and defenders working on sexual orientation and gender identity rights face particular challenges and risks.

2. Legal and Policy Framework

The State is party to four of the core international human rights treaties. Notably, it is not party to the International Covenant on Civil and Political Rights (ICCPR). The Omani Basic Law offers protection for the rights to freedom of association, expression and peaceful assembly, though defenders have expressed concern that these protections have been significantly restricted through legislation and that State authorities do not always respect these protections.

Omani legislation restricts the rights articulated in the Basic Law. For example, Article 137 of the Penal Code qualifies the freedom of peaceful assembly in the State by requiring government approval for all public gatherings and imposes penalties on anyone participating “in a private gathering including at least nine individuals with a view to commit a riot or a breach of public order”. The Penal Code also broadly criminalises acts of expression that are critical of the State.

The Oman Human Rights Commission (OHRC) was established in 2008 and has been accredited as partially complying (‘B’ status) with the Paris Principles. Although the OHRC does not focus explicitly on the situation of human rights defenders, it does have both a programme of public education on human rights and a complaints process for those suffering human rights violations. The OHRC has, at times, been critical of reports by human rights defenders on human rights violations in the State, including notably on reporting of credible allegations on the abuse of domestic workers.

3. Implementation of the Declaration

There is no national law or policy on the situation of human rights defenders. In practice, many of the rights articulated in the Declaration – and reaffirmed in the Basic Law of the State

– are restricted. Human rights defenders enjoy restrictions on their rights to peaceful assembly and defenders have faced reprisals for expressing anti-government views. Defenders often face arrest and detention for criticising the State, including lengthy periods of administrative detention without charge, refusal of access to counsel, and isolation from their families.

Human rights defenders have faced reprisals as a result of criticising the human rights record of the State. Particularly given restrictions on peaceful assembly, defenders have often sought to use online spaces to discuss human rights issues and pursue advocacy. The Cyber Crime Law and Information Technology Crimes Act have been used to prosecute online expressions of opinions; defenders have also faced prosecution for the crimes of insulting the authorities, undermining the prestige of the State. In August, the State ordered the immediate closure of the Azam newspaper and arrested at least three journalists affiliated with the paper following the publication of articles accusing senior judicial officials of corruption. Although some defenders have received royal pardons following their convictions, this process of freeing defenders fails both to recognise the invalidity of the initial prosecutions and convictions and to safeguard against repetition of such abuses.

The right to peaceful assembly has been restricted, including through the use of excessive force by police and the arrest and lengthy detention of protesters. As part of the Arab Spring uprisings in the Middle East, there were a number of large protests in Muscat and Sohar. While some of these protests ended peacefully, on several occasions the State was reported to have used tear gas and rubber bullets to contain and disperse the protesters. More than 100 protesters were arrested, leading to additional protests and further arrests. Defenders have noted that protestors also regularly face arrest on the pretext that they are instigating violence and participating in a non-permitted gathering. Leaders of public protests, notably the protests of 2011, also faced arrest and detention by the State, including lawyer Basma Al-Keumy and writer and journalist Basma Al-Rajehy. Al-Keumy was previously detained in 2011 and released without any charges levied against her; Al-Rajehy was kidnapped and tortured also in 2011. Both were also arrested and detained in 2012 along with 18 other protesters.

Freedom of association is heavily restricted. The Law on Associations requires all civil society organisations to register with and obtain the approval of the Ministry of Social Development. Under the Law, civil society organisations must provide 15 days advance notice to the Ministry of any meeting. Approval is required for receipt of foreign funding, with non-compliance being potentially punished by imprisonment. The Penal Code criminalises “the formation of associations, parties and organisations which are against the Sultanate’s statues or social and economic systems.”

Women human rights defenders and defenders of sexual orientation and gender identity rights face additional challenges and risks. Although the Basic Law guarantees equality and bans gender-based discrimination, in practice women continue to face discrimination. The Personal Status Law discriminates against women on matters such as divorce, inheritance, child custody, and legal guardianship. Women defenders have faced social pressure from within their families and communities to conform with traditional gender roles; women human rights defenders have also reported that their families have also faced pressure to have them cease their activities. Public discussion of sexual orientation and gender identity remains socially taboo and the State has blocked LGBTI-related internet content.

The State has committed as part of the universal periodic review process to a number of developments in relation to human rights defenders. Firstly, it has committed to “speed up the accession to the international human rights instruments” (although it has less explicitly committed to becoming party to the ICCPR). Secondly, it has committed to ensuring that “the law on media and publications enables full exercise of freedom of expression, in particular on the Internet” (though again it has less explicitly committed to take measures to protect rights activists). Of particular concern is that human rights defenders who met with the Special Rapporteur on the rights to freedom of peaceful assembly and of association during his country visit of 2015 reported suffering severe reprisals following his visit.

4. Issues and Trends

The State has restricted many of the rights of defenders, particularly those critical of the State. Although the State has been restrained in its immediate response to some protests, the leaders of protests are frequently subject to arrest, lengthy and sometimes repeated administrative detention, and prosecution under vague provisions criminalising peaceful assembly or free expression directed against the State. The State has also taken reprisals against defenders engaging with international human rights mechanisms.

While the Special Rapporteur is encouraged by the pardoning of a number of defenders in recent years, he calls on the State to free all defenders who are imprisoned for their legitimate human rights activities. The Special Rapporteur encourages the State to review its legislation on online activities and its Penal Code to ensure that these laws cannot be used to prosecute unpopular or critical opinions. The Special Rapporteur also calls on the State to revise its laws concerning the establishment of associations by removing criminal penalties for non-compliance, reducing reporting requirements and easing restrictions on receipt of foreign funding.

Palestine (Occupied Palestinian Territory)

1. National Context and Human Rights Defenders

The Occupied Palestinian Territory (OPT) consist of territories which have been occupied by the Israel Defence Forces (IDF) since 1967. Israel has no recognised sovereignty over the OPT, which is designated by the UN Security Council as a non-sovereign entity and recognised as a non-member State of the United Nations. Nonetheless, Israel exercises *de facto* control over the OPT, including in areas such as press censorship and border control. Despite officially disengaging from the Gaza Strip in 2005, Israel maintains a considerable military presence in the area. Two other authorities exist in the OPT; the Palestinian Authority (PA) in parts of the West Bank, and Hamas *de facto* authorities in the Gaza Strip. After Operation Protective Edge on Gaza in 2014, the PA and Hamas agreed to establish a National Consensus Government, which still exists but is yet to be fully reconciled.

OPT remains in a state of instability and conflict. In 2008-2009 Israel launched a large-scale military operation in Gaza, which it code-named Operation Cast Lead. In 2012, Israel launched the so-called Operation Pillar of Defence. In 2014, the most violent round of hostilities occurred as Israel launched a large military operation it code-named Operation Protective Edge that lasted 51 days. Human rights defenders and others in Palestine are adversely affected by the three military operations, in which the vast majority of victims were civilians

and, according to UN investigations, war crimes and possibly crimes against humanity were committed.¹⁷⁶ These armed activities occurred against a background of the Gaza closure and blockade policy and settlement expansion and forcible displacement in the West Bank, including East Jerusalem, by Israel, and internal Palestinian political division between the PA and the Hamas *de facto* authorities in the Gaza Strip. These far-reaching issues have exacerbated the climate of persecution against defenders in the OPT. Given the impact of Israeli actions on defenders in the OPT, this entry needs to be read alongside the entry on the situation of defenders in Israel.

Civil society in OPT is and diverse despite the rising violence faced by defenders in recent years. The two primary focuses of Palestinian defenders are human rights violations by Israeli authorities and occupying forces, as well as by the Palestinian authorities in the West Bank (the PA) and the Gaza Strip (the PA and Hamas *de facto* authorities). To these ends, there are human rights organisations that monitor and report on prisoners' rights, torture, and administrative detention. Others provide counsel and other legal assistance to affected populations and activists. Several groups advocate for gender equality and women's rights in OPT. Others also defend the rights of Palestinian minority in Israel and the elimination of racism and discrimination. Grassroots coalitions in rural areas are active in highlighting the impacts of illegal settlement activities on communities, and are supported and/or joined by activists and defenders from Israel and abroad. Palestinian defenders are as a whole vulnerable, but critics of the occupation and occupation-related human rights violations, legal and medical personnel, academics, defenders and journalists seeking to leave or enter the OPT, and proponents of Palestinian women rights suffer additional risks and challenges.

OPT was included in the 2006 Global Survey. It was observed that the situation for many human rights defenders in Israel was inseparable from the conflict between Israel and the Palestinians, and particularly that defenders in the OPT were largely dependent on the policies of the Israeli State towards their human rights activities, and the Israeli attitude towards the general population of Palestine. For example, freedom of expression in the OPT was subjugated by military censorship, and the harassment of local and foreign journalists covering human rights violations committed by the IDF and Israeli authorities.

2. Legal and Policy Framework

Both the PA and the Israeli State have signed and ratified most core international human rights instruments, with a notable exception being the International Convention for the Protection of All Persons from Enforced Disappearance.

The human rights framework of the Palestinian Authority is based upon the Palestinian Basic Law as amended in 2003 and 2005. The law guarantees freedom of conscience, freedom of opinion, freedom of movement, freedom of press, freedom of information. Article 10 guarantees that "(b)asic human rights and liberties shall be protected and respected", and that the Palestinian Authority would "work without delay to become a party to regional and international declarations and covenants that protect human rights".

¹⁷⁶ See "The Report of United Nations Fact-Finding Mission on the Gaza Conflict" 2009, available at <https://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/a-hrc-12-48.pdf>. See also the "Report of the Commission of Inquiry on the 2014 Gaza Conflict" available online at <https://www.ohchr.org/en/hrbodies/hrc/coigazaconflict/pages/reportcoigaza.aspx>.

However, mechanisms to enforce the Basic Law remain lacking. In addition, the PA has legislated restrictions on rights protected by the Basic Law. For example, the Electronic Crimes Law passed in July 2017 has allowed for prison sentences and up to 25 years' hard labour for anyone deemed to have disturbed "public order", "national unity" or "social peace". Detention and abuse of journalists covering protests is a frequent occurrence in Gaza by the de facto authorities.

In 2015, the PA cabinet issued a regulation that denies civil society organisations that are registered as not-for-profit companies, as per Palestinian law from access to PA funds without approval from the cabinet. This regulation renders human rights organisations registered as not-for-profit companies susceptible to PA pressure and could be used to prevent access to grant funds in their bank accounts. This regulation also effectively restricts the organisational forms available to civil society organisations.

Unlike Israel, Palestine does possess a national human rights institution, Independent Commission for Human Rights (ICHR), which was established in 1993. The ICHR has been accredited as fully complying with the Paris Principles.

3. Implementation of the Declaration

The PA lacks the legal structure and full sovereignty to enforce many of its human rights obligations, including those under the Declaration. However, recent developments raise questions as to its commitment to such obligations. The State of Israeli's systematic attack of defenders restricts already shrinking space for Palestinian defenders. The result is that defenders now have to deal with severe pressures and risks emanating from Israel and pressures from the PA, creating a worrying situation in which the key rights under the Declaration have come under attack. The Special Rapporteur reiterates his serious concern at continued allegations of human rights defenders in the OPT being subjected to stigmatisation and smear campaigns, physical attacks, harassment, arrest, detention, torture, death threats and killings.¹⁷⁷

The media image of defenders in OPT has been influenced by protracted efforts on the part of the Israeli State (and its allies) to defame and defund human rights organizations working on human rights in OPT, whether they are Palestinian, Israeli or international organizations. These efforts have intensified since 2015, focusing particularly on defenders and organizations who support Boycott, Divestment and Sanctions Movement (BDS), human rights organizations who pursue accountability through international mechanisms, and critics of Israel's settlements in the West Bank. Defenders are frequently portrayed as terrorists or de-legitimising of Israel. In some cases, covert activities posed risks to their safety and life. Equally, defenders in the OPT who are critical of Palestinian authorities (including Hamas) are often publically portrayed as enemies of the Palestinian cause and, in the worst case, as Israeli *agent provocateurs*.

In the context of such a divisive political and public rhetoric, freedom of expression is becoming increasingly threatened, including online. The Electronic Crimes Law in 2017 has been used in recent years to stifle online expression of ideas and criticism of the PA. In 2017, radio journalist Ayman Qawasmeh was arrested by Palestinian police after calling for Mahmoud Abbas to resign. High-profile human rights defender Issa Amro criticised this move

¹⁷⁷ A/HRC/28/63/Add.1, paras 501-506.

on Facebook, and was subsequently arrested by the PA for his comments on Facebook. At the same time, Amro faced charges in an Israeli military court for his role in a protest.

Palestinian human rights defenders often use online platforms such as Facebook as vehicles for their activism. For example, one of the main channels of promotion for the BDS is online activism. However, media reports indicate that over 200 Palestinians were arrested by Israel over Facebook posts in 2016 based on vague definitions of ‘incitement’ and ‘support for terrorism’. Other Palestinians have been arrested for live-streaming video footage of IDF violence on Facebook, or for publishing poetry on social media.

In a recent high-profile case, Nariman Tamimi, the mother of young Palestinian defender Ahed Tamimi, was sentenced to eight months in jail for live-streaming the moment her daughter slapped two Israeli soldiers. Recently, on 24 July 2018, human rights defender, writer and blogger Lama Khater was arrested by Israeli forces in Hebron. She remains detained and her whereabouts unknown. Further threats to freedom of expression include the increasing number of frivolous libel claims used to silence defenders, creating a chilling effect over civil society.

Journalists and members of international organisations are targets of travel bans, deportation orders, and restrictions on their free movement that are enacted in order to prevent international exposure of Israeli and Palestinian violations, compromising both their rights to freedom of expression and freedom of movement. In May 2017, Ms. Aida Burnett-Cargill, who is a Swedish citizen, was stopped at the airport, detained and deported. She was informed that she was banned from entry to Israel for ten years. She had been acting as a consultant for an international civil society organisation to advise Al Mezan Centre for Human Rights in Gaza on communications and gender mainstreaming. During her interrogation by Israeli security agents at the airport, she was informed that she was working with a Palestinian terrorist organization.

The right to freedom of assembly is severely undermined given the Israeli State’s consistent and extreme excessive force used to disperse protests. The Special Rapporteur is concerned that allegations of excessive force and extrajudicial killings by the IDF have become more frequent since the escalation of West Bank violence from mid-September 2015.¹⁷⁸ Starting in July 2017, Israeli authorities used extreme and excessive force when dispersing demonstrations, killing ten Palestinians and injuring more than 1,000.

In December 2017 Israeli forces killed defender and wheelchair user Ibrahim Abu Thuraya while he was protesting near the fence separating Gaza from Israel. Since 30 March 2018, large-scale protests called ‘The March of Great Return’ started in Gaza. As of 9 September 2018, 133 were killed in the demonstrations—including 25 children, one woman, two journalists, three paramedics, and three persons with disability. According to monitoring and documentation by the Al Mezan Centre for Human Rights in Gaza, another 9,371 people were injured, including 1,729 children, 410 women, 107 paramedics, and 86 journalists. Of those injured, 5,310 were hit by live fire, including 871 children and 112 women.

In response to the demonstrations, the IDF deployed sharpshooters and used high-velocity, military-grade weapons against unarmed protesters, killing and seriously injuring thousands, which caused devastating and life-changing injuries. The UN Secretary General voiced

¹⁷⁸ UNHRC ‘Report of the Secretary-General on the Human rights situation in the Occupied Palestinian Territory, including East Jerusalem’ (2017), A/HRC/34/38, paras 44-47.

concerns over the widespread use of live ammunition by the security forces, in particular against stone-throwers and in the context of demonstrations, and also reports of security forces delaying the provision of medical assistance to the wounded. Human rights organizations in Israel and OPT had to litigate before the Israeli High Court following the Israeli army's banning of injured demonstrators from access to hospitals in the West Bank; the delay causing loss of limbs. The PA and the de facto authorities in the Gaza Strip also frequently resort to force to disperse protests. This includes the use of wooden batons and tear gas against protestors.

Defenders have expressed serious concern about being the victims of sophisticated smear campaigns for their association with human rights groups, as part of attempts to vilify, discredit and intimidate Israel's critics.¹⁷⁹ Palestinian human rights organisations such as Al-Haq and Al-Mezan had been publicly attacked by Israel's UN ambassador, Danny Danon as 'supporters of terrorism' and 'inciters of violence'. The right to freedom of association is under further threat given the uneven and arbitrary application of the Palestinian NGO law, and indeed a decline in the rule of law in OPT generally. The forced dissolution of NGOs and their boards are examples of punitive measures levied against Hamas-affiliated NGOs in the West Bank. Palestinian activists against Hamas have also reportedly been tortured in detention.

Since the 2006 Global Survey, a total of 52 communications were made relating to defenders whose work was related to the OPT. Responses were received for 27 of them, 25 remain unanswered. These communications draw attention to violence against Palestinian human rights defenders, arrest and arbitrary detention of Palestinian defenders, denial of travel permits for Palestinian defenders to travel abroad and international defenders to enter, settler violence accompanied by inaction from the IDF and impunity, and legal restriction of defenders and critical NGOs.

4. Issues and Trends

The Israeli occupation of OPT is a key challenge facing human rights defenders working in the OPT; the ending of the occupation is the goal of much advocacy by defenders and this advocacy provokes many of the infringements and restrictions on the rights of defenders. The risks they face can be broadly categorised into five groups: the use of force from IDF, particularly when dispersing protests; legal and administrative restrictions by the Israeli State and the PA; arbitrary arrest and detention; and restrictions of freedom of movement such as the refusal of the Israeli State to permit journalists and academics in the OPT from travelling abroad, and Israel's denial of entry to international defenders. A new trend of threats and risks is facing defenders in OPT in the form of protracted, organised public campaigns of defamation that seeks to undermine the credibility, legitimacy and patriotism of defenders' and, in some cases, culminates with threats to their life and safety.

While recognising the complexity of the situation facing human rights defenders in the OPT, the Special Rapporteur calls on both the Israeli State and the PA to immediately cease their direct or indirect denunciation and delegitimation of human rights defenders. All actors should publically endorse the rights articulated in the Declaration and the important and legitimate role of defenders in the OPT. Laws and regulations excessively restricting the freedoms of expression (including in online for a), association, and assembly should be revised

¹⁷⁹ A/HRC/WG.6/29/ISR/3, para 12.

or repealed. Defenders who have been imprisoned for exercising their right to free expression, including their right to criticise the Israeli State, the PA, and other economically and socially vested interests, should be immediately released. Israel should immediately review its regulations and procedures for dealing with peaceful assembly and ensure that its forces do not respond with disproportionate force.

Qatar

1. National Context and Human Rights Defenders

The last two decades have seen a series of constitutional and political reforms in the State. In June 2017, Egypt, Saudi Arabia, United Arab Emirates, and Bahrain cut off diplomatic relations with Qatar resulting in significant economic and political disruption within the State and the region more generally.

Qataris constitute a minority of the population of the State, with the majority of people being expatriate professionals, migrant workers or stateless (bidun). Non-citizens have no political rights, few civil liberties, and limited access to economic opportunity within the State.

Qatar was included in the 2006 Global Survey. The Global Survey noted that Qatar was not a party to the ICCPR or the ICESCR. The Global Survey noted that the Constitution of 2003 recognised some of the rights articulated in the Declaration. The State had also recently created a national human rights institution, the National Human Rights Committee (NHRC), and established mechanisms within various government units to monitor and implement human rights. The Global Survey concluded by remarking that “The information received is not sufficient to give a comprehensive assessment of the situation of human rights community in Qatar. The lack of information may indicate constraints on the civil society for communicating their concerns.”

Qatar is a member of the Organisation of Islamic Cooperation and the Gulf Cooperation Council. Since 2009, the State is host to the United Nations Human Rights Training and Documentation Center for South-West Asia and the Arab region.

2. Legal and Policy Framework

Qatar is party to most of the core international human rights treaties. In 2018, it became party to the ICCPR and ICESCR. It is not party to either the Convention for the Protection of All Persons from Enforced Disappearance or the Optional Protocol of the Convention Against Torture.

In 2003, as noted in the 2006 Global Survey, Qatar introduced a written constitution after a referendum the same year. The new Constitution contains a number of human rights clauses, such as guarantees for the rights of freedom of opinion and expression, freedom of assembly and freedom of association, in addition to guaranteeing the independence of the judiciary. According to the Constitution, Sharia law is the main source of Qatari legislation.

The Constitution does not make any specific mention of women’s rights or gender equality. Qatar’s Law No. 22 of 2006 on Family and Personal Status continues to discriminate against women. Under article 36, a marriage contract is valid when a woman’s male guardian concludes the contract and two male witnesses are present. Article 58 states that it is a wife’s

responsibility to look after the household and to obey her husband. Other than article 57 of the family law forbidding husbands from hurting their wives physically or morally, and general provisions on assault, the penal code does not criminalize domestic violence or marital rape.

In 2002, the State enacted the Law on the Protection of Society (Law No. 17 of 2002). It is also party to the 2004 Gulf Cooperation Council Convention for the Suppression of Terrorism and has subsequently adopted additional anti-terrorism laws. Under these legal frameworks, terrorism is defined in overly broad and vague terms which allow the restricting, prohibiting or punishing of the legitimate rights to freedom of expression, association and assembly.

The Law on the Protection of Society allows individuals to be held without charge or trial for up to six months by order of the Minister of Interior acting on the recommendation of the Director General of Public Security. Such administrative detention without charge or trial may then be extended for up to two years at the discretion of the Prime Minister. Detention is not subject to any judicial supervision or oversight, and the courts have no jurisdiction to hear challenges to such detention or to order the release of detainees. The law also makes no provision for detainees to have access to relatives or legal counsel, effectively allowing them to be held incommunicado.

The 2004 Law of Associations and Private Institutions governs the registration and operation of civil society organisations and establishes that Ministerial authorisation must be granted in order to acquire legal personality. Conducting activities without the proper registration is punishable with prison sentences. The Law prohibits organisations that 'aim to achieve material or political aims', a prohibition used to deny registration to human rights organisations.

Law No. 18 of 2004 on Public Meetings and Demonstration requires that all protests receive prior approval from the Director General of Public Security. In practice, the right to peaceful assembly is rarely exercised.

A cyber-crime law adopted in late 2014 imposed restrictions on journalists and criminalized posting "false news" online.

The NHRC has been internationally accredited as fully complying (level A) with the Paris Principles. Its mandate includes the investigation of violations of human rights.

3. Implementation of the Declaration

Defenders in Qatar do not fully enjoy the rights articulated in the Declaration. While the Constitution provides important legal guarantees, in practice the rights of many defenders are restricted. There is no national law or policy explicitly protecting human rights defenders and their rights, and to the contrary many laws and policies restrict these rights and pose threats to human rights defenders. Broad anti-terrorism legislation allows for the indefinite and incommunicado detention of defenders, particularly those critical of the State. Defenders particularly at risk include women human rights defenders, journalists, and defenders of labour rights (which, given the large numbers of migrant workers include defenders of people on the move).

The freedom of expression of defenders has been restricted by the State. In practice, the State monitors local Arabic press and there are clear taboos about Qatari policy which cannot be discussed in the press. Defender and poet Mohamed Rashid Al-Ajami was sentenced to

life in prison in 2011 (later reduced to 15 years) because of a poem he wrote. The poem, known as the "Jasmine Uprising" his "Jasmine poem," criticised governments across the Gulf region in the wake of the Arab Spring uprisings: "We are all Tunisia in the face of the repressive elite." He was released in 2016 after serving five years in prison. More recently, in 2017, his lawyer Dr. Al-Nuaimi was banned from leaving the State. In late 2016 and 2017, the State restricted access to the website of Doha News, the only independent media outlet in the State. Authorities also routinely censor and block access to other sites based on whether they express (un)favourable opinions of the State and its policies.

Defenders of labour rights and of people on the move. In 2014, widespread protests by migrant workers concerning their working conditions were met with excessive force and the arrest protestors. In September 2014, the State detained Krishna Upadhyaya and Ghimire Gundev, both British citizens working to investigate the conditions of migrant labourers constructing facilities for the World Cup. After the ongoing diplomatic confrontation with neighbouring States, beginning in 2017, the government has suggested a willingness of the State to increase the labour rights of and workplace protections for migrant workers.

As noted earlier, Qatar has restricted the travel of defenders, for example by banning them from leaving the State. The State has also refouled defenders to mistreatment elsewhere. In May 2017, it deported defender Mohammed Abdullah Al-Otaibi to Saudi Arabia where he had been convicted of setting up a human rights organisation (Union for Human Rights) before obtaining an official permit and publishing online petitions. Mr. Al-Otaibi was arrested and deported during transit through Qatar while traveling to Norway following the Norwegian government's decision to exceptionally provide him and his wife with travel documents and a humanitarian visa.

The Special Rapporteur thanks the Government's response to the communication sent during the reporting period. He expresses concern at the week-long disappearance and detention of two human rights defenders investigating the conditions of migrant workers involved in constructing facilities for the 2022 World Cup in Qatar and the travel ban imposed on them on unclear charges. Even though they were released and the travel ban lifted, a number of items confiscated during their arrest have yet to be returned to the activists.

4. Issues and trends

Qatar is at a crossroads with respect to the human rights of defenders. While it has a record of honouring the rights of defenders on paper more than in practice, recent policy announcements suggest that the State is considering a new approach. Of importance, Qatar has recently become party to the ICCPR. As part of its process of honouring its obligations under that treaty, the Special Rapporteur calls upon the State to review its legal frameworks, especially recent cybercrime and anti-terrorism legislation, to ensure that the rights of defenders outlined in the Declaration are protected. As part of its strategy of becoming a global information centre, the State should also relax the restrictions on the establishment of human rights organisations and freedom of expression. The Special Rapporteur commends the work of the national human rights institution and calls on it, along with the State, to ensure that the public is aware of the Declaration and the important role of human rights defenders.

Saudi Arabia

1. National Context and Human Rights Defenders

The state was included in the 2006 Global Survey. The Special Representative regretted that she had not received a State response for information, and had been unable to establish contact with human rights defenders in Saudi Arabia since 2001. She noted that basic freedoms such as freedom of expression, assembly and association were not protected by the Constitution. The State was only party to four core international human rights treaties, and was not party to the ICCPR. The Special Representative had sent eight communications regarding 22 defenders since 2005, and had received replies to only three of her communications. However, the replies caused concern in that they did no more than reiterate the position of the State against the 'criminal' activities of the defenders in question.

The situation of human rights defenders in the State continues to be of concern. While informal associations are sometimes tolerated, publicly active civil society organisations are almost non-existent; human rights organisations are targeted for brutal repression. The environment for human rights defenders in Saudi Arabia is hostile and becoming increasingly so; all defenders are at risk.

Defenders face harassment, intimidation, travels bans, bans from using social media, arbitrary arrest and detention, torture, lengthy and disproportionate prison sentences, and the death penalty. Some defenders such as Shi'a and women have long faced particular risk. In June 2018, the Special Rapporteur joined other UN experts in condemning the State's recent crackdown on women human rights defenders. Recently other types of defenders have come under threat, for example sympathisers with Qatar in its ongoing dispute with the State.

Saudi Arabia is a member of the Organisation of Islamic Cooperation (OIC). The OIC has adopted the Cairo Declaration on Human Rights in Islam. Saudi Arabia is currently a member of the Human Rights Council. Saudi Arabia is currently engaged in the Yemeni civil war and has cut off diplomatic relations with neighbouring Qatar.

2. Legal and Policy Framework

The State is party to five core international human rights treaties, but still has not become party to the ICCPR or the ICESCR. It is also not party to the Convention for the Protection of All Persons from Enforced Disappearance or the Optional Protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment. The State frequently enters "reservations with respect to all such articles as are in conflict with the provisions of Islamic law"; other State parties to the relevant treaties have objected to the legality of these reservations. In recent years, the State has punished defenders for cooperating with UN human rights mechanisms, and refused requests from UN Special Procedures to visit the State.

Islamic Shari'ah is the main source of law in Saudi Arabia. Article 26 of the Constitution guarantees that 'the State shall protect human rights in accordance with Islamic Shari'ah.' There are no provisions which reference freedom of assembly or association, and political parties are banned. The only article to reference expression is Article 39, which limits freedom of expression, clarifying that 'mass media, publication facilities and other means of expression shall function in a manner that is courteous and fair and shall abide by State laws . . . All that

may give rise to mischief and discord, or may compromise the security of the State and its public image, or may offend against man's dignity and rights shall be banned.'

Saudi law does not recognise unregistered non-governmental organisations. The Associations and Foundations Regulation governs the registration of non-governmental organisations (associations or foundations). The Ministry of Social Affairs (MoSA) refuse an application for registration because it proposes an inappropriate activity; MoSA must also approve any activities outside of the State or international collaborations. Non-governmental organisations working on human rights are effectively outlawed in the State, except for the National Society for Human Rights, which was also formed by a governmental decree.

The Counter-Terrorism Law (2014) does not comply with international standards and is used to prosecute human rights defenders, writers and bloggers. Dissenting opinion is also an offence punishable under the Anti-Cyber Crime Law and the Repression of Cyber Crime Law. A 2011 order by the Ministry of the Interior bans peaceful demonstrations and all other public gatherings.

The Saudi Human Rights Commission (SHRC) was founded in 2005 and serves as the national human rights institutions. The SHRC is not accredited by the Global Alliance of National Human Rights Institutions as complying with the Paris Principles.

3. Implementation of the Declaration

There is no law on human rights defenders, and no national protective mechanism for human rights defenders at risk. The State has cracked down on human rights defenders through increasing repression of and through often expansive and vaguely worded laws. The State responded to a wave of protests as part of the Arab Spring with the use of excessive (and sometimes deadly) force to end demonstrations, arrests, and censorship, including the expulsion of journalists who covered the protests.

The State has since made reference to their activities relating to the implementation of the Declaration. In their submission to the second cycle of the UPR process in 2013, the State noted that the SHRC had organised activities to build their capacities in accordance with international standards, among them those set out in the Declaration. The State also stated that 'in the light of sharia law and in support of non-governmental activity and ensuring that it is institutionalized, knowledge-based and objective, students' clubs, including human rights clubs, have been established, fostering the capacity of students for understanding, protecting and promoting human rights and claiming their own rights'. However, despite these statements, the State is creating an increasingly hostile environment for human rights defenders and the Declaration has not been implemented.

Freedom of expression is not permitted. The State censors the internet, charges defenders under the Anti-Cyber Crime Law when they speak out against the regime online, and regularly bars defenders from using social media. The State controls the media and journalists practice self-censorship as a result of reprisals against critical voices. The shift to online fora by defenders has been met by increasing online restrictions by the State. In July 2012, the Shura Council announced that it was drafting a law to punish individuals who criticise Islam through the use of blogs and social media.

Many websites have been blocked, including for encouraging people to join campaigns and demonstrations and for providing politically sensitive information. In 2017 Omar Al-Hamid

was sentenced to three years in prison under the Anti-Cyber Crime Law. The case of Raif Badawi caused international outrage when he was sentenced to seven years in prison and 600 lashes in 2012, and had his sentence increased to ten years and 1000 lashes in 2014, after he spoke out against the government's human rights abuses online. Samar Badawi, Raif's sister, was arrested in August 2018 for her work on women's rights.

The State has used increasingly excessive force against peaceful protesters. Security forces used live ammunition against peaceful demonstrators in the Eastern Province of Saudi Arabia in November 2011. At least 15 people were killed.

In a chilling development which has been widely condemned by the international community, Israa Al-Ghomgham, her husband, and three others are facing the death penalty for their roles in peaceful demonstrations in 2011. They have been arbitrarily detained since December 2015 and have not been given access to lawyers. Al-Ghomgham is a prominent Shia activist who led anti-government protests in Qatif during the Arab Spring. As of August 2018, the State continues to seek the death penalty for her and her co-defendants for their so-called crimes of participating in peaceful protest, providing moral support to protesters, and chanting slogans. Al-Ghomgham will potentially be the first woman to be beheaded for participating in non-violent demonstrations, setting an unfortunate precedent.

Defenders face restrictions on their right to freedom of movement. For example, defenders are regularly denied bail and held in prolonged pre-trial detention. The practice of issuing travel bans against defenders remains widespread. Members of the Saudi Civil and Political Rights Association (ACPRA) have been targeted for many years, and prominent defenders associated with the organisation including Dr. Abdulrahman Al-Hamed, Mohammed Saleh al-Bajadi, Fawzan al-Harbi, Dr. Mohammed Fahd Al-Qahtani and Dr. Abu Bilal Abdullah al-Hamid have been given travel bans and prison sentences ranging from 6 to 10 years. In February 2018, human rights defenders Essam Koshak and Issa Al-Nukhaifi were sentenced to a four and six-year prison terms and travel bans respectively for "inciting public opinion," after they criticised the government for their human rights violations, including those committed in Yemen.

The State continues to extend its violations of human rights outside of their own borders in other ways. They have ordered the deportation of Sudanese human rights defender Husham Ali Mohammad Ali back to Sudan, where he will be tried for his work on exposing human rights abuses committed by the Sudanese State. The State coordinated with Malaysia the deportation of human rights defender Hamza Kashgari and imprisoned him for 20 months upon his return for three messages on Twitter.

Women human rights defenders face compounded stigma, not only because of their work as human rights defenders, but also because of discrimination on gender grounds. Women human rights defenders face even more extreme impediments to their freedom of movement, given the restrictive laws governing women in the State. There has been an increase in the targeting of women human rights defenders since the rise in online campaigning for the right of women to drive. Recently arrested women human rights defenders were known supporters of the #Oct26driving, #Right2Drive and #IAmMyOwnGuardian women's rights campaigns.

A recent crackdown began in May 2018 with a wave of arrests of prominent women's human rights defenders. Over the following three weeks, other human rights defenders, including

both women and men, were also arrested. The majority of those defenders arrested have been advocating for women's human rights and for the lifting of the driving ban. Reports indicate that a number of those arrested face extremely serious charges, raising fears that each could face up to 20 years in prison. The State has begun a concentrated smear campaign against some of the defenders, branding them "traitors," "agents of embassies" and accusing them of treason. Loujain Al-Hathloul, Dr. Eman Al-Nafjan, Aziza Al-Yousef, Dr. Ibrahim Al-Modaimegh, Mohammad Al-Rabea; Abdulaziz Al-Mesha'al, Ibrahim Fahad Al-Nafjan, Dr. Aisha Al-Manae, Dr. Hessa Al-Sheikh, Dr. Madeha Al-Ajrroush, Walaa Al-Shubbar, and Mohammad Al-Bajadi are some of the prominent human rights defenders who have been arrested for their work on defending women's rights.

Defenders from the Shia minority also face discrimination and targeting, particularly when they express criticism of the government. Shia defenders have been labeled as "terrorists" and associated with armed Shia groups by the State. In 2016, the State executed Nimr al-Nimr, a prominent figure in the Arab Spring protests in Saudi Arabia. The State has demolished buildings in Shia towns and denied residents access to emergency and humanitarian services in response to protests, including in Qatif and Awamiyah.

The Special Rapporteur has sent a large number of communications to the State on at least an annual basis since the Global Survey of 2006, with six communications being sent in the last year alone. The communications raise many of the issues noted above, including in the past year the arbitrary arrest and imprisonment of defenders by way of reprisal for their human rights activities.

4. Issues and Trends

The Special Rapporteur is gravely concerned by the increasing punitive measures meted out against human rights defenders for carrying out their legitimate work. The risks that defenders face include harassment, arbitrary arrest and detainment, torture, lengthy prison sentences, excessive corporal punishment and the death penalty. The State is increasingly shutting down civil society space through its repressive measures and laws. All public demonstrations are banned and the State continues to persecute those involved in the Arab Spring movement. The State is also continuing its crackdown on freedom of movement, association, and expression. The Special Rapporteur echoes the concerns of other international observers when he laments the increasingly harsh measures levied against women human rights defenders which have increased dramatically in 2018. He is also concerned by the State's increasing foreign influence and its persecution of foreign nationals engaged in legitimate human rights work regarding their own countries.

The Special Rapporteur urges the State to stop its persecution of human rights defenders, and to allow them to continue their peaceful and legitimate work without fear of reprisals which are becoming increasingly harsh. Defenders must be involved in the reform process of government, regularly promised by the Crown Prince but not always delivered. As a demonstration of its commitment to reform, the Special Rapporteur urges the State to immediately release a number of women's human rights defenders arrested in a nationwide crackdown by the authorities in the wake of the country's celebrations as the driving ban on women was lifted.

Syrian Arab Republic

1. National Context and Human Rights Defenders

The Global Survey of 2006 noted that the State had not provided the Special Representative with information in response to the questionnaire she transmitted for the preparation of the report. She noted that defenders in Syria work on issues such as prevention of torture, minority rights, and campaigning for legal and constitutional reforms. While noting that the State was party to the ICCPR, the Special Representative echoed the concerns of the Human Rights Committee that a state of emergency lasting more than 40 years had seriously restricted rights “without any convincing explanations” as to the basis for the state of emergency.

Recalling that she had sent 21 communications to the State on the cases of 29 individual defenders, the Special Rapporteur expressed concern that the information received indicated that defenders have faced frequent arbitrary arrests and detention, in connection with peaceful demonstrations and demands for democratic reform. She also expressed concern about reports of alleged torture and ill-treatment in police custody of defenders and the involvement of Syrian security forces as the primary perpetrators of violations against human rights defenders. Overall the country entry for the State flagged concerns in relation to the freedoms of expression, association and assembly of defenders in the State.

Since 2006, the situation for human rights defenders has not improved. Beginning in March 2011, protests occurred in Damascus demanding democratic reforms and the release of political prisoners. These protests spread to other cities and escalated in their demands; the protests escalated into armed resistance against the State by June 2011. The armed conflict in Syria, which the State continues to describe as a war against “terrorism”, is now an ongoing multi-sided armed conflict. A range of international actors have become actively involved in the armed conflict at various stages, including openly Iran, Israel, Russia, Turkey, and the United States of America and less openly a wider range of regional States. Between 2014 and 2017 the extremist Islamic State of Iraq and the Levant (ISIL) controlled a large amount of territory in Syrian (and neighbouring Iraq); other extremist groups have (and continue) to hold and control territory in the State.

More than half of the population of the State has been displaced: there are now at least 6.1 million people internally displaced inside Syria and at least 5.6 million people internationally displaced due to the conflict.¹⁸⁰ The death toll of the conflict is now measured in hundreds of thousands “with many more maimed or permanently incapacitated for life.”¹⁸¹ A number of high profile international discussions have sought to address (and resolve) the conflict in Syria. Thus far they have failed and the conflict continues to ebb and flow, with credible allegations of grave violations of the laws of armed conflict, including through the deliberate targeting of civilian populations and the use of chemical weapons.¹⁸² Alongside the armed

¹⁸⁰ UNHCR “Syria conflict at 7 years: ‘a colossal human tragedy’” (9 March 2018) available online at <https://www.unhcr.org/news/press/2018/3/5aa1ad2e4/syria-conflict-7-years-colossal-human-tragedy.html>

¹⁸¹ A/HRC/37/72

¹⁸² A/HRC/27/60

conflict, a wide range of human rights violations are continuing to occur within Syria, perpetrated systematically by both the State and non-State armed groups.

Human rights defenders in Syria face deliberate targeting by parties to the armed conflict. Defenders perceived as critical of the State face enforced disappearance, indefinite detention, torture, and extrajudicial execution. Defenders do not enjoy any of the rights articulated in the Declaration on Human Rights Defenders anywhere in Syria today. All defenders are at risk in Syria. Defenders critical of any of the parties to the armed conflict and women human rights defenders face particular risks.

The Syrian Arab Republic has recently been suspended from the Organisation of Islamic Cooperation and the Arab League.

2. Legal and Policy Framework

The State is party to all of the core international human rights treaties, with the exceptions of Convention for the Protection of All Persons from Enforced Disappearance. The State has not become a party to the Optional Protocol of the Convention against Torture, which would provide important guarantees with respect to the monitoring of places of detention. In the early stages of the current conflict, the State adopted a new constitution. The new constitution of the Syrian Arab Republic guarantees a number of rights that are relevant to human rights defenders, including freedom of expression and belief (Article 42), freedom of the press (Article 43), freedom of assembly (Article 44), and freedom of association (Article 45). Despite these constitutional guarantees, national legislation and the ongoing conflict have severely limited the ability of defenders to enjoy these rights.

As noted earlier, for much of the State's history it has operated under a decree of a state of emergency. In response to the demands of protesters, the State ended the state of emergency in April 2011. However, as part of its response to the escalating crisis, the State has introduced a number of highly restrictive laws on terrorism in recent years, including the Law No. 19, the Counterterrorism Law. These new legislative provisions, combined with the lack of an independent judiciary and issues concerning the rule of law, have ensured that even after the end of the state of emergency freedoms of defenders have been highly restricted. Under the counterterrorism legislation, special counterterrorism courts with few procedural protections have prosecuted defenders for "publicizing" or "supporting" terrorist acts through their participation in peaceful assembly, documentation of human rights violations, and distributing humanitarian aid. Defenders have estimated that tens of thousands of civilians, including many defenders, have been prosecuted and convicted before these special counterterrorism courts.

Syria does not have a national human rights institution that has been accredited by the Global Association of National Human Rights Institutions (GANHRI) as complying with the Paris Principles. In the most recent cycle of the Universal Periodic Review, the State accepted a recommendation that it "[c]onsider establishing an independent national human rights institution in accordance with the Paris Principles."¹⁸³

¹⁸³ A/HRC/34/5 at ¶ 109.27.

3. Implementation of the Declaration

The State does not have a national law or policy recognizing human rights defenders or establishing a national protective mechanism. In practice, the State actively targets human rights defenders and perpetrates serious human rights violations against them, including enforced disappearance, indefinite detention, torture, and extrajudicial execution. Defenders are at risk of similar human rights violations from other parties to the armed conflict.

In July 2018, the Human Rights Council adopted a resolution strongly condemning “the continued systematic, widespread and gross violations and abuses of human rights and all violations of international humanitarian law by the Syrian authorities and affiliated militias” and “the continued widespread practice of enforced disappearance, arbitrary detention and the use of sexual violence, torture and ill-treatment, especially in detention facilities run by the Syrian authorities.”¹⁸⁴ In this context, from the beginning of the crisis, human rights defenders have faced similarly widespread and severe violations of their rights. Indeed, many of the “tens of thousands” of individuals arbitrarily detained are human rights defenders.¹⁸⁵

The State has not only failed in its obligation to protect defenders but it has systematically targeted them in an effort to silence them. The State has deployed a horrific arsenal of tactics against human rights defenders, including enforced disappearance, indefinite detention, and torture. As noted by the Committee Against Torture “The Committee noted that these reports of massive human rights violations take place in a context of total and absolute impunity as prompt, thorough and impartial investigations have not been undertaken by the Syrian authorities in these cases. It further noted that these generalized abuses are allegedly conducted under the direct order from public authorities, at their instigation or with their consent or acquiescence.”¹⁸⁶

The freedom of expression of defenders is heavily restricted by all parties to the armed conflict, including especially the State. Defenders who seek to document violations of humanitarian law or human rights violations are frequently targeted by the parties to the armed conflict in an effort to stop their activities. Razan Zaitouneh, founder of the prominent Violations Documentation Centre in Syria, was abducted in 2013 from then-rebel-held Douma.

Reporters without Borders have described Syria as “one of the world’s deadliest country for journalists.” Journalists, online bloggers and citizen journalists seeking to report on the situation in Syria have faced threats, harassment and violence from all parties to the conflict. Abdullah Al-khateeb, a Palestinian journalist, faced assassination threats due to his efforts to report on life in Yarmouk camp in southern Damascus.

Freedom of peaceful assembly is almost impossible to exercise in Syria today. The Arab Spring of 2011 resulted in a series of protest activities by Syrians. However, since the violent ending

¹⁸⁴ A/HRC/38/L.20

¹⁸⁵ UN Commission on Inquiry on Syria “Without a trace: enforced disappearances in Syria” (19 December 2013).

¹⁸⁶ CAT/C/SYR/CO/1/Add.2 at ¶ 3.

of the protests by the State and the descent of the State into armed conflict it has become almost impossible to exercise the right to freedom of peaceful assembly. Protests critical of the State have been met with excessive force (including gunfire) from State security officials and protesters have been subject to arrest, detention and torture. Non-state parties to the conflict have also taken similar action against protesters.

Freedom of association is highly restricted in Syria for human rights defenders. The State has discretion to determine whether or not to register an association and regularly refuses to register human rights organisations. Professional syndicates in areas controlled by the State are controlled by the governing Baath Party; all labor unions must belong to a nominally independent grouping that the government uses to control union activity.

Many defenders are forced to operate through clandestine networks or collectives. Locations which are openly identified with organisations, including organisations providing humanitarian relief, can be targeted by parties to the armed conflict. In November 2015, defenders reported that Russian planes bombed a bakery run by the Istanbul-based Humanitarian Relief Foundation which fed more than 40,000 people every day. Defenders who face arrest and imprisonment have been tortured in an effort by the State to have them reveal others with whom they have associated.

Women human rights defenders face the same obstacles as defenders more generally and additional challenges due to their gender and the issues on which they are working. Despite the fact that women are unlikely to be recruited to directly participate in the armed conflict, the State has persistently accused women human rights defenders as terrorists. The environment of impunity in Syria also facilitates the sexual harassment and infliction of gender based violence against women defenders. The extreme religious views of some of the parties to the conflict, including ISIL, resulted in women defenders being targeted for their “inappropriate” (in the view of ISIL) activities and advocacy of sexual orientation and gender identity rights, and further restricted in their activities as women. As noted by the Secretary General, “[w]omen and girls continued to be particularly affected by radical religious laws implemented by armed groups.”¹⁸⁷

The Committee on the Elimination of Discrimination of Women called on the State in its most recent concluding observations to “[h]alt all detention of women involved in peaceful and humanitarian activities and release all women activists who have been arbitrarily detained.”¹⁸⁸ Women human rights defenders have also faced pressure from reprisals against members of their families.

The Special Rapporteur has sent a large number of communications to the State concerning the situation of human rights defenders in Syria. Even before the current armed conflict, the Special Rapporteur raised concerns with the State about the use of travel restrictions, arbitrary arrest, indefinite detention and torture of journalists and other human rights defenders. In more recent years, the Special Rapporteur has sent communications alleging reprisals against defenders cooperating with the United Nations (including in its investigation

¹⁸⁷ A/70/919 at ¶ 45.

¹⁸⁸ CEDAW/C/SYR/CO/2

of humanitarian law and human rights violations in Syria) and documenting human rights violations in the State. While the State has generally responded to his communications, the number and pattern of communications are supportive of the threats faced by human rights defenders. Notwithstanding the State's regular insistence that the cases are handled "under due process by the competent authorities", the Special Rapporteur remains deeply concerned about the situation of the human rights defenders identified in the communications.

4. Issues and trends

The Special Rapporteur echoes the words of Geert Cappelaere, UNICEF regional director for the Middle East and North Africa: "No words will do justice to the children killed, their mothers, their fathers and their loved ones."¹⁸⁹ Similarly, this country entry cannot do justice to the tens of thousands of human rights defenders disappeared, assassinated, tortured, maimed, forced into exile and silenced in Syria since 2011. All parties to the conflict have shown an unprecedented disregard for the rights articulated in the Declaration and its recognition of the "solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all."¹⁹⁰

The Special Rapporteur calls on all parties to the conflict to immediately cease the targeting of human rights defenders exercising their rights articulated in the Declaration. He calls on the State to release defenders in its custody and to cooperate fully with civil society and international bodies pursuing the investigation of human rights violations, including the Independent International Commission of Inquiry on the Syria Arab Republic. The international community must support the negotiation of peace in Syria and, in the meantime, provide support and protection for human rights defenders in the State as well as those who have sought refuge abroad.

Turkey

1. National Context and Human Rights Defenders

Turkey was included in the Global Survey 2006. The then Special Representative noted that, while the situation of human rights defenders had improved somewhat at the time of the Global Survey, too many defenders were seen by the State as "enemies of the State." The country entry noted that many of the communications raised with the Special Representative concerned acts of persecution committed by State actors. The Special Representative was encouraged by the establishment of almost 1,000 human rights boards (also known as human rights councils) at the district and local level. Since 2006, the power of the President of the State has been significantly expanded.

Human rights defenders in Turkey continue to face significant restrictions on their enjoyment of rights articulated in the Declaration, in part arising due to a state of emergency declared by the State. The state of emergency was first declared on 21 July 2016 for a proposed duration of three months, and was extended for the seventh time in May 2018. The state of

¹⁸⁹ UNICEF "Reports of mass casualties among children in Eastern Ghouta and Damascus" (Aman, 20 February 2018).

¹⁹⁰ A/RES/53/144

emergency arose from an attempted military coup (and related actions that are characterised by the State as “terrorist”). In the immediate aftermath of the failed coup, over 50,000 people were arrested, detained, or suspended from their jobs. Since the state of emergency was declared at least 150,000 people have been arrested and more than 150,000 civil servants dismissed. Many of those affected by the arrests and firings are perceived as critics of the State and include teachers, judges and lawyers, and, journalists.

Beyond the noted arrests and firings, the State has severely limited the rights to freedom of expression (including access to information), assembly, association and movement. These restrictions have increased since the failed coup. All defenders are vulnerable given the current political situation in Turkey, including even (and sometimes especially) high profile defenders. Journalists, women defenders, defenders of the rights of Kurds and Kurdish defenders, and defenders of sexual orientation and gender identity rights also face particular risks.

Turkey is a member of the Council of Europe, the Organisation for Security and Cooperation in Europe, and the Organisation of Islamic Cooperation. The State began accession talks to enter the European Union in 2005.

2. Legal and Policy Framework

Turkey is party to eight core international human rights treaties, with the exception of the International Convention for the Protection of All Persons from Enforced Disappearance. The State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The Turkish constitution guarantees a number of rights in line with the Declaration. These include freedom of communication (Article 22), freedom of thought and opinion (Article 25), freedom of association (Article 33) and freedom of movement (Article 23) among others.

The State made a positive legislative move towards opening up civil society space with the Associations Law of 2004 and the Foundations Law of 2008. However, since the introduction of these laws, and particularly since the failed coup in 2016, the relationship between the State and civil society has deteriorated. On March 27 2015, the ‘Law Amending the Law on Powers and Duties of the Police, Other Laws and Decrees’ (Internal Security Reform Package) was passed. It gave the police extra powers, including allowing them to detain individuals without a warrant, and remove defenders from protests.

The Special Rapporteur is deeply concerned that broad, vaguely worded anti-terrorism laws are being used to silence defenders, journalists and any individual expressing a dissenting opinion.

In 2012, the Ombudsman's Office was established, pursuant to section 74 of the Constitution. In April 2016, the Human Rights and Equality Institution of Turkey (IDHE) was established by Law 6701, “in order to protect and raise the level of human rights, to fulfill the function of a national protection mechanism and to fight against discrimination.” The IDHE and Ombudsman’s Officer serve as national human rights institution, and the former is also a designated preventative mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment. The IDHE and the Ombudsman Office “pursue a programme of activities to strengthen democracy, respect for human rights and the rule of law in Turkey” according to the IDHE’s submission to the Special

Rapporteur. Neither the Ombudsman's Office of the IDHE have been accredited by GANHRI as complying with the Paris Principles.

3. Implementation of the Declaration

The State does not have a national law or policy concerning the situation of human rights defenders. The State suffered an attempted coup and, as a result, imposed a state of emergency. The state of emergency has, by definition, restricted the rights of all people within the State and had a particularly severe effect on the rights of human rights defenders. The rights to freedom of expression, assembly, association have been significantly restricted, affecting the activities of human rights defenders and, in many cases, putting them at risk from the State.

Freedom of expression has been restricted in recent years. Journalists have been particularly affected by the closure of media outlets and have faced frequent arrest and detention and, in some cases, lengthy sentences after unfair trial for their activities. On 16 February 2018, life sentences were imposed on Nazlı Ilıcak, Ahmet Altan, Mehmet Altan, Fevzi Yazıcı, Yakup Simsek and Sukru Tugrul Ozsengul after being found guilty of taking part in the unsuccessful coup attempt in 2016. However, no substantial proof of their involvement in the coup was presented and their trial was not regarded as fair by both defenders and international monitors.

Since the beginning of the state of emergency, about 300 journalists have been arrested on the grounds that their publications contained "apologist sentiments regarding terrorism" or other "verbal act offences" or for "membership" in terrorist organisations. In 2017, many journalists who participated in a solidarity campaign with pro-Kurdish newspaper Özgür Gündem were prosecuted under terrorist propaganda laws. Limits to freedom of expression affect all citizens, for example on 5 June 2018 two members of the organisation Academics for Peace were sentenced to one year and three months in prison for signing a peace petition; they are two of over 265 who have been prosecuted for the same action. Defenders have also faced investigation, criminal prosecution and detention due to their human rights activities. Taner Kiliç, the chair of Amnesty International Turkey, who has been detained since June 2017 on unsubstantiated terrorism charges.

Online expression is also heavily controlled. It has been reported that Turkey was responsible for 45 percent of global removal requests to Twitter during the first half of 2017. Over 100,000 websites were reportedly blocked in 2017, including a high number of pro-Kurdish websites and satellite TV channels. In contrast to the closure of media outlets and online sources of information and opinions critical of the State, defenders have complained that pro-government media outlets have waged a number of "smear" campaigns against human rights defenders, often using the media to disseminate unsubstantiated and exaggerated accusations against defenders, placing defenders at risk of threats and violence from pro-government non-State actors.

Freedom of assembly of defenders has been severely limited both through the state of emergency and under new legislation. As noted above, under the Internal Security Reform Package, the police have been given more powers to remove people from protests, thus impeding their right to assembly. Despite such reforms and the current climate, thousands of people continue to protest, and in some cases peaceful protests are met with excessive force by police. For example, on 25 August 2018, the Saturday Mothers met in Istanbul for their 700th peaceful protest, drawing attention to the forced disappearances of their relatives

amid violent repression of the Kurds in the 1980s and 1990s. The protest had been banned because it was linked to the Kurdistan Workers' Party (PKK) via social media accounts. The State classifies the PKK as a terrorist organisation. Police intervened with a water cannon and tear gas, and arrested demonstrators including Emine Ocak, a veteran protester in her eighties.

Other less public gatherings have attracted police attention and have been restricted by the State. On 5 July 2017, ten prominent human rights defenders including Idil Eser, the director of Amnesty International Turkey, were arrested when they attended a workshop. Eser was released on 25 October 2017 and is awaiting trial for charges that she was aiding a terrorist organisation. As of November 2017, events relating to sexual orientation and gender identity in Ankara have been banned indefinitely under the emergency legislation, citing "public safety", "safeguarding general health and morals" and "safeguarding the rights and freedoms of others". The move follows the violent dispersal, using plastic bullets, tear gas and water cannons, of crowds who had gathered for a banned Pride march in Istanbul in June 2017.

The ability of defenders to freely associate, including through human rights organisations, has been restricted. In excess of 1,000 civil society organisations have been closed due to often vague allegations of "links to terrorist organisations." For example, the Van Women's Association was shut down in 2017 as it was about to sign a contract with the European Union to implement a three-year project concentrating on preventing gender-based violence, which would have benefitted around 8,000 women in 92 villages. Many civil society organisations defending sexual orientation and gender identity rights have been closed down.

The State has used a variety of means to control defenders. It has imposed travel bans on defenders and otherwise controlled their movement, even within the State. For example, prominent lawyer and human rights defender Eren Keskin is not allowed to travel while she awaits the verdicts of the 143 charges levied against her for her legitimate and peaceful work in the defence of human rights. Similarly, Ali Erol, the founder of LGBTI rights group KAOS-GL, was arrested on 1 February 2018 for tweets directly related to human rights. He was released after five days and currently required to report to a police station every week, thus restricting his freedom of movement.

The Special Rapporteur has sent growing number of communications to the State in recent years concerning the situation of human rights defenders, including expressing concern about the growing number of arrests and sentencing of human rights defenders under vaguely worded anti-terrorism laws. The Special Rapporteur joins other UN bodies in calling for the immediate release of all human rights defenders in Turkey.

4. Issues and Trends

The State is home to a vibrant and dynamic civil society. Unfortunately, in recent years, the State has come to view human rights defenders as its opponents, rather than as a necessary part of a peaceful and democratic society. The State has experienced legitimate challenges in recent years, including acts of terrorism and a failed coup. While these circumstances can support derogation from established laws and norms, as the Special Rapporteur has noted elsewhere: "Even where some rights or freedoms are restricted in a situation of emergency or to protect public order, the right to associate, advocate and protest in relation to the restrictions, in effect to monitor and debate the restrictions, can neither be restricted nor suspended. Restrictions on the right to defend human rights must be held to a very high

standard; in times of great peril, the need for a robust civil society and independent voices, for independent monitoring and accounting, is even greater.”¹⁹¹

Defenders have faced arrest, detention, and unfair trial in Turkey in recent years. Defenders who are critical of the State have been labeled as terrorists or conspirators in the failed coup. Restrictions have been placed on many of the rights articulated in the Declaration, including in particular the rights to freedom of expression, assembly and association. The Special Rapporteur requests the State to review the arrests, detentions, prosecutions and firings of defenders since the imposition of the state of emergency with a view to ensuring that its actions have not punished individuals for exercising their rights as articulated in the Declaration.

While all defenders are vulnerable, defenders expressing views on the policies of the State (including the state of emergency) or working on Kurdish issues, women human rights defenders, and defenders of sexual orientation and gender identity rights have faced particular restrictions on their rights. The Special Rapporteur urges the State to review its state of emergency with a view to ensuring that it is time limited, that its restrictions are necessary and proportionate, and that it does not end up undermining its very object, the preservation of a free society.

United Arab Emirates

1. National Context and Human Rights Defenders

The United Arab Emirates (UAE) is a federation of hereditary emirates. The UAE was established in 1971 and comprises seven emirates: Abu Dhabi (the capital), Ajman, Dubai, Fujairah, Ras al-Khaimah, Sharjah and Umm al-Quwain. Despite rapid economic development, there is very little space for civil society in the UAE. It has been described in global reviews of civil society as “one of the world’s most repressive environments for civil society activists.” According to the State’s submission to the UPR, there were (as of 2016) 166 welfare associations, 14 civil society institutions and 17 social solidarity funds in the UAE. It is unclear if any of these are human rights organisations; as noted below civil society organisations and defenders face significant restrictions on their activities.

A minority of the population in UAE is Emirati, with foreign (non-citizen) residents outnumbering Emarati citizens by five to one. The non-citizen population is made up of professional expatriates and migrant workers; many of the latter, in particular, are in precarious situations due to lack of workplace situations and barriers to remedies linked to their immigration status. Defenders of non-citizens face a particularly challenging environment.

The State was not included in the Global Survey of 2006. The UAE is a member of the Arab League, the Gulf Cooperation Council, and the Organisation of Islamic Cooperation (OIC).

2. Legal and Policy Framework

The UAE has ratified five of the core international human rights treaties, but it is not party to the ICCPR, ICESCR, International Convention on the Protection of the Rights of All Migrant

¹⁹¹ A/73/215

Workers and Members of Their Families, or Convention for the Protection of All Persons from Enforced Disappearance. It has entered significant reservations to its treaty obligations, in particular those under the Convention on the Elimination of All Forms of Discrimination against Women, that it accepts treaty obligations “insofar as they are not in conflict with the principles of the Shariah”; its reservations to treaty obligations have faced objections from other State parties. The UAE, as a member of the OIC, also adheres to the Cairo Declaration on Human Rights in Islam.

As part of the second cycle of the UPR in 2013, the State supported the need to “take steps to protect human rights defenders, journalists and religious minorities from discrimination, harassment or intimidation, including the arbitrary deprivation of nationality.” Its submission to the third cycle in 2018 did not reveal any steps taken to protect defenders, referring only once in passing to defenders. There is no national law or policy concerning the situation of human rights defenders.

In September 2018, the State revised the Penal Code, amending 132 existing articles and adding 34 new articles. New restrictions were placed on the freedom of expression and peaceful assembly. Article 176 of the Penal Code remains after the amendments and sanctions five years in prison for ‘whoever publicly insults the state president, its flag or national emblem.’ Article 180 prohibits founding, organising, or operating a group that aims to overthrow the country’s political system. Both articles have been used to prosecute and punish defenders.

Law No. 7/2016 provides for the application of the death penalty for crimes including the establishment of or the participation in organisations aiming to ‘overthrow the government’ or ‘disrupt state security,’ even where the activities of the organisations are peaceful.

The Counter-Terrorism Law (2014) prohibits and criminalises activities which may ‘undermine national unity or social peace,’ although such activities are not defined within the law. Those charged under the Counter-Terrorism Law can be sentenced to death and can also be detained indefinitely at a “counselling centre”, even after their prison sentence has been served.

The Cybercrime Law (2012) restricts online activity and punishes individuals for ‘spreading false information’ or ‘tarnishing the image of the state.’ The Law criminalises defamation, insulting the ruler, damaging state reputation, organising without permission and participating in unlawful groups. Those charged under it can receive sentences of up to life imprisonment.

Federal Law No. 2 Concerning Public Welfare Associations and Organisations (2008) establishes the legal framework for “public welfare associations” (PWAs). PWAs are heavily regulated by the Ministry of Social Affairs and prohibited from engaging in any activity that interferes in politics, relates to the UAE’s security or system of governance, or causes sectarian, racial, or religious disputes. The law is unclear as to what exactly constitutes “interference in politics,” but the term is likely to be given a broad interpretation and include legitimate human rights activities.

There is no internationally accredited national human rights institution. The Human Rights Committee of the Federal National Council and the Human Rights Department within the Ministry of the Interior address human rights issues but are not independent of the

government. The State has also established various councils and committees to address particular human rights issues, including the Supreme Council for Motherhood and Childhood, National Committee to Combat Human Trafficking, and the Gender Balance Council.

3. Implementation of the Declaration

Human rights defenders in UAE operate in an increasingly restrictive environment, in which the rights of the Declaration are not respected. Defenders' right to freedom of expression, assembly and association are curtailed by broad and vaguely worded laws, and they face arbitrary arrest and detention, torture, forced disappearance, unfair trials and lengthy prison sentences for carrying out their work. Public statements by the state rarely acknowledge human rights defenders as such, instead, they are officially described as "terrorists" or "criminals".

Since 2011, in response to the broader Arab Spring in the region, the State has intensified its crackdown on human rights defenders. In May 2018, one of the UAE's last prominent human rights defenders, Ahmed Mansoor, was sentenced to ten years in prison for his social media posts criticising the State for their human rights violations. Recent estimates suggest that around two hundred prisoners of conscience are currently being held in Emirati prisons. National security is increasingly being used as a pretext to clamp down on peaceful activism, and to stifle calls for constitutional reform and calls to address human rights issues such as statelessness. A number of defenders openly critical of the Government have been arbitrarily deprived of their Emirati nationality.

In 2013, the State arrested, placed in incommunicado detention, and put on trial 94 activists, academics, lawyers, and peaceful dissenters involved in the peaceful organisation Reform and Social Guidance Association (Al-Islah). The arrest, detention and trial of the "UAE 94" occurred amidst a climate of extreme secrecy – with family members of the defendants detained, charged and sentenced to lengthy periods of imprisonment under the Cybercrime Law for releasing details of the trial. Those arrested were held under article 180 of the Penal Code, which restricts freedom of association; the evidence used in the trial was secret and, in some cases, coerced from the defendants. Many defendants showed clear signs of torture and malnutrition.

In March 2017, human rights defender and prominent academic Dr. Nasser bin Ghaith was sentenced to 10 years in prison under both the Cybercrime Law and the Counter-Terrorism Law following his tweets regarding human rights violations committed by the State. Before being sentenced, he was arrested in August 2015, held incommunicado for nine months, then kept in solitary confinement for fourteen months. In December 2017, Obaid Al-Zaabi was released from prison, three and a half years after having been acquitted by the Federal Supreme Court of crimes linked to the exercise his freedom of expression on Twitter; the State's security services had refused to release Al-Zaabi despite his acquittal.

As well as imposing harsh sentences on those who publicly express dissent, the State also increasingly censors the internet and utilises surveillance technology, such as Pegasus, which can intercept encrypted messages. As early as 2012, there were reports that the personal computer of Ahmed Mansoor had been hacked by the State using legal intercept tools. His personal communication devices were also confiscated when he was arrested in 2015. The Cybercrime Law also prevents defenders from providing information to independent

journalists and human rights organisations. For example, no national human right organisations submitted any information to the third cycle of the UPR process in 2018.

Women defenders are subject to the same punitive measures as male defenders. For example, Duaa and Asma Al Seddiq had their citizenship revoked in retaliation for their tweets critical of the State. Their father is a convicted member of the UAE 94. Moza al-Abdouly was forcibly disappeared for over six months in November 2015 following her Twitter activity. Amina al-Abdouly was prosecuted under the Counter-Terrorism Act. She was sentenced to five years in jail in October 2016. The Committee on the Elimination of Discrimination against Women has been concerned about the absence of a robust civil society, including autonomous and active women's and human rights organisations.

The Special Rapporteur has received a number of communications. In recent years concerning the situation of human rights defenders in the UAE. The Special Rapporteur has expressed his concerns to the State regarding the cases of Mr. Ahmed Mansoor, Mr. Nasser Bin Ghaith and Mr. Obaid Yousef al-Zaabi, as well as the reprisals against relatives of convicted members of the UAE 94, including the children of detained human rights defender Mr. Mohammed Abdul Razzaq Al-Siddiq and three sisters of Dr Issa Khalifa al-Suwaidi. While he is grateful for the replies received in response to some of his communications, he remains troubled by the cases of these individuals and the State's continued use of punitive measures against these individuals and other defenders.

4. Issues and Trends

The Special Rapporteur is gravely concerned by the increasing clampdown on the legitimate work of human rights defenders in UAE, and particularly that this has contributed to the breakdown of civil society in the State. New laws are being used to intimidate, silence and prosecute defenders such as activists, academics and bloggers. Under article 180 of the Penal Code, the Cybercrimes Law (2012) and the Counter-Terrorism Act (2014), scores of human rights defenders have been detained, charged and sentenced to lengthy prison terms. The State has also used the arbitrary deprivation of nationality – effectively forcing defenders into exile – as a tool against legitimate human rights activities. Among other cases, the Special Rapporteur remains deeply concerned by the case of the UAE 94, particularly given the allegations of torture and forced disappearance of defendants, and the reprisals meted out to relatives of the accused. The Special Rapporteur calls on the State to revise its policies and to take urgent action to fulfil its commitment in 2013 to protect human rights defenders, journalists and religious minorities from discrimination, harassment or intimidation, including the arbitrary deprivation of nationality.

Yemen

1. National Context and Human Rights Defenders

The Republic of Yemen is currently in a state of civil war, which erupted in 2015, and is being fought between Houthi rebels (Ansar Allah) and the internationally-recognised government. Although it is a civil war, several countries are involved in the conflict. The government is supported by a coalition of states headed by Saudi Arabia and including Kuwait, the United Arab Emirates, Bahrain, Egypt, Morocco, Jordan, Sudan and Senegal. The United Kingdom,

France and the United States of America support the coalition, providing them with weapons and intelligence. The United States of America also carries out airstrikes against Islamic State of Iraq and the Levant (ISIL) targets in Yemen. The armed conflict is part of a wider 'cold-war' in the Middle East between Saudi Arabia and Iran. There are claims that Iran arms the Houthi rebels. Elsewhere in the region, Saudi Arabia and Iran are involved in opposite sides of the conflicts in Syria.

It is difficult to access exact figures of civilian deaths in the war. According to United Nations Human Rights Office, since March 2015 up to 23 August 2018, 6,660 civilians were killed and 10,563 injured; however, the real figures are likely to be significantly higher. Other figures suggest that in 2017 alone, around 130 children died per day in Yemen, as a result of hunger and disease caused by blockades. Children are also killed as a result of attacks and strikes on civilian targets, which are carried out in Yemen at an unprecedented rate, and because forces on both sides of the conflict have conscripted children as young as eight into the conflict.

There is strong evidence to suggest that all parties to the armed conflict have perpetrated, and continue to perpetrate, violations and crimes under international law. There is credible evidence that war crimes have been committed by the Houthi rebels, the Government of Yemen and by States within the coalition, including Saudi Arabia and the United Arab Emirates have committed acts that may amount to war crimes. In September 2018, the Human Rights Council voted to extend by one year an international probe of alleged war crimes committed in Yemen.

Yemen is the second largest country in peninsula and the Arab world's poorest country (officially a lower-middle income country). The ethnic groups are predominantly Arab, also Afro-Arab, South Asian and European; it is a Muslim majority country. The civil war has exacerbated many socio-economic problems faced by Yemen. Already high rates of unemployment and poverty have increased, social services have worsened leaving most of the vulnerable population with no access to basic services like health and education, and gender inequality has deepened; before the crisis women represented only 0.6% of the labour force and they have consistently contended with gender-based violence, child marriage and the highest rates of maternal mortality in the region.

Yemen is experiencing an unprecedented humanitarian crisis. Given the extent of the current crisis in Yemen, it is impossible to provide an exhaustive account of the situation of human rights defenders. However, it is clear that all human rights defenders face extreme risk. Defenders experience relentless harassment, threats, smear campaigns, extrajudicial killings, torture and other violence from all sides of the conflict, in blatant disregard of humanitarian and human rights law. Women human rights defenders are especially vulnerable.

Yemen was not included in the Global Survey 2006. The State is a member of the Arab League and the Organisation of Islamic Cooperation, among other regional bodies. Yemen is in discussions to join the Gulf Cooperation Council.

2. Legal and Policy Framework

Yemen has become party to seven core human rights instruments. It has yet to become party to the Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Parliament is considering ratification of the former.

The Constitution declares that Islam is the state religion and that Islamic law is the source of all legislation. The Constitution guarantees personal freedom and the right to association, 'in as much as it is not contrary to the Constitution.' In January 2015, a 17-member committee was appointed to draft a new Constitution, and civil society organisations were given substantial opportunities to submit suggestions and give feedback.

As it stands, the draft includes provisions relevant to the Declaration, which would strengthen the protection of civil society in Yemen. For example, the right to create associations, foundations and CSOs which would be independent of the State, and the assertion of the State's commitment to the United Nations Charter, the League of Arab States Charter, and the Universal Declaration of Human Rights, and to international charters and treaties ratified by the legislature. The draft also represents a significant improvement on the provisions related to woman and children's rights, both mentioned for the first time in a separate chapter.

In late 2014, the Ministry of Legal Affairs was drafting a new civil society organisation law which was to be submitted to Parliament in 2015, however the worsening state of war halted developments.

The protection of human rights in Yemen has been assigned to the executive branch. The Ministry of Human Rights was created in 2003, succeeding the Supreme Committee for Human Rights. The State does not have a national human rights institution operating in accordance with the Paris Principles, and Yemen committed to establish such an institution during the UPR processes of 2009 and 2014.

3. Implementation of the Declaration

The implementation of the Declaration in Yemen is today governed less by the legal and policy frameworks and more by the actions (and often human rights violations) of the military actors in control of or engaged in conflict in parts of the State.

There are no legal barriers to freedom of expression in Yemen, however, it has been heavily curtailed since the outbreak of the war. Independent coverage of the war is almost impossible given that major outlets are controlled by parties on either side of the conflict. There are reports that aggressors on both sides threaten defenders and other organisations to release reports in their favour. Large numbers of journalists have been held since 2015 by Houthi rebels, while others are at risk of violence from Government militia. In September 2016, journalist Yahya Abduraqeeb al-Jubaihi was kidnapped and forcibly disappeared by Houthi rebel forces after being accused of collaborating with the Government. Forty-one journalists were held hostage at the headquarters of Al-Yemen Al-Youm television channel by Houthi forces in December 2017 for almost two weeks before being released.

The internet is heavily controlled by the Houthi side, and citizen journalists are surveilled and arrested. Journalists and other defenders are kidnapped, abducted and held at undisclosed locations. For example, human rights researcher Kamal Qishrah was abducted on 14 August 2018 and his whereabouts are unknown. Blogger Hisham al-Omeisy was held incommunicado in an undisclosed location for five months, and finally released in January 2018 after five months. He was arrested by Houthi forces for exchanging emails in English with US-based organisations. Other defenders have had their communication devices confiscated, been arrested, arbitrarily detained and held incommunicado for months at a time, tortured, and

even murdered when they have spoken out against human rights abuses, or participated in meetings to discuss legitimate human rights work. Islamist religious extremist groups have also targeted defenders for expressing views perceived to be against Islam or secularist. Amgad Abdulrahman was shot in May 2017; he was a law student and member of a club of secularists.

Freedom of assembly is guaranteed by national laws and under international covenants to which the State is party. The State accepted recommendations to strengthen freedom of assembly under the second cycle of the UPR in 2014. However, forces on both sides of the conflict have violently dispersed peaceful protests, using live bullets and excessive force, resulting in the killing, wounding, arrest and torture of scores of protestors.

Since the outbreak of civil war, freedom of association has been severely restricted. Prior to the conflict, restrictive laws hampered the establishment of human rights organisations, and many have been forced to close down since the conflict began due to pressures from both sides. As well as violence, threats and intimidation, they are subject to smear campaigns. Human rights organisations are frequently caught between the warring sides, blamed by all for supporting the ‘enemy’. For example, the staff of Mwatana Organisation for Human Rights has faced human rights violations from both the Houthi rebels and the Government.

All defenders are at risk, but women defenders are especially vulnerable, given the exacerbated threats they face as women living under a repressive regime. In 2011, women defenders who took to the streets in widespread, national protests were beaten and attacked along with their male counterparts. However, they also faced the extra consequence of violent attacks at home and in the street before they attended protests, with men calling them un-Islamic and telling them they were inviting sexual assault and shaming their families by attending protests. Because women defenders face more pressure to stay in their homes, thus impacting on their right to freedom of movement, their ability to participate in civil society is limited. Defender Lina al-Hassani has been forced to stay in her home, and Shafika al-Wahsh was prevented from travelling to important talks in Geneva. Other defenders have been killed and injured while carrying out their work; Sally Ahmadalhaji was killed while she was helping wounded civilians, and Dr. Fatima al-Kawkabi and Zahra Saleh have been injured.

Defenders of sexual orientation and gender identity rights are also at great risk. Male homosexuality is punishable by death, and despite the numbers of men incarcerated for homosexual practices, the official State position is that there are no homosexual men in Yemen. Homosexuality among women is also criminalised, with a maximum punishment of three years in prison. Advocacy groups are forced to operate in secret, even those which deal with issues relevant but not exclusive to the homosexual community, such as HIV prevention. Defenders who have been open about their sexuality, such as Ala’a Jarban, have fled the country and seek asylum.

Defenders expressing “un-Islamic” or secularist views have faced mistreatment, including extrajudicial execution. Defenders from the Ba’hai community face discrimination and prosecution for their faith. Mr. Hamed bin Haydara was arrested in December 2013 by the State and subjected to torture, indefinite detention and unfair trial. In January 2018, the Specialised Criminal Court in Sana’a confirmed his sentence of execution.

The Special Rapporteur has not sent communications to Yemen since 2011 when concerns were raised about the excessive use of force and violent repressions of protests, prompting

the Special Rapporteur to remind the State of its obligations under international human rights law to respect the right to assembly.

4. Issues and Trends

Human rights defenders in Yemen are operating under incredibly difficult circumstances given the escalating violence of the civil war. The Special Rapporteur commends the bravery of individuals willing to commit themselves to the cause of human rights, even amidst wide-scale and protracted armed conflict. In a context of extreme danger for all citizens in Yemen, defenders face extra risk. They are targeted by all sides of the conflict and harassed, intimidated and threatened; they face travel bans and are the subjects of smear campaigns; they are arbitrarily arrested, detained and held incommunicado at undisclosed locations for months at a time; they are tortured and killed by State security and Houthi rebel forces. The rights to expression, assembly, association and movement have all been severely curtailed.

The Special Rapporteur is gravely concerned by the situation for human rights defenders in Yemen. He urges that the State persevere with amendments to the Constitution which would strengthen protections for civil society. He further urges that the State halt their persecution of journalists and other defenders, to release defenders in detention, and to reveal the whereabouts of those forcibly disappeared. The Special Rapporteur urges the international community put pressure on all parties to the conflict to cease targeting human rights defenders and for the international community to provide support for human rights defenders, including through pathways into exile abroad where necessary. Looking forward to whenever peace is restored, the Special Rapporteur urges all stakeholders to ensure that post-conflict processes of truth and reconciliation and peace building fully recognise the important role of human rights defenders and the rights articulated in the Declaration.

EUROPE

Central Europe

Austria

1. National Context and Human Rights Defenders

Austria was not included in the 2006 Global Survey. Generally, human rights defenders enjoy the rights articulated in the Declaration and the State openly supports their work. In recent years, defenders of people on the move and working against xenophobia have faced particular challenges arising from non-State extremism and an increasingly nativist public discourse. Austria is a member of the Organisation for Security and Cooperation in Europe (OSCE), the Council of Europe and the European Union.

2. Legal and Policy Framework

Austria is party to the majority of core international human rights treaties, except the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The State is also party to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

The Austrian Constitution does not include a bill of rights, though it does incorporate by reference guarantees of fundamental freedoms dating back to the Basic Law on the General Rights of Nationals of the Kingdoms and Länder represented in the Council of the Realm of 1867. Laws within the State provide enabling conditions for defenders, with liberal provisions on freedom of expression, assembly and association.

Austria does not have a specific law or policy relating to human rights defenders, however the State is explicit in its support of the European Union Guidelines on Human Rights Defenders and is actively engaged in the formulation and support of resolutions on the promotion and the protection of human rights defenders within international fora. The protection of human rights defenders has been identified as one of the key human rights priorities of the State.

In July 2012, the Austrian Ombudsman Board (AOB) expanded its mandate to become the national human rights institution and is accredited as partially compliant ('B' status) with the Paris Principles. Within the AOB, there is a Human Rights Advisory Council comprising Ministries, Provincial Governments and civil society organisations. Some concerns have been raised by defenders about the independence and effectiveness of the AOB.

3. Implementation of the Declaration

The rights of human rights defenders are generally well-respected in Austria, and defenders and journalists operate in an overall safe and enabling environment where the fundamental rights to freedom of assembly, association, and opinion and expression are respected in law and practice. However, defenders have expressed concern about some recent developments.

Freedom of expression is valued in Austria and the State has prioritised the safety and protection of journalists in both its domestic and foreign policy. For example, in 2016, the State initiated a comprehensive resolution on the safety of journalists, which was adopted by the Human Rights Council. The topic of safety of journalists played an important role during Austria's Chairmanship-in-Office of the OSCE in 2017. Furthermore, Austria serves as the current chair of the OSCE's Group of Friends for the Safety of Journalists and is a member of the corresponding UN group. Notwithstanding this political support for free expression, defamation and libel laws continue to be used against journalists in the State. In April 2018, Norbert Steger of the right-wing populist Freedom Party of Austria (FPÖ) threatened that he could fire up to a third of journalists associated with the State's public broadcaster ORF "if they do not behave correctly".

Defenders generally enjoy freedom of peaceful assembly. Only 24 hours advance notice (and not approval) is required to hold a peaceful assembly, and unannounced assemblies may not be disallowed or broken up so long as they are peaceful. Limitations include that gatherings cannot be held within 300 metres of government buildings when national or federal councils are in session, and that non-citizens cannot legally organise or lead protests. The latter prohibition contravenes the ECHR and the Special Rapporteur has expressed concern about how such restrictions on people on the move are incompatible with the Declaration.¹⁹²

In December 2017, large scale anti-government demonstrations were held to protest the far-right trend in parliament, and they continued into 2018. In January 2018 around 20,000 protesters took to the streets in Vienna. The protests were largely peaceful. While a large police presence has been noted, there were no reports of excessive use of force. In February 2018, annual protests against the far-right Academics Ball were peaceful and no arrests were made, although defenders report that in 2015 fifty-four protestors were arrested while protesting the Ball, and there were reports of excessive use of force by police.

Associations, including trade unions, can be formed without major barriers to registration or functioning. However, funding is a consistent problem for human rights organisations, and the new government has moved to cut funds available for organisations addressing sensitive issues, such as migration, gender-based violence, and services and protections for vulnerable groups.

Austria has been reviewed twice under the Universal Periodic Review process, most recently in 2015. In the first cycle in 2011, Austria was criticised for failing to engage with civil society. Significant improvements in this respect were observed during the second cycle in 2015, for instance the State had invited ethnic minority representatives to support the preparation of its national report, and more civil society organisations were involved in an open dialogue regarding human trafficking. In 2015, no specific mention or recommendations were made regarding human rights defenders in any submission or in the final report of the working group.

The most recent communication the Special Rapporteur sent to the State was made in November 2010, and concerned the threat of imminent assassination to Mr Farid

¹⁹² A/HRC/37/51

Tukhbatullin, a Turkmen human rights defender in exile in Austria at the time. The Special Rapporteur urged the Austrian authorities to provide adequate protection to Mr Tukhbatullin.

4. Issues and Trends

The Special Rapporteur is heartened by Austria's commitment to the promotion and protection of human rights defenders and journalists, and the safe and enabling environment that exists for them to carry out their legitimate and peaceful work. He is pleased that recent protests have been peaceful and not met with excessive force from police. However, he is concerned by reports from defenders that there is a climate of fear since the formation of the far-right and centre-right coalition government and created by an increasingly nativist public discourse. The Special Rapporteur urges the State to continue its positive work with journalists and refrain from State officials making threatening comments. He also recommends the State review aspects of its current legal frameworks that might negatively, if inadvertently, impact on freedom of expression, including its defamation law.

Czech Republic

1. National Context and Human Rights Defenders

The State was not included in the Global Survey 2006. Generally, the State has a safe and enabling environment for human rights defenders. Freedom of expression, association and assembly are usually respected. The State emphasises that the protection of human rights defenders, especially women human rights defenders, is one of the priorities of its human rights policy, Human Rights and Transition Promotion Policy Concept. However, journalists face an increasingly hostile environment and defenders working with and for the rights of Romani people are also at risk.

The Czech Republic is a member of the Council of Europe, the Organisation for Security and Cooperation in Europe and, since 2004, the European Union.

2. Legal and Policy Framework

The Czech Republic is party to all of the major core international human rights treaties, except the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It has also party to the European Convention on Rights and Fundamental Freedoms. Although rights included in the Declaration are generally respected, there is no comprehensive strategy for either the promotion of the rights of human rights defenders, or protection mechanisms for those at risk.

The Public Defender of Human Rights is the State's national human rights institution, although it is not yet accredited as being compliant with the Paris Principles.

3. Implementation of the Declaration

The rights of the Declaration are well respected in the Czech Republic, albeit with some structural challenges.

Freedom of expression is guaranteed by law except in instances of denial of the Holocaust, Communist-era crimes, and hate speech. In practice however, journalists face attacks from senior officials of the state, being publically described as “manure” and “hyenas. Media ownership has become increasingly concentrated since 2008 and perceptions of its independence have suffered as a result. The Prime Minister, has been perceived by his critics as being in a conflict of interest through his media ownership (though this is now in a trust).

Civil society is lively and dynamic, with around 130,000 non-governmental organisations operating in 2017, largely without State interference. A hostile environment is created by public rhetoric, which includes a senior official describing civil society and human rights defenders as “leeches [pijavice] on the body of the state budget.” There are no restrictions on forming political parties or trade unions, although essential public sector workers face restrictions on their ability to strike.

The right to freedom of assembly is largely respected. Major public protests over the last two years, including against a new law on electronic cash registers (EET) and the Prague Pride Parade, attracted thousands of participants and occurred without incidents of violence. In 2018, thousands of protestors have taken to the streets across the State to protest, amongst other issues, the hostile rhetoric against journalists. In March 2018, universities and schools across the State supported students’ right to protest against the government. Student demonstrators expressed their commitment to activism by stating, “let’s defend our ideals, nobody else will do it for us” (Tomáš Krajíček) and, “we are not the apathetic masses” (Lucie Myslíková). In response to the demonstrations, the chair of the Czech Senate, Milan Štěch said, “I appreciate that students are not indifferent and that they are presenting their opinions in accordance with the Law on Assembly.”

The State has attempted to combat the stigmatisation of vulnerable and marginalised groups in society through a laudable crack down on hate speech, particularly on the internet and has prosecuted until conviction a number of prominent instances of hate speech. In 2015, Czech courts fined several websites for publishing or allowing hate speech in internet discussions. However, some groups, such as the Roma community, are vulnerable to consistent and profound discrimination from both State and non-State actors, leaving them and defenders working on their behalf open to risk. In one notable incident, the names of Czech lesbian, gay, bisexual, transgender, and intersex people as well as Romani activists and advocates were leaked online by white supremacists who called for violence against the individuals.

The State has been reviewed three times under the universal periodic review process, most recently in 2017. No explicit reference has been made to human rights defenders, nor do any discussed recommendations explicitly reference human rights defenders. In February 2013, the Special Rapporteur sent a communication raising her concern that a civil society organisation had been evicted from its premises, and was satisfied by the response from the State which confirmed that the eviction had taken place due to health risks posed by the poor condition of the building. No other communications have been sent since the Global Survey 2006.

4. Issues and Trends

The Special Rapporteur is encouraged by reports on the situation of human rights defenders in the Czech Republic, whose rights to freedom of assembly and association are well respected. He also praises the State's response to hate speech, although is concerned that freedom of expression of defenders, including journalists, is undermined by the growing concentration of ownership of media outlets, and the hostile rhetoric against journalists by officials of the State. The Special Rapporteur urges the State and the national human rights institutions to strengthen the already enabling environment for human rights defenders by developing and implementing a national policy for the promotion and protection of human rights defenders and their work.

Germany

1. National Context and Human Rights Defenders

Germany was not included in the 2006 Global Survey. Generally, human rights defenders in Germany operate in a safe and enabling environment, and the government explicitly supports defenders. Civil society is vibrant, and rights included in the Declaration such as freedom of assembly, association and expression are well-respected. In recent years however, freedom of expression has become problematic, with reports of restrictions on journalists' work and increased surveillance of communications, as well as far-right hate speech becoming more prevalent in German society, which can have a negative effect on some defenders.

Germany is a member of the European Union, the Council of Europe and the Organisation for Cooperation and Security in Europe.

2. Legal and Policy Framework

Germany is party to the majority of core international human rights treaties, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Constitution guarantees many fundamental rights, and the Constitutional Court has held that human treaty provisions must be taken into account by the courts when interpreting any constitutionally guaranteed right.

The laws of the State protect the right to freedom of expression, with the exception of hate speech with incitement to violence or hatred, the promotion or glorification of Nazism, or Holocaust denial all of which are prohibited in Section 130 of the German Criminal Code. A number of recent legislative developments have had a chilling effect on the freedom of expression of defenders, in particular journalists. A newly adopted law, the Social Network Enforcement Act of 2017, requires social media companies to withdraw "hate speech" online without providing clear definition of hate speech. Furthermore, under the auspices of anti-terror protection, a new bill passed in October 2016 empowers the Intelligence Service to conduct surveillance on journalists who are not citizens of the European Union, violating their right to privacy and freedom of press. A law passed in June 2018 also allows use of spyware on encrypted online messages to conduct criminal investigations.

Germany does not have specific law for the protection of defenders, but the State proactively supports and engages with the European Union Guidelines on Human Rights Defenders. The State engages in dialogue with defenders, helping with targeted support for specific projects,

and using diplomatic means to protect defenders at home and abroad. The State consults with and encourages the participation of defenders in its policy making processes and collaborates with civil society organisations in its delivery of programming to defenders.

Germany works closely with its European partners and supports the situation of human rights defenders in its interventions in international fora. The State supports the temporary international relocation of defenders who are at risk, including through its innovative Martin Roth Initiative supporting the relocation of artists and cultural actors at risk. Since 2016 has awarded, with France, the Franco-German Prize for Human Rights and the Rule of Law to human rights defenders as recognition of their important work.

The German Institute for Human Rights serves as the national human rights institution and is fully accredited ('A' status) as compliant with the Paris Principles. The Institute has a range of duties, such as conducting research and disseminating information. Its efforts in the field of prohibition of torture and anti-discrimination are particularly noteworthy.

3. Implementation of the Declaration

In general, the rights articulated in the Declaration are enjoyed by defenders working in Germany and supported by the State internationally.

Freedom of expression by defenders has been restricted in several recent incidents. In 2017, the accreditation of 32 journalists was withdrawn in advance of the G20 summit in Hamburg. Defenders have noted that, in a significant number of these cases, the withdrawal of accreditation had been based on either false assumptions or illegally stored information in police databases. Journalists have also faced prosecution for treason for reporting on surveillance by the country's security agency. The previously mentioned legislative developments on freedom of expression in the State, which allow for greater surveillance by the State, has had a chilling effect on the freedom of expression of defenders, including in particular journalists.

Although the legal framework for the right to peaceful assembly is permissive, defenders have faced interference with their right to protests at some high-profile events. At the G20 summit in Hamburg in 2017, the State rejected plans for a nearby protest camp and there were reports by defenders of the use of excessive force by police against protesters. More than 100,000 protesters at the summit faced police using water cannons, tear gas and batons when only a tiny minority of protesters (less than 2%) were violent rioters. The Special Rapporteur acknowledges the particular difficulty faced by police, but reminds the State of its obligation to ensure the safety and respect for the rights of all protesters. The State has also faced scrutiny for excessive surveillance measures adopted against protestors and journalists in relation to the summit.

Freedom of association is generally enjoyed by defenders. However, defenders have reported increased difficulty in receiving financial support from the State, with much State funding being shifted from the support of human rights and social justice organisations generally to the funding of specific programmes of service delivery.

Particular groups of defenders face additional challenges to the exercise of their rights. As noted, journalists face an environment which increasingly restricts their ability to gather information, promise confidentiality to their sources, and to express their views. Defenders of minority groups and people on the move face the growing mainstreaming of far-right and nativist politics. Developments in Germany reflect a larger trend across Europe (and beyond) and is a cause for concern for civil society and human rights defenders. In 2017, for the first time, the far-right nationalist party Alternative for Germany gained seats in parliament for the first time.

The State has been reviewed three times under the Universal Periodic Review process, most recently in 2018. The submission of defenders to the recent review reiterated many of the concerns noted above, in relation to the rise of violent right-wing groups, and threats to journalistic freedom. No specific recommendations were made regarding defenders or journalists.

In 2016, the Special Rapporteur sent a communication to Germany raising concerns that the new legislation allowing the State to surveil communications between non-citizens was an infringement on their rights. No other communications have been sent since the last Global Survey in 2006.

4. Issues and Trends

The Special Rapporteur commends Germany for its clear commitment to the rights articulated in the Declaration and its support of the work of human rights defenders both nationally and internationally. Defenders in Germany enjoy a generally safe and enabling environment for in Germany and the State actively supports defenders at risk outside of the State through its support for temporary international relocation initiatives (and its broader asylum policies). The Special Rapporteur is heartened by Germany's approach and echoes positive comments from other States and international observers during the last periodic review of the State regarding the German approach to defenders. However, the Special Rapporteur also feels it important to underscore the challenges posed to the work of defenders by the increasingly invasive surveillance measures being adopted by the State and the impact they are likely to have on freedom of expression in the State. The Special Rapporteur urges the State to review its laws with a view to considering their impact on the legitimate work of defenders, in particular journalists. He also recommends that the State further strengthen its evident commitment to human rights defenders by developing and implementing, in collaboration with its national human rights institution and defenders, a national policy on human rights defenders.

Hungary

1. National Context and Human Rights Defenders

Hungary was included in the 2006 Global Survey. Despite a lack of information limiting the Special Representative's remarks, she did note several positive measures towards defenders and highlighted concerns surrounding freedom of association and the State's obligation to provide an effective remedy.

The Special Rapporteur was pleased to accept an invitation to visit the State in February 2016. He commended the Government of Hungary for its excellent cooperation during his visit, where he was able to meet with high-level State representatives as well as the Head of the Regional Office of the United Nations High Commissioner for Refugees and members of the diplomatic corps. He visited Budapest, Miskolc and Szeged and met with a wide range of human rights defenders, academicians and representatives of civil society organisations, who all reinforced his impression of an active and engaged civil society in Hungary. However, the Special Rapporteur also expressed concern about a gradual shrinking of civil society space and increased restrictions placed on defenders and civil society organisations. Many of these concerns are reiterated in this country entry.

There remain serious challenges to defenders' ability to carry out their legitimate work and a number of groups of defenders are particularly at risk from an increasingly hostile environment, including women human rights defenders, defenders of sexual orientation and gender identity rights, defenders of rights of the Romani people, and defenders of people on the move. These groups of defenders face both legal and judicially imposed restrictions on their rights as well as, at times, threats to their safety by acts of violence. The larger problem of an ever-increasing xenophobic environment in Hungary exacerbates the situation of many of these defenders.

Defenders increasingly work in a polarised and politicised environment. They are exposed to serious challenges to their fundamental rights and freedoms, as well as of their legitimate right to promote and defend human rights. Defenders whose work is aligned with the current popular and State rhetoric and concerns are favourably regarded, whereas those whose work is seen to challenge the current agenda are subject to widespread criticism. The Special Rapporteur reiterates his conclusion from his 2016 visit, that in the context of the refugee crisis and the excessively manipulated fear of the 'other' in society, defenders of people on the move face public criticism by government officials, stigmatisation in the media, unwarranted inspections and reduction of state funding.

Hungary is a member of the European Union, Council of Europe, and the Organisation for Security and Cooperation in Europe (OSCE).

2. Legal and Policy Framework

Hungary is party to the majority of the core international human rights treaties, but is yet to become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the International Convention for the Protection of All Persons from Enforced Disappearance.

In recent years the State has embarked upon a series of legal reforms that restrict the rights of defenders with respect to their freedom of expression and their receipt of financial support. In the last two years, these reforms have particularly targeted defenders of people on the move, in the form of the "Stop Soros" package of law reforms.

Since 2010, the National Media and Info-communications Authority has supervised the mass media. Defenders have suggested that the legislative framework and the Authority have

encouraged of a climate of self-censorship and editorial control, falling short of the standards set by the regional organisations of which the State is a member, notably the OSCE and the Council of Europe.

There are also concerns surrounding the funding and content production under the Media Service Support and Media Asset Fund, and the disproportionate sanctions that can be levied to online media outlets. Furthermore, defamation continues to be a criminal offence, thus impacting investigative journalists, defenders and watchdog organisations¹⁹³. The State has also significantly limited freedom of expression through buying up media outlets and only advertising in government-friendly publications.

As of June 2017, the law on foreign-funded organisations requires civil society organisations receiving foreign funding over €24,000 to report on their foreign funding and to publicly label themselves as ‘foreign-funded’.

Over the past year the State has proposed and sought to implement an increasingly severe set of law reforms designed to restrict the activities of defenders, collectively referred to in public discourse as the “Stop Soros” package. In January 2018, the government published the first version of the “Stop Soros” package of law reforms that will require organisations working with migrants to obtain a licence from the Minister of Interior in order to continue their operations, as well as levying a 25% special duty on any foreign income. In February 2018, the government submitted an amended version of the proposals to Parliament and campaigned upon them in the general election of April 2018 (which it won). In May 2018, the government submitted to Parliament the third version of the “Stop Soros” package. The latest version, adopted on World Refugee Day, imposes criminal sanctions and prison terms against human rights defenders. These reforms entered into force in July 2018.

Under the Stop Soros provisions, assisting an asylum-seeker to submit an asylum application, conducting human rights focused border monitoring activities or distributing information leaflets on the asylum procedure are criminal acts. Defenders who are members of the legal profession have expressed concerns that the new legal provisions effectively criminalise the provision of legal advice and representation, core rights in the Declaration. The State has defended these reforms as necessary to restrict harmful foreign involvement and influence in internal politics of the State and to improve transparency. However, officials of the State have also framed these reforms in nationalistic and xenophobic terms, as necessary to stop Hungary from becoming an “immigrant country” and to lessen the “burden” of immigration.

On 25 August 2018, a modification to the tax law introducing a 25% special tax on immigration¹⁹⁴ came into force. The law requires donors and grantees to pay a 25% tax on ‘immigration supporting activity’, a broad and vaguely defined range of activities including public advocacy and education. Critics of this law reform have argued that it seeks to tax only activities seeking to support immigration and have expressed concern that it effectively limits

¹⁹³ United Nations General Assembly 'Report of the Special Rapporteur on the situation of human rights defenders on his mission to Hungary' (19th July 2017) A/HRC/34/52/Add.2 para 31

¹⁹⁴ <https://www.helsinki.hu/wp-content/uploads/Special-immigration-tax-as-adopted-20-July-2018.pdf>

freedom of expression. Two of the first activities penalised under this law was the OLIVE program (Open Learning Initiative) of the Central European University (CEU) which sought to prepare refugees for entry into university education and an EU funded programme to support academic research on migration policy in Central and Southern Europe.

3. Implementation of the Declaration

There is no explicit national policy or set of guidelines on the treatment of human rights defenders in Hungary. Some of the rights articulated in the Declaration have been implemented, though usually without direct reference to human rights defenders. As suggested by recent law reforms, several rights within the Declaration are currently proving particularly problematic in Hungary, including freedom of expression, assembly, association and access to funding.

As noted above, freedom of expression of journalists and within the mass media is restricted by the governing legal frameworks and the concentration of control and concerns about editorial independence. Freedom of association is under threat through recently passed legislation, especially that which restricts foreign funding and particular activities.

With respect to freedom of assembly, Hungarian law requires demonstrators to provide advance notice of peaceful protests and request their authorisation. If demonstrations are permitted, participants face the threat of excessive force and violence from the authorities, as well as attacks from far-right groups. For example, public demonstrations by human rights defenders promoting the rights of Roma and LGBTI communities are held in, what defenders describe as a climate of fear. Safety concerns about such demonstrations often result in restrictions on defenders rather than the State taking preventive measures to address threats arising from violent xenophobic groups.

Defenders have raised concerns about excessive and indiscriminate use of force by the the State against protesting migrants and the journalists observing those protests on 16 September 2015. There were also reports of indirect intimidation of teachers and trade unionists from Miskolc, who planned to organise a national protest in Budapest on 13 February 2016. Some of the teachers who wanted to participate in the protests reported being questioned by the police and encouraged by officials to reconsider their plans to take part in the demonstration.

Some groups of defenders face particular risks, including defenders of people on the move, sexual orientation and gender identity rights, environmental and land rights and Roma rights. The aforementioned criminalisation of many of the legitimate activities of defenders increases the social stigma that they face. There has been growing opposition to the progression of LGBT rights from the groups within Hungarian society promoting what they characterise as traditional, Christian values. Individual defenders have been targeted with threatening online messages, verbal abuse and physical attacks. Non-state actors who pose threats to human rights defenders also include companies. Environmental defenders have pointed out increased criminal defamation litigations by companies, following their actions to protect the right to environmental rights. Local media usually portrays environmentalists and watchdogs as obstructing development.

All of which raises growing concern, particularly in recent years, about the nature of public discourse, including by officials of the State, on human rights and human rights defenders. Remarks from State officials have increasingly portrayed human rights defenders as agents of foreign interests and as pursuing agendas opposed to the well-being of citizens of the State. During the election campaign of 2018, key government figures, including the prime minister himself, threatened independent civil society organisations as well as their staff members. A few days after the election, a pro-government weekly published the names of 200 individuals, including all members of staff of the Hungarian Helsinki Committee, claiming they are “mercenaries” of George Soros. As noted earlier, this discourse frequently targets defenders of people on the move, though many other groups of human rights defenders, including academics and those critical of policies of the State, have also been subject to stigmatisation by the media and the State.

Hungary has been reviewed twice under the Universal Periodic Review process, most recently in 2016. Since his visit in 2016, the Special Rapporteur has urged the State not to stigmatise and intimidate defenders. He has sent two recent communications to the State concerning the situation of human rights defenders. As well as raising concerns articulated above, in June 2017 he raised concerns that staff at the civil society organisation Mental Disability Advocacy Centre were being intimidated and harassed.

4. Issues and Trends

The Special Rapporteur was grateful to the State for extending an invitation for him to visit in February 2016. He thanks the State for their cooperation in his fruitful visit and has sought to engage with the State about the situation of defenders. He is concerned that the climate for human rights defenders in Hungary is becoming increasingly hostile and dangerous. Defenders face threats from the State as well as extremist elements of society. Civil society space has shrunk for defenders, with restrictions on funding, freedom of expression, taxation of certain activities, and deliberate ‘smear’ campaigns that have a stigmatising effect.

The Special Rapporteur reiterates his recommendations following his visit in 2016. He urges the State to publically reiterate its commitment to the Declaration and to the legitimate role of human rights defenders in the promotion and protection of human rights. He encourages the State to mainstream human rights into its institutional and policy framework and ensure that human rights defenders can conduct their work in a conducive legal, institutional and administrative framework rather than one which criminalises and restricts defenders. The Special Rapporteur reminds the State of its obligation not only to respect and fulfil the rights of the Declaration but also to protect defenders from official acts that restrict their rights and non-state actors who threaten and intimidate. The Special Rapporteur recommends the development of a national mechanism on protecting human rights defenders, in consultation with defenders including those from the particularly at-risk groups outlined above.

Poland

1. National Context and Human Rights Defenders

The State was included in the 2006 Global Survey, however the Special Representative lacked sufficient information to be able to make an assessment on either the situation of human rights defenders or the implementation of the Declaration.

Since 2006, the space for civil society has shrunk and defenders face increasingly restrictive legal frameworks, stigmatisation, and physical attacks. Defenders seen to be associated with or funded by philanthropist George Soros are particularly vulnerable to public criticism by State officials and being portrayed as “unpatriotic.” Other groups of defenders particularly at risk include defenders of people on the move, sexual orientation and gender identity rights and defenders of women’s rights, especially those working on reproductive rights and gender-based violence.

Poland is a member of the Council of Europe and, since 2004, the European Union.

2. Legal and Policy Framework

Poland is party to most of the core international human rights treaties, though it is yet to ratify the Convention for the Protection of All Persons from Enforced Disappearance. As a member of the Council of Europe, Poland is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Recent judicial reforms have been criticised by a wide range of actors as undermining judicial independence and the rule of law in the State.

Recent legislation has also restricted the ability of human rights defenders to carry out their legitimate work. The Amendment to the Act on Assemblies (2016) Assemblies prioritises ‘cyclical’ rallies and limits the possibility for spontaneous or oppositional rallies. The Act on the Protection of the Fighting Poland Sign (2014) criminalises acts of alleged defamation of the symbols of the State. Defenders have expressed concern that the Act will be used to criminalise critics of the State. In October 2016, a protester of the State’s complete criminalization of abortion was arrested and charged with defaming the Fighting Poland sign.

Amendments to the Law on Police and the adoption of the Anti-Terrorism Law in 2016 authorise increased surveillance by the State (especially of foreigners), the blocking of websites, limitations on protests, preventative detention, and increased legal authority for State-sanctioned paramilitary groups. Defenders have expressed concern that these new legislative provisions will have a particularly negative affect on defenders of people on the move.

Consultation with civil society on draft legislation and policy is limited. In April 2016, the Prime Minister dissolved the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance, which was a platform for discussion between civil society and the government. The move took place without prior consultation with human rights defenders, and no replacement has been created. In November 2016, the Ministry of Interior and Administration dissolved the Human Rights Protection Team. The drafting of the Act on the National Remembrance Institute and plans to create National Center for the Development of Civil Society were also undertaken without input from civil society. There is concern that the former Act will limit freedom of expression and criminalise criticism of the State, and that the latter will not be independent from the government and will further restrict access to funding.

Defenders have complained that the distribution of government funding to civil society has become increasingly politicized, affecting defenders seen as not sharing the values of the government. Prominent civil society organisations for women's, children's and LGBT rights have been denied funding in recent years because they do not promote traditional, conservative family values. Defenders working with migrants and refugees have also been denied funding and access to funding opportunities.

Poland does not currently have in place a national policy on human rights defenders or a protective mechanism for human rights defenders at risk. The Commissioner for Human Rights is the national human rights institution and has been fully accredited ('A' status) as complying with the Paris Principles.

3. Implementation of the Declaration

Defenders in Poland face a growing number of challenges to their enjoyment of the rights articulated in the Declaration. There are significant threats to the ability of defenders to enjoy the freedom of expression, assembly and association. Defenders perceived as critical of the State or as advocating 'untraditional' values or marginalized groups are particularly at risk of having their rights violated.

The government's control on the press has tightened in recent years and has had a chilling effect on the work of human rights defenders, including journalists. The State (or its senior officials) are in control of most mass media outlets in the State. Defenders have faced sustained campaigns of stigmatization by the media. For example, in 2016, the national television channel TVP aired broadcasts alleging that defenders and civil society organisations working on democratic governance, human rights and the rule of law had received funding through fraud. Journalists have also suffered dismissal in circumstances suggestive of political interference and a desire to silence dissent. In February 2016, TVP dismissed 88 employees. Investigative journalist Tomasz Piatek was threatened with imprisonment after he criticised the Minister of Defence's links with the Russian intelligence services.

Polish human rights defenders regularly exercise their right to freedom of assembly. In March 2018, the Black Friday protests attracted hundreds of thousands of protestors who gathered in fifty cities across Poland to protest the tightening of abortion laws. In April 2018, parents of disabled children occupied the Sejm to peacefully protest the lack of State support they receive for their children. The Special Rapporteur is encouraged that these protests have been allowed to go ahead and that they have not been repressed or met with excessive force. However, he is concerned by the responses from some sections of the government to similar demonstrations which took place to protest the aforementioned controversial judicial reforms, where protestors were labeled by officials of the State as scumbags and with other slurs.

Freedom of association and participation in international discussion of human rights is also threatened. In November 2016, Poland's Commissioner for Human Rights, was criticised in the national media for participating in the review of Poland at the United Nations Human Rights Committ and some members of Parliament called for his dismissal. Some human rights organisations have been suffered attacks on their premises and heavy-handed State action in

an attempt to intimidate them and impede their work. As noted earlier, defenders of sexual orientation and gender identity rights and defenders of women's rights, especially those working on reproductive rights and gender-based violence, are particularly at risk of such violations. In 2016, anonymous perpetrators attacked the headquarters of Campaign Against Homophobia and Lambda Foundation, two civil society organisations working on defending LGBTQ rights.

Civil society organisations active in the areas of women's rights and assistance to victims of domestic violence have also been targeted. In early November 2017, one day after a large-scale women's march, searches were carried out by police in the premises of several civil society organisations which assist women victims of violence. Justification for the searches was that the authorities needed to recover documents related to public funding granted in previous years. In some cases, searches were carried out while clients were present, and resulted in the confiscation of work equipment and documentation containing private data of victims of domestic violence.

The Special Rapporteur is concerned that funding for shelters for women victims of gender-based violence is being increasingly reduced and is uneven, especially for experienced and well-established civil society organisations. He is concerned that the situation seems to have worsened in recent months, and given that it is coupled with rhetoric which promotes traditional, religious family values and opposes the break-up of the family unit, he is greatly concerned for the safety of women victims of domestic violence – a group of people who are themselves human rights defenders.

Poland has been reviewed three times under the Universal Periodic Review process, most recently in 2017. Human rights defenders have not been explicitly discussed, nor have any recommendations about them been made. The most recent review, however, did discuss and result in suggested recommendations concerning many of the developments noted above. A review of the State by the Human Rights Committee resulted in an expression of concern about the growing restrictions on freedom of expression.¹⁹⁵ Until the last year, the Special Rapporteur has not sent any communications to the State since the last Global Survey. Recent communications concerned actions taken against the Open Dialog Foundation and undue restrictions on the right to peaceful assembly during the upcoming global climate change conference in the State in December 2018.

4. Issues and Trends

Human rights defenders in Poland have faced a growing number of restrictions on their rights in recent years ranging from the State's tightening grip on the media to the introduction of repressive legislation designed without consultation with civil society. Defenders experience a hostile environment as a result of increasingly negative public rhetoric by State officials and orchestrated smear campaigns by government-aligned media.

The Special Rapporteur urges the State to end its combative approach to human rights defenders and to refrain from instigating smear campaigns against them and abandoning divisive rhetoric that creates a false dichotomy between the agenda of defenders and the

¹⁹⁵ CCPR/C/POL/CO/7 (23 November 2016).

State's interests. The Special Rapporteur encourages the State to re-engage with civil society and to reestablish fora and processes for consultation and discussion with defenders with a view to developing a safe and enabling environment for all human rights defenders.

Slovakia

1. National Context and Human Rights Defenders

Slovakia was not included in the 2006 Global Survey. The Declaration has been generally well implemented and Slovakia deserves recognition for a number of good practices.

While human rights defenders face a generally permissive legal environment, a number of practical obstacles exist preventing the full realization of the rights articulated in the Declaration. Defenders addressing issues of governmental corruption, journalists, defenders of people on the move, and defenders of minority (including Roma and Muslim) rights all face additional challenges from the State and non-State actors, including threats and acts of violence.

Slovakia is a member of the Council of Europe, the European Union and the Organisation for Security and Cooperation in Europe. The Special Rapporteur thanks the State of the Slovak Republic for responding to his request for information for this report.

2. Legal and Policy Framework

Slovakia is party to all of the core international human rights treaties except the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The State is party to the European Convention on Rights and Fundamental Freedoms. Many of the rights articulated in the Declaration are protected in the Constitution and in national legislation, including Act no. 83/1990 Coll. on Citizens Associations, Act no. 84/1990 Coll. on Right to Assemble, Act no. 85/2005 Coll. On Political Parties and Political Movements and Act no. 34/2002 Coll. on Foundations, among others. Not all of the legislative framework is permissive; defamation a crime punishable by up to eight years in prison.

There is currently no specific policy or protection mechanism in place for the protection of Human Rights Defenders. The State reports that the Governmental Council for Human Rights, National Minorities, and Gender Equality (the Council) provides a forum for the discussion of human rights and national policy with human rights defenders. As noted by the State, the Council, including through its seven specialized committees, "is a permanent expert and advisory, consulting and coordinating body of the government in the area of protection of fundamental human rights and freedoms, political and civil rights, rights of persons belonging to national minorities and ethnic groups, economic, social and cultural rights, rights of child, rights of persons with disabilities, rights of seniors, rights of LGBTI persons in implementing equal treatment equal opportunities and gender equality."

The Council (and its committees) consists of representatives from the, non-governmental organizations and academia - with the civil society holding at least half of seats in the council and its committees. In 2014 the Council adopted a resolution on the promotion and

protection of human rights defenders, although no legislation exists to promote and protect human rights defenders specifically.

The National Centre for Human Rights is the national human rights institution and has been accredited ('B' status) as partially in compliance with the Paris Principles.

3. Implementation of the Declaration

The Declaration has been generally well implemented and Slovakia deserves recognition for a number of good practices.

Freedom of expression by defenders is limited by the increasing consolidation of control of the media. Journalists face particular risks to their editorial independence and threats arising from their work, particularly those investigating corruption. Of particular significance was the murder of Ján Kuciak (and his fiancée Martina Kušnírová) in February 2018 as a result of his investigation of tax fraud committed by wealthy businesspersons with strong connections to senior politicians. Public outcry following the murders resulted in widespread protests. In the face of threats of violence and lawsuits for defamation, journalist often resort to self-censorship.

The right to peaceful assembly, including collective labour action, of defenders is generally enjoyed. Peaceful protests are common in Slovakia. In 2017, widespread anti-government and anti-corruption protests were held throughout the State following the murder of journalist Ján Kuciak. The protests eventually led to the resignation of Prime Minister Robert Fico. These demonstrations were the largest since the State's independence occurred and were largely peaceful and policed without use of excessive force.

Freedom of association is generally guaranteed in Slovakia. Civil society organisations and trade unions operate openly and actively, and there are no restrictions on forming political parties. In 2017, it was reported that around 10-20 new civil society organisations are registered each day in Slovakia. There are ongoing discussions between the State and civil society about reforming the regulatory framework for civil society, with a view to improving increasing the transparency and independence of civil society organisations. Some of the impetus for regulatory reform has arisen from the withdrawal of State funding for civil society. In 2017, the State attempted to pass a bill on "foreign agents" and then-Prime Minister Robert Fico's commented that anti-government protesters were influenced from abroad. However, the "foreign agent" bill did not gain traction and 2018 saw the election of a new government. Civil society organisations with conservative and religious values have significant influence on the State, successfully arguing against the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence.

Defenders working in defense of minority rights and people on the move and defenders working against increasingly xenophobic public discourse have faced threats and attacks. In September 2016, Ms. Alena Krempaská, a member of the Human Rights Institute, was attacked by two unidentified men due to her alleged links with the opposition social-democratic party. The attack followed threats and intimidation endured by Krempaská after she and other activists participated in counter-protests against right-wing parties who they believed carried out attacks against peaceful protesters. Leaders of the right-wing parties had

accused Krempaská of “financial fraud” and invited protesters to intimidate them by shouting at them. The Roma community is one of the most vulnerable minority groups in Slovakia, facing repeated and profound discrimination from State and non-State actors in education, health, and housing, among other areas. Notwithstanding these challenges, the Special Rapporteur is encouraged that defenders of Roma rights are working with Roma communities to improve the situation of the Roma people.

The State has been reviewed twice under the UPR process, most recently in 2014. No direct mention was made of human rights defenders. No communications have been sent to Slovakia since the 2006 Global Survey.

4. Issues and Trends

The Special Rapporteur is encouraged by the State’s general respect for the rights contained in the Declaration, particularly the rights to freedom of assembly and association. However, he is concerned by reports of violence, threats and intimidation experienced by some human rights defenders, and especially the murder of Ján Kuciak. The Special Rapporteur recommends that the State strengthen its commitment to human rights by implementing a national policy on human rights defenders and a mechanism for the protection of human rights defenders at risk. The Special Rapporteur is also gravely concerned by the continued discrimination against minority communities, including members of the Roma community, and the challenges faced by defenders working with them and urges the State to work closely with Romani human rights defenders and their allies to improve the community’s condition.

Eastern Europe

Belarus

1. National Context and Human Rights Defenders

Belarus is a member of the Organisation of Security and Cooperation in Europe (OSCE), the Commonwealth of Independent States (CIS) and Central European Initiative (CEI). As a result of these regional memberships, Belarus has become party to additional human rights treaties, is required to adopt a national action plan on human rights, and is party to regional guidelines on human rights defenders. Belarus is not a member of the European Union or the Council of Europe, however, in recent years these regional bodies have begun cooperating more closely with the State.

Human rights defenders, journalists, bloggers and lawyers are systematically targeted by the State and subjected to intimidation, harassment, restrictions on freedom of movement, expression, assembly and association, arbitrary arrest and detention, stigmatisation and defamation. Perpetrators of the ill-treatment of defenders by the State enjoy impunity. A series of laws and restrictive legislation has impeded defenders’ ability to register, participate in and fund civil society organisations. Human rights lawyers have also been disbarred for defending detained civil and political activists. The press is tightly controlled, with no independent news agencies registered in the State.

Belarus was included in the 2006 Global Survey. It was reported then that the human rights situation in Belarus was deteriorating. The rights to freedom of expression, freedom assembly and association were severely hampered and restricted by the State's laws and practices, including defamation provisions in the Criminal Code, the Law on Mass Events, stringent requirements for registration of organisations and the Law on Public Associations. The Special Representative noted in the country entry that most of the perpetrators of violations against defenders were agents of the State.

2. Legal and Policy Framework

Belarus is party to most core international treaties, with the exceptions of the Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

There is no national law or policy in relation to human rights defenders, however the State has asserted that "the Citizens' and Legal Entities' Appeals Act, No. 300-Z of 18 July 2011, is relevant to some human rights defenders. The Act regulates the procedure for the exercise by individuals and legal entities of their right to petition government bodies and other organisations with a view to defending rights, freedoms and/or lawful interests. The law defines the rights and duties of petitioners, the procedure for submitting written, electronic and oral appeals, the procedure for organizing private meetings, the arrangements for the representation of petitioners, the time frames for considering appeals and the process for the consideration of different types of appeal".¹⁹⁶

The legal framework on the protection of human rights as well as human rights defenders is largely missing. In theory, international obligations apply directly within the legal system, though in practice local statutes govern. Similarly, while fundamental rights are guaranteed in the Constitution, many of these provisions are significantly limited by statutory provisions, including provisions of the Criminal Code.

The State has continued to use the Criminal Code as amended in 2005 as well as the Law on Public Associations and the Law on Mass Events to restrict the right to freedom of assembly, association and expression. In addition, new laws and regulations have been introduced to further restrict the media, human rights organisations and organisers of mass events.

The Law on Public Associations, adopted by the National Assembly on 29 June 2005, requires the registration of all public organisations and unions, along with full information regarding the number of members, structures and measures held during each year. Registration requirements are restrictive, meaning that there is only one membership-based, nationwide human rights organisation in Belarus, the Republic Human Rights Public Association "Belarusian Helsinki Committee" (BHC). Other smaller, regionally based human rights groups exist. The Law stipulates that public associations can be liquidated for a single violation of the law on mass events and for violations of the regulations concerning the use of foreign aid. In August 2015, the Decree of the President of Belarus updated the law on the receipt and

¹⁹⁶CCPR/C/BLR/5 of 14 June 2017 at para. 358.

utilisation of foreign aid. The regulations prohibited the use of foreign aid for the goal of defending human rights.

The Law on Mass Media was amended in 2014 requiring all mass media distributors to report their activities to the Ministry of Information in order for them to be included in the State Register. Activities not included in the State Register would be considered illegal.

In October 2017, the Parliament approved in the first reading draft amendments to the Law on Mass Events. Authorisation continues to be required for all events apart from those organised by the State. The amendments restrict those individuals serving a suspended sentence from submitting applications as organizers of the mass events, which will effectively prevent defenders subjected to legal proceedings from initiating events. The amendments also make mandatory the official identification of journalists and expand liability for breaches of the law.

The State has taken some positive steps towards improving the legal and policy situation for human rights defenders. In 2011–2012, the National Centre for Legislation and Legal Research studied the views of interested parties, including a number of civil society associations, on the advisability of establishing a national human rights institution. The State has expressed that it will continue to study the necessity for and feasibility of establishing one.¹⁹⁷ In October 2016, Belarus adopted the National Action Plan on Human Rights 2016-2019. It was the first ever Action Plan regarding human rights adopted by the State.¹⁹⁸ The Special Rapporteur recognises and commends the positive intentions as expressed by the State with these initiatives, although he is concerned that much more needs to be done to strengthen the effectiveness of the Plan and move forward in establishing a strong and functioning national human rights institution.

3. Implementation of the Declaration

Despite the adoption of a National Action Plan on Human Rights, the State has not yet established solid measures to ensure a safe and enabling environment for human rights defenders; oppression of defenders continues to prevail. In particular, the State regularly impedes the rights to freedom of expression, assembly and association.

Journalists reporting on human rights violations have faced fluctuating but often severe levels of oppression from the State, particularly when seeking to report on public protests and opposition to the government. According to reports known to the Special Rapporteur, more than 100 journalists were arrested in 2017, usually while covering opposition protests; some journalists were beaten while others were jailed. It has also been reported that in 2017, Journalist Larysa Schyryakova, from the city Homel in southeastern Belarus, was arrested and fined repeatedly for reporting on protests. Five journalists were detained during the coverage of a peaceful protest in Yakub Kolas Square in Minsk recently in March 2018.

¹⁹⁷ Ibid.

¹⁹⁸ For more information, see the official website of the Ministry of Foreign Affairs of the Republic of Belarus on Human Rights, available at http://mfa.gov.by/en/organizations/human_rights/.

The oppression of journalists and dissidents reporting on human rights violations has been intensified by the State's increasing control of the media. The State has banned independent media organisations and harassed independent journalists. Furthermore, in 2011 and 2012 that the State used the media to carry out campaigns to stigmatise human rights defenders. In 2016, Pavel Sheremet was killed in an apparently targeted attack when his car was fitted with a bomb. He was internationally known as a critic of the government.

The right to freedom of association is impaired. The State continues to effectively prohibit human rights organisations from receiving foreign funding. The State also continues its practice of the blanket refusal to register human rights organisations. "Viasna", one of the most well-established human rights organisations in Belarus was closed down by the State in 2003; an application for new registration was subsequently refused. Viasna continues to operate and faces systematic harassment from the police, with frequent raids on its offices, confiscation of documents and property, and the arrest and detention of members.

In August 2017, authorities for the second time denied registration to Gender Partnership, a group that promotes gender equality, citing minor errors in registration documents. Furthermore, the Criminal Code prohibits "acting on behalf of an unregistered organisation" and specifies a punishment of up to 2 years of imprisonment (art. 193-1 of the Criminal Code). Although these provisions have not been applied in recent years, it remains a threat to defenders.

The right to participate in the government and public affairs as stipulated in Article 8 of the Declaration has also been problematic. Belarusian authorities have not allowed registration of new political parties since 2000 despite more than 20 attempts to found them. On 14 August 2015, the Ministry of Justice denied registration to the party Belarusian Christian Democracy for the fifth time.

Numerous human rights defenders have faced arrest and prosecution by the State for carrying out monitoring work in defence of human rights. The State has conducted frequent raids on the homes and places of work of defenders. In March 2017, police officers raided the office of human rights group Viasna and detained all 58 people present. Among them were local and international human rights defenders and journalists who were attending training on how to monitor demonstrations. This raid took place on the "Day of Liberty" which has become a day for political demonstrations. The training event was organised so that Viasna could observe the day's planned demonstration, monitor potential human rights violations and instances of police violence, and respond with legal support for potential detainees. Defenders seeking to monitor protests were also detained in Minsk in March 2018.

Large numbers of defenders have been targeted in Belarus in recent years. In August 2018, Trade Unionists Gennady Fedynich and Igor Komlik were sentenced on charges of tax evasion. Protestors who had gathered outside the court to peacefully protest their trials were arrested. In July 2017, the head of the human rights centre Legal Assistance to the Population Oleg Volchek was convicted and fined under Article 23.34, Part 1 of the Code of Administrative Offences (participation in an unauthorised peaceful assembly). He was convicted in absentia while hospitalised. Pavel Levinov, a board member of the prominent Belarusian Helsinki Committee, was detained for fifteen days for monitoring a public

assembly, despite a critical health condition. Russian national Elena Tonkacheva, leader of the Center for Legal Transformation Lawtrend, was expelled from the country in February 2015 and issued with a three-year ban on re-entering the State. She was expelled for minor traffic rules violations after living in Belarus for about thirty years. Prominent defender Ales Bialiatski, leader of Viasna, spent 1,052 days in prison after being arrested in August 2011 and sentenced for alleged tax evasion. He continues to live under threat.

The Special Rapporteur has sent several communications concerning Belarus since the last Global Survey. The communications have referenced the refusal of registration of human rights organisations by the State, the forced liquidation of human rights organisations due to minor violation of the law, the arrest of human rights defenders for their work and the assault of human rights defenders. The State's responses to the events have either denied the events and allegations or cited the amended Criminal Code to otherwise justify its actions. The Special Rapporteur is concerned that the State still fails to recognise the importance of human rights and the illegitimacy of their inappropriate limitation.

Although the overall situation for human rights defenders remains dangerous, the Special Rapporteur should also note some positive developments. First, in May 2017, authorities registered Tell the Truth, an opposition movement that had repeatedly tried to register since 2010, making it the first political opposition group able to register in 10 years. Second, during the most recent (2015) Presidential Elections the State largely refrained from the suppression of public protest. Third, beginning in 2009, civil society representatives were included in the Public Coordination Council on the Media and the (now defunct) Human Rights Council within the Presidential administration.

4. Issues and Trends

Defenders in Belarus are consistently targeted by the State for carrying out their legitimate and peaceful work. There are numerous restrictions on their rights to freedom of expression, assembly, association and movement. In recent years defenders have been harassed, threatened, intimidated, arbitrarily detained, arrested, imprisoned under spurious charges and even murdered.

The Special Rapporteur urges that the State strengthen its National Action Plan for human rights to address the laws and policies that produce many of the human rights violations of defenders. To this end, the Special Rapporteur would encourage the State to consult with civil society and defenders in the formulation of its future National Action Plans and that such plans also include specific actions addressing the situation of defenders. The Special Rapporteur also recommends the State establish an independent and effective national human rights institution. He further recommends that the State abolish laws prohibiting the use of foreign aid by human rights organisations in contravention of the freedom of defenders to raise resources for their activities.

Finally, the Special Rapporteur urges the State to modify the regulations regarding the registration of public organisations by lifting the stringent application requirements and refraining from the practice of blanket refusal of registration based on minor, technical grounds. The practice of criminalising activities on behalf of unregistered NGOs should also

be ended; the defence of human rights should be enjoyed by all regardless of whether or not the State has accepted an application for registration.

Bulgaria

1. National Context and Human Rights Defenders

The State was included in the 2006 Global Survey, however, detailed information on the situation of human rights defenders and the implementation of the Declaration was not available to the Special Representative at that time. The Special Representative nevertheless, criticised the use of force by law-enforcement officials, poor conditions in prisons and in social care homes, and deficiencies in the provision of legal aid in criminal processes, in children's rights, in the integration of the Roma minority and freedom of media.

Human rights defenders and journalists sometimes face harassment, threats, intimidation and physical attacks. In recent years, cooperation between authorities and civil society organisations, especially those defending human rights, has deteriorated, and political pressure on journalists has increased. Defenders working on minority rights (especially those of Roma, who continue to face profound discrimination and racism from State and non-State actors), and sexual orientation and gender identity rights are particularly vulnerable. In a worrying trend, significant anti-Roma and anti-Muslim protests took place in the State in 2017.

Bulgaria is a member of the Organization for Security and Co-operation in Europe, the Council of Europe, and, since 2007, the European Union.

2. Legal and Policy Framework

Bulgaria is party to the majority of core international human rights treaties, but has not ratified the International Convention for the Protection of all Persons from Enforced Disappearance, and has neither signed nor ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. According to the Constitution of Bulgaria, international instruments to which Bulgaria is a party constitute an integral part of the domestic legislation and have priority over those domestic provisions that might contravene them.

While there is no national legal or policy framework for human rights defenders, existing legal frameworks protect many of the rights articulated in the Declaration. Freedom of assembly and association, including the right to form trade unions and political parties, are guaranteed by law. In January 2018, amendments to the Non-Profit Legal Entities Act (NPLEA) and to the Commercial Register and the Register of the Non-Profit Legal Entities Act (CRRNPLEA) came into force, with the aim of streamlining and simplifying the registration procedure for associations of citizens and foundations. The amendments to the NPLEA create a Council for Civil Society Development, which will support collaboration between the Council of Ministers and civil society organisations, allowing civil society organisations to participate in the formulation and coordination of the policies of the State for assisting and encouraging non-profit legal entities. The amendments also hopefully resolve the long-standing problem of frequent refusals to register associations of Macedonians in Bulgaria.

The Ombudsman of the Republic of Bulgaria, established in 2004, has been accredited as partially in compliance with the Paris Principles. Its mandate includes human rights monitoring, cooperating with international bodies, handling complaints from defenders, awareness raising and acting as an advisory body to the government. Supporting the work of human rights defenders is one of its core functions.

3. Implementation of the Declaration

There is an enabling legal system which supports key freedoms in the Declaration, such as the rights to freedom of association, assembly and expression. While these rights are generally respected, human rights defenders continue to report instances of threats, intimidation, and physical attacks, which hamper their ability to carry out their legitimate work.

The right to freedom of assembly is generally respected, and State authorities are often responsive to protests. For example, in 2017 the National Assembly amended the Electoral Code in such a way that some observers believed disenfranchised some Bulgarian citizens, particularly those living in the Republic of Turkey. Intensive protests took place among Bulgarian voters living in Western Europe, leading the National Assembly to partially revise the amendments. Similarly, in April 2018, thousands of disability rights protestors demonstrated in Sofia against reforms to disability welfare which defender Hristo Antonov said were, “not a modern reform at all but a revocation of rights.” In response, the State withdrew particularly contested details of the bill, including the introduction of stricter criteria in disability assessments.

However, the Special Rapporteur is concerned by the rise in protests against minority groups, which are also receiving support from the State. The Roma are victims of widespread discrimination and racism from State and non-State actors. In June 2017, police managed to stop a group of about 1,000 anti-Roma protesters from entering a Roma settlement in Asenovgrad. However, the next day protesters opened a dialogue with municipal authorities, which led to authorities siding with protesters and promising to carry out checks against the Roma community, with Valeri Simeonov, Deputy Prime Minister for the economic and demographic policy, tweeting, “the fight against everyday crime starts from the ghettos.” Simeonov has previously called Roma, “ferocious humanoids” and Roma mothers “women with the instinct of street bitches.” The anti-Roma protests continued in July 2017. The Mayor of Asenovgrad again sided with the protesters, and agreed to undertake demolitions of the Roma settlement. The same month, protesters campaigned against building a residential building with Muslim shops in the Orlandovtsi district in Sofia, calling it an “asylum for radicalists”.

The rise in discriminatory, far-right rhetoric in the government has led some organisations representing minority rights to disengage from State processes and institutions. Responding to the appointment of Valeri Simeonov as Chairman of the National Council for Cooperation on Ethnic and Integration Issues, many representatives of minority civil society organisations left the Council. The moves are part of a trend of deteriorating cooperation between the authorities and human rights defender, especially those defending minority rights and other marginalised groups. For example, in 2017 there was almost no cooperation between authorities and defenders of sexual orientation and gender identity rights, except for

coordinating the organisation of the Sofia Pride. No LGBTI organisations received state or municipal financing, or partnered with such bodies on projects or activities.

Freedom of expression faces challenges in Bulgaria. The media is often ranked as one of the least free in Europe, and there is also a growing climate of hate speech, which the authorities respond to with different levels of effectiveness. There have been a consistent pattern of slander and defamation, threats, political pressure and attacks against journalists from the State. In July 2017, a broadcaster from the Bulgarian National Television, Ivo Nikodimov, was assaulted and beaten; in October, the car of journalist Zornitsa Akmanova from the investigative report “Lords of the Air [Gospodari na efira]” TV show was set on fire; in July the reporter Dimitar Varbanov announced that he was threatened by a construction company after reporting on dangerous working conditions at a construction site; Eva Vesselinova was assaulted while preparing her coverage of assumed fraud by a construction company; in July 2017, TV cameraman Petar Dzhanavarov was hit while he was shooting a protest in Asenovgrad. There are also reports of a rising trend of using inflammatory, hate-inciting speech in the media, often targeted at minority and marginalised groups and defenders working with them and for their rights.

Human rights defenders have faced assault as a result of their human rights work. For example, history teacher and political candidate Emil Jassim filed four slander cases against several media outlets, who had spread untrue and defamatory claims that he was involved in “anti-Bulgarian propaganda.” Prior to filing the cases, he had been the victim of threats and intimidation for his attempts to encourage interethnic dialogue and for his defence of the rights of the minority groups in Bulgaria. He was assaulted after filing the cases. Another prominent example was an attack on Krassimir Kanev, the chairman of the Bulgarian Helsinki Committee (BHC), on the morning of 27 October 2016. BHC works actively to protect and advance human rights in Bulgaria, and Mr. Kanev has been a strong advocate for the rights of people in vulnerable situations, including Roma, Muslims, refugees, migrants and LGBT communities. According to information received, since 2014 there has been a climate of rising intolerance, and a sharp increase in threats and insults against BHC staff due to their work in defence of human rights.

The Special Rapporteur is encouraged that the State has ruled against some high-profile individuals for their hate speech. For example, Valeri Simeonov was indicted in October 2017 for his tirade against the Roma. In April 2017, the courts ruled in favour of human rights defender Radoslav Stoyanov, who brought allegations against a TV journalist who made discriminatory slurs against him. The court ruled that, “[s]everal times Martin Bogdanov repeated that the claimant wrote anonymous tips, suggesting that he was a sneaky informer, linking the activities he was engaged in with fascism and defining it as “subversive” ...With a view to this, the Court accepted that by using the cited words he managed to suggest to the spectators that the activities of [the claimant] for protection against discrimination limit the freedom of the citizens and this is done with the sole aim of harming them, which objectively discredits his image and his name.”¹⁹⁹

¹⁹⁹ Bulgarian Helsinki Committee *Human Rights in Bulgaria 2017* at pp. 110 – 111 available online at http://bghelsinki.org/media/uploads/annual_reports/annual_bhc_report_2017_issn-2367-6930_en.pdf

The State has been reviewed twice under the Universal Periodic Review process, most recently in 2015. No specific references were made to human rights defenders in any compilation of submissions, however all stakeholders referenced the risks faced by journalists. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that Bulgaria ensure that journalists and media workers are able to practice their professions in a free and safe environment and investigate all attacks on journalists and media workers and it was recommended that Bulgaria decriminalise defamation. Civil society noted the high levels of self-censorship practiced by journalists, especially investigative journalists. The State recognised that while crimes against journalists are not specified, the law provides for the possibility for the court to consider as aggravating circumstances the graver social risk arising from maleficent violations of freedom of speech.

The Special Rapporteur received communications concerning Bulgaria in 2011 and 2017 respectively. In 2011, the Special Rapporteur raised concerns that the murder of Mr. Bobi Tsankov was alleged to be the result of his work as a journalist in reporting on organised crime in Bulgaria, and that there were no concrete investigation results to date. In 2017, there were allegations concerning physical attack against human rights defender, Mr. Krassimir Kanev, which is believed to be connected to his legitimate work in defense of human rights in Bulgaria. Mr. Kanev is dedicated to advocating on behalf of groups in vulnerable situations in Bulgaria, in particular ethnic and religious minorities, refugees and members of LGBTI community.

4. Issues and Trends

The situation for human rights defenders and journalists in Bulgaria has worsened in recent years, and is compounded by growing support for far-right politics in the State. Defenders have been the victims of smear campaigns, intimidation, threats and physical attack. Those working on minority rights, especially those of Roma or defenders of sexual orientation and gender identity rights, face increased risk. The media is not free, and often serves as a conduit for increasing hate speech from State and non-State actors.

The Special Rapporteur urges the State to publicly recognise the legitimate and valuable work of human rights defenders, and to create a safe and enabling environment for them, where they are free from defamation campaigns and physical attacks. While the Special Rapporteur is pleased that the right to freedom of assembly is largely respected, he is gravely concerned that the State often appears to be siding with far-right protesters whose demands negatively impact the human rights of certain minorities and defenders working with them.

Georgia

1. National Context and Human Rights Defenders

Georgia was included in the 2006 Global Survey and the Special Representative was grateful that the State had responded to her request for information. The State had recently undergone great social and political change following the Rose Revolution in 2003 and according to the State the situation for human rights defenders had improved. However, the Special Representative remained concerned by reports that civil society organisations and human rights defenders faced continued harassment from the authorities, as well as physical

attacks, threats and intimidation. The Global Survey also expressed concern that ten communications had been received concerning the situation of human rights defenders in Georgia in the previous twelve months.

Since the Global Survey, in 2008, the State endured armed conflict following tensions in the contested regions of Abkhazia and South Ossetia, leaving hundreds of thousands either dead or internally displaced. In 2016, the International Criminal Court opened an investigation into crimes committed during the conflict. Abkhazia and South Ossetia remain disputed territories and outside the control of the State.

The situation for human rights defenders in Georgia is variable, depending largely on the nature of the work and the geographic location of defenders. Defenders have been subjected to physical attacks, threats, intimidation and defamation. Defenders of people on the move and sexual orientation and gender identity rights are at heightened risk of having their rights violated. While peaceful assembly is generally permitted, the State's security forces have, at times, responded violently, and demonstrators also face a risk of violence from non-State actors; both State and non-State perpetrators of violence against defenders protesting enjoy impunity.

Defenders in Abkhazia and South Ossetia face a particularly hostile environment. In Abkhazia, defenders face restrictions based on (ethnic Georgian) ethnicity and the (absence) Abkhaz identity papers. Despite these restrictions, freedom of assembly has been generally respected, with 2017 protests around the elections and human rights in Russia taking place without violence or repression. Defenders in South Ossetia face greater restrictions on their freedom of expression, assembly and association.

Despite challenges, the State, including the disputed territories, is home to a vibrant and diverse civil society, including defenders working on a range of human rights issues. Some of the recent initiatives of human rights defenders have developed the good practices identified previously by the Special Rapporteur, including the recent launch of an innovative, regional temporary international relocation initiative in Tbilisi by Truth Hounds.

Georgia is a member of Organization for Security and Cooperation in Europe and the Council of Europe.

2. Legal and Policy Framework

Georgia is party to most of the core international human rights treaties, with the exception of the Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Constitution of Georgia offers some protection relevant to the Declaration, for example, freedom of opinion, expression, association and assembly are all guaranteed. International law is recognised within the domestic legal system. Georgia is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The legislative framework for the protection of the rights in the Declaration is uneven and recent developments have limited some of the rights in the Declaration. In relation to freedom of association, the Labour Code as amended in 2013 guarantees the right of workers

to membership in an employee association. In March 2017, the government adopted a package of new laws which allow increased surveillance of citizens, which some defenders have argued is an unnecessary intrusion to the right to privacy and freedom of expression.

The Office of the Public Defender is the national human rights institution and has been fully accredited as complying with the Paris Principles.

3. Implementation of the Declaration

There is no comprehensive national legislative or policy framework protecting the rights in the Declaration and recognizing defenders. The rights articulated in the Declaration are unevenly implemented in Georgia.

The right to freedom of assembly is protected, and has been improved since the Global Survey as a result of amendments were made to the Law on Assembly and Manifestation (which also followed a recommendation during the State's first universal periodic review in 2010). However, there remains no right to hold spontaneous (eg. without notice) demonstrations. Furthermore, demonstrations for sexual orientation and gender identity rights have been met with violence from State and non-State actors. In 2012 and 2013, demonstrations marking the international day against homophobia and transphobia were violently disrupted, and it was reported by local civil society organisations that police did not adequately control counter-demonstrators. In 2017, a small number of activists gathered again in Tbilisi to mark the same occasion and were afforded much improved protection from police.

However, protection of protesters remains inconsistently realised across the State. In August 2017, defenders have reported that unidentified persons in Batumi assaulted five activists associated with the LGBT association Equality Movement. Nearby police failed to protect the activists and instead arrested and beat them, charging them with disorderly conduct and disobeying police.

While freedom of association is widely enjoyed in Georgia, the right is more restricted in the disputed territory of South Ossetia and, to a lesser extent, in Abkhazia. Defenders also face restrictions on their freedom of expression. Defenders have expressed concern that a recent draft amendment to the Criminal Code envisaging the criminalisation of incitement to hatred will open the door to prosecution of defenders speaking out on socially and politically controversial issues. In the past, defenders who criticise State authorities have faced repercussions. For example, in June 2017, two rap musicians, Mikheil Mgaloblishvili and Giorgi Kiburia, alleged that they were framed for possession of illicit drugs after recording a music video which mocked the police. The rappers were released following public outcry.

In recent years there has been public discussion of the relationship between freedom of expression of journalists (and the public at large) and media ownership and control. The most-watched television station, Rustavi 2, is currently embroiled in a legal battle with the State over its independent ownership and Imedi TV, the second most-watched station, decided in 2015 to suspend its current affairs political talk shows following allegations of government pressure and interference. Journalists who have criticised the State and its policies have suffered repercussions as a result. In May 2017, Azeri defender in exile and journalist Afgan Mukhtarli was abducted by men wearing Georgian police uniforms and

speaking Georgian and returned to Azerbaijan where he was arrested. The State has disputed its involvement in this incident and has suspended some officials pending an investigation.

Echoing the concerns expressed in the Special Rapporteur's recent report of defenders of people on the move, defenders in exile within the State face a complicated legal process to gain protection as refugees and the threat of removal to their country of origin. In 2016, Azeri activists Dashgin Aghalarli and Orkhan Aghalarli received asylum, then had the decision annulled, before finally given temporary protection. More recently, Mustafa Emre Çabuk, a defender from Turkey, faced extradition before receiving support from Georgian civil society organisations and a grant of temporary protection.

Notwithstanding these concerns, the State has been responsive to concerns expressed by human rights defenders. Recent grassroots activism by environmental defenders has led to significant changes in official rhetoric and policy in the city of Tbilisi, including the revocation of a construction company's permit to build a hotel in the city's Vake Park and the debate of environmental issues in the city's recent mayoral election. According to defender Nata Peradze, the successes are an example of the success of allowing grassroots defenders to participate in public policy: "People used to say activism in ex-Soviet countries cannot be successful, because everything is done from above, with no clarity on who is running [behind] the scenes".²⁰⁰

The State has been reviewed twice under the Universal Periodic Review process, most recently in 2015. While little direct reference was made by any party to the situation of human rights defenders, concerns were raised about the lack of freedom of expression, particularly in the media, and of some assaults on freedom of assembly. The State supported one recommendation (which it considered already implemented or in the process of being implemented) to refrain from interfering in the activities of human rights defenders and non-governmental organisations and to ensure a safe and enabling environment for their work. No other specific recommendations were made regarding defenders. The Special Rapporteur's most recent communication with the State was made in June 2013, and regarded the aforementioned lack of effective protection afforded to demonstrators on the international day against homophobia and transphobia, and allegations of continued threats towards defenders of sexual orientation and gender identity rights.

4. Issues and Trends

The Special Rapporteur is encouraged by recent peaceful assemblies, and the active and vibrant nature of civil society. The involvement of grassroots environmental defenders in recent public policy debates provides an example of how defenders and the rights outlined in the Declaration contribute not only to the protection and promotion of human rights but a better quality of life and more equitable and sustainable development for all. However, the Special Rapporteur is concerned that the rights articulated in the Declaration are incompletely and unevenly implemented, in particular in the disputed territories outside of the control of the State. He joins defenders in encouraging the State to ensure that

²⁰⁰ Prathap Nair "Tbilisi Comes Up for Air" (Citylab, 1 June 2018) available online at <https://www.citylab.com/environment/2018/06/tbilisi-comes-up-for-air/561227/>

centralization of media ownership does not detract from the freedom of expression, including the ability of journalists (and the public at large) to debate and discuss all matters of public concern.

The Special Rapporteur would encourage the State and its national human rights institution build upon its successes and to introduce a more formal policy and programme of action for the promotion and protection of human rights defenders. He also urges that the State consult with defenders themselves in the development of this policy and programme, including particularly at risk groups of defenders such as defenders of sexual orientation and gender identity rights and defenders living in exile within the State.

Moldova

1. National Context and Human Rights Defenders

The State was included in the Global Survey 2006, although it was difficult to make a thorough assessment of the situation of human rights defenders at the time. Major human rights violations noted at the time included the torture and ill-treatment of prisoners and trafficking of women.

The Special Rapporteur thanks the State for having hosted his visit in June 2018. During his visit, he met with more than 110 human rights defenders, a majority of which were women human rights defenders, and also received information in writing from various sources, helping to better understand the situation of human rights defenders and the broad context in which they operate. He regrets to conclude that despite a satisfactory legislative framework, defenders within the State continue to face an often hostile and unsafe environment. Groups of defenders particularly at risk in Moldova include lawyers, journalists, judges, defenders of sexual orientation and gender identity rights, and women rights defenders. This country entry reiterates and elaborates upon the concerns noted as a result of the Special Rapporteur's visit.

Moldova is a member of the Organization for Security and Cooperation in Europe and the Council of Europe, among others, and is pursuing membership in the European Union.

2. Legal and Policy Framework

The legal framework for the defence of human rights in the State is well-developed. Moldova is party to most of the major international human rights treaties, except the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families, as well as the Convention for the Protection of All Persons from Enforced Disappearance. The State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

A number of the rights articulated in the Declaration are enshrined in the Constitution of Moldova. These include the rights to freedom of opinion and expression (Article 32), access to information (Article 34), freedom of assembly (Article 40), and freedom of association (Article 41). The Constitution also establishes that its constitutional provisions on human rights and freedoms should be interpreted and applied in accordance with the Universal

Declaration of Human Rights and other human rights treaties to which the Republic of Moldova is party.

A draft law on non-profit organisations is currently passing through parliament. Although the initial draft has been supported by many defenders, they have also expressed concern that future amendments (as part of the parliamentary process) may restrict access to international funding and impose other illegitimate restrictions on their activities.

The National Human Rights Action Plan 2018-2022 was approved in May 2018 and incorporated most of the concerns raised by the second Universal Periodic Review of Moldova, as well as by human rights treaty bodies, including the establishment of a well-staffed permanent Human Rights Secretariat at the State Chancellery (Office of the Prime Minister). The National Human Rights Action Plan does not include any specific provision to protect human rights defenders at risk.

The Moldovan People's Advocate (Ombudsman) (MPA) and the Equality Council serve as the national human rights institutions of Moldova. However, the Ombudsman does not have the power to enforce its decisions, receives limited funding and does not enjoy complete financial autonomy. The current staffing and the premises do not allow the Ombudsman to completely fulfil its mandate. Despite these shortcomings, the Sub-Committee of Accreditation of National Human Rights Institute has recently recommended the granting of "A status" with a list of recommendations aiming at a greater compliance with the Paris Principles.

The Equality Council has a broad mandate to examine cases of discrimination but similarly cannot impose sanctions. Like the Ombudsperson's Office, the Equality Council is notably under resourced and understaffed. As noted by the Special Rapporteur, there are concerns about the excessive control exercised over their expenditures, which is perceived as a form of harassment by the government.

3. Implementation of the Declaration

Notwithstanding enabling legal frameworks and gradually developing support from national human rights institutions, human rights defenders in the State face numerous obstacles to their enjoyment of the rights articulated in the Declaration.

Particular groups of human rights defenders, as defined by their occupation, issue and location of work, face significant challenges and threats.

The right to freedom of assembly is generally respected. In June 2018, popular protests took place in the State in response to recent elections. Lawyers have also publically the lack of effective remedies for their clients, including the excessive use of arrests as a pre-trial measure (with one of the highest rates in Europe). The demonstrations were carried out peacefully and police forces ensured the conditions for demonstrators to exercise their rights. Defenders of sexual orientation and gender identity rights have expressed appreciation for the positive dynamic established between the police, organisers and participants in the Pride March in 2018.

Practical limits on the freedom of expression are exemplified by the State's mistreatment of journalists and media workers. Journalists face serious challenges in accessing information

from the State; the law on access to information is outdated and journalists face lengthy delays in receiving information and incomplete disclosure of information. There continue to be serious allegations of intimidation and threats against journalists and media workers, including the use of defamation and criminal charges against investigative journalists. Journalists also face campaigns of stigmatisation on social media.

A number of groups of defenders face particular challenges in their defense of human rights, including the aforementioned journalists and media workers, lawyers, women human rights defenders, and defenders of sexual orientation and gender identity rights, and Roma rights.

Lawyers have faced administrative or criminal charges on unfounded allegations or spurious grounds in response to their representation of members of the political opposition, those with dissenting voices or individuals who expose corruption and human rights violations. The Special Rapporteur has been advised by defenders that lawyers (and members of their families) have received threats pressuring them to withdraw from representing or advising these clients. Lawyers have also been threatened with the revocation of their license to practice and with very long prison sentences. For example, human rights lawyer Ana Ursachi has been the victim of longstanding judicial harassment and public smear campaigns. An order for her arrest was issued in March 2018, following spurious allegations that she had been involved in a historical murder.

Other vulnerable defenders include women human rights defenders, defenders of sexual orientation and gender identity rights, and Roma rights. Sometimes these identities are overlapping, further exacerbating the risks faced by certain defenders. Women human rights defenders face the same risks as their male counterparts but they are also exposed to gender-specific threats and attacks. There has been positive feedback about the collaboration between Roma civil society and the State regarding the establishment of a network of Roma community mediators. These mediators facilitate the interaction between Roma communities and State authorities, as well as the educational and social integration of Roma people. However, the community mediators network is not fully operational due to the lack of necessary financial resources for its effective implementation. Roma mediators also complain about the lack of a training curricula for them. Other concerns include their lack of participation in decisions that concern them, as well as the discrimination they endure, particularly Roma women.

Defenders in Transnistria face particular challenges arising from the different political and legal environment in which they operate. The Transnistrian region of the State is an autonomous territorial unit which was established after a period of armed conflict was ended with the establishment of a Joint Control Commission to oversee the ceasefire arrangements. Defenders in the region face rules that restrict their activities and a climate of impunity. In the region, defenders within civil society organisations are prohibited from pursuing “political activities”, a restriction not in accordance with international standards. Freedom of expression has been limited since 2017 when the local authorities introduced rules giving themselves more control over media outlets. Freedom of assembly is limited by the requirement for pre-authorisation, which is only rarely given. Trade unions are not independent and defenders have reported being harassed by local officials.

The State has been reviewed twice under the Universal Periodic Review process, most recently in 2016. Several relevant recommendations enjoyed the support of the State. They centred around continuing the dialogue and substantive cooperation with those involved in protecting human rights defenders; securing a safe environment for human rights defenders; supporting and acknowledging defenders' contribution to the advancement of human rights in the country; and recognising explicitly the legitimacy of the job done by human rights defenders and ensure that their work is carried out in a safe and enabling environment, without fear of reprisals, intimidations or acts of violence. The Special Rapporteur has received a number of communications concerning the State since the Global Survey of 2006, raising many of the issues articulated above.

4. Issues and Trends

The Special Rapporteur thanks the State for extending an invitation to him to visit in June 2018 and for their cooperation during that visit. He recognises the commitment to human rights as enshrined in the legal system, and was glad to observe that peaceful protests were allowed to take place in June 2018. However, while human rights defenders and civil society organisations in Moldova are active in many fields, they face threats, intimidation, defamation and stigmatisation. Lawyers, journalists, women human rights defenders, defenders of sexual orientation and gender identity rights, and Roma defenders face particular risk.

The Special Rapporteur reiterates the recommendations he made following his visit in 2018, including that the Moldovan Prosecutor's Office should stop immediately prosecution on arbitrary grounds of lawyers defending opposition figures or dissenting voices; extra effort should be made to provide a safe and enabling environment for vulnerable defenders; and, the State should examine the possibility of drafting and passing a special law on human rights defenders.

Russia

1. National Context and Human Rights Defenders

The Special Representative regretted that the State had not provided a response to her request for information for the Global Survey 2006.

Thanks to relevant information obtained through non-governmental sources, the Special Representative was able to report in 2006 that the situation of human rights defenders was deteriorating. She noted increasing control of the executive power over civil society in law-making bodies, as well as the passing of certain laws which created a highly restrictive environment undermining the right to freedom of assembly and association. She also observed that human rights defenders constantly faced assaults, attacks and threats, and some were killed. The situation was particularly closed and repressive in the North Caucasus area.

The situation for human rights defenders in Russia has become increasingly hostile and dangerous since the 2006 Global Survey and many groups are very vulnerable. Defenders are at risk of intimidation, threats, smear campaigns, physical violence, surveillance, judicial harassment, arbitrary arrest and detention, lengthy prison sentences, and even enforced

disappearance and murder. Defenders denouncing the role of Russia in regional conflicts in Eastern Ukraine and Crimea, those who work in Crimea and in the regions of North Caucasus (in particular, in Chechnya), defenders of prisoners' rights, migrants' rights, and those fighting racism and xenophobia are particularly at risk. Since the Law on Foreign Agents has come into force, defenders receiving foreign funding and conducting any kind of public activities have also become potential targets for repression. Other vulnerable groups include women human rights defenders, defenders of sexual orientation and gender identity rights, and land and national minorities-defenders, as these groups face both oppression from the State and social stigma fuelled by State agencies and the media.

Russia is a member of the Organisation for Security and Cooperation in Europe, Commonwealth of Independent States, Council of the Baltic Sea States, and the Council of Europe. Membership in all of these organisations involves human rights obligations, through treaties and organisational activities.

2. Legal and Policy Framework

Russia is party to the majority of the core international human rights treaties, but has not ratified the Convention for the Protection of All Persons from Enforced Disappearance or the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. As a member of the Council of Europe, Russia is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Since December 2015, the Constitutional Court of Russia has had sole authority to determine whether a decision passed by an international human rights body with regard to Russia should be implemented (or not), severely limiting the enforceability of international human rights obligations within the State.

The Constitution of Russia provides for human rights protections consistent with the rights articulated in the Declaration. Article 19 guarantees equal rights and freedoms for all; Article 28 guarantees the right to freedom of conscience and religion; Article 29 stipulates the prohibition of censorship of publication and protects the right to freedom of speech and expression; and, Article 30 guarantees the right to freedom of assembly and association.

Since 2012, at least 50 new laws have been introduced restricting freedom of expression, assembly and association and generally restricting the work of human rights defenders. These new laws range from those authorising increased surveillance and censorship powers, to broad laws banning "questioning the integrity of the Russian nation", and "extremism". These laws have been used to silence criticism of the State and crack down on political and religious freedom.

A specific and complex set of laws have also made it more difficult for human rights defenders to communicate on their activities, access information, or receive international funding. These restrictions severely hinder their ability to operate independently. Specific laws also penalise the transmission of independent and critical information to international human rights mechanisms and bodies. Perhaps the most restrictive law is Federal Law No. 121-FZ "On Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organizations, Performing the Functions of Foreign Agents" (the so-called Law on Foreign Agents).

Introduced in 2012, the Law on Foreign Agents requires all civil society organisations engaging in “political activities” (a term which lacks clear legal definition) and receiving foreign funding to register as foreign agents. This law gives prosecutors the authority to declare as “undesirable” foreign and international organisations which represent “a threat to the foundation of the constitutional order of the Russian Federation, the defence capability of the country or the security of the state” (all very broad and undefined terms). The consequences of being labelled as “foreign agents” are extremely damaging: organisations classified as “foreign agents” face increased administrative expenses, fines, obligatory labelling of all publications, excessive reporting requirements and other additional requirements. In some instances, being labelled as a foreign agent has led directly to the closure of an organisation. The status of “foreign agent” is also used to defame organisations and prevent further collaboration with State institutions, effectively preventing certain types of human rights activities such as election monitoring. The law also allows the State to order the dissolution of foreign agent organisations.

Since the introduction of the Law on Foreign Agents, the Ministry of Justice has designated almost 200 groups as “foreign agents” and by 2018, over 42 groups had shut down, with more in the process of closing. It has also led to a number of prominent international sponsors of civil society being banned from working in Russia. The law has been used to prosecute prominent human rights defenders in Russia. The first criminal case for “malicious violation of legal requirements for foreign agent NGOs” was opened in May 2016 against Ms. Valentina Cherevatenko, leader of the “Women of Don” Union. Although the case was abandoned a year later, it sent a chilling message to human rights defenders.

In 2017, the Federal government expanded the scope of the Law on Foreign Agents to media outlets and internet sources, through Federal Law No. 327-FZ on Amendments to Articles 10.4 and 15.3 of the Federal law on Information, Information Technologies and Protection of Information and Article 6 of the Law of the Russian Federation on Mass Media. Under this new law, the government has the power to designate any media organisation and information distributor (including individuals) of foreign origin or who receive foreign funding as “foreign media performing the functions of a foreign agent.” All materials and information published by such foreign agents must be accompanied by a disclaimer that they were created by a “foreign agent”. Designation as a foreign agent sometimes seems to follow outspoken criticism of the State, particularly in international fora. After Memorial produced a report on human rights violations committed against Roma and migrant activists for the Committee Against Torture in 2012, they were made to register as “foreign agents”.

In 2015, Federal Law No. 129-FZ on Amendments to Certain Legislative Acts of the Russian Federation (Law on Undesirable Organisations) came into force. This law further restricts the activities of human rights defenders by banning foreign organisations deemed to undermine Russia’s security, defence, or constitutional order. Although no human rights organisations are currently listed as “undesirable” the law has had an indirect impact on Russian human rights NGOs by effectively preventing their cooperation with foreign donors. Anyone deemed to be “collaborating” with “undesirable organisations” is subject to fines or imprisonment. In 2017, the SOVA Center and its director were prosecuted for having web-links to the websites of their former donors who were (subsequently) listed as “undesirable organisations”.

Additional recent legislation has also imposed data collection and storage requirements on telecommunications providers and the requirement that telecommunications providers facilitate the decryption of communications. Defenders have expressed concerns that these new regulatory frameworks will allow for increased online surveillance of their activities and will violate their right to privacy.

Though the State has recognised the work of human rights defenders as legitimate and valuable in various submissions to human rights bodies, it regularly notes that human rights defenders do not receive any special legal protection in Russia and that the category human rights defenders neither exists as a category in international law nor constitutes a vulnerable group.²⁰¹

The High Commissioner for Human Rights in the Russian Federation is the national human rights institution and it is fully accredited as complying with the Paris Principles. Defenders have noted that the Commissioner is appointed by the government, casting doubts over its ability to function independently. Other important national human rights institutions include the national Ombudsperson for Children's Rights, a number of regional ombudspersons, and the Presidential Council for Civil Society Development and Human Rights.

3. Implementation of the Declaration

The rights articulated in the Declaration are not fully enjoyed by defenders in practice in Russia. The growing number and complexity of legislative restrictions on the activities and funding of defenders are reflective of an increasingly unsafe and hostile environment. These regulatory regimes further negative public and media commentary about human rights defenders, leading to their further stigmatisation. Defenders of the most vulnerable groups in society are victims of double discrimination both as a result of their work as defenders and their support of often discriminated against marginalised groups. Defenders particularly at risk include defenders working on the rights of national minorities, Roma, people on the move, and, gender identity and sexual orientation rights and women human rights defenders. Defenders working in various geographic regions and territories, including the Caucasus and various disputed territories, also face a higher threat of violence.

Freedom of expression of defenders has been restricted in a number of ways. The State has intensified censorship, including on the internet. The State telecommunications regulator Roskomnadzor has the power to block websites that disseminate calls for "riots", "extremist" activities, or participation in illegal assemblies. Between 2012 and 2017 more than 275,000 links were included on the blacklist while activists from the RosKomSvoboda project reported that more than 10.5 million websites have been blocked within the last five years. Censorship laws extend to posts on social media and facilitate the surveillance of private email correspondence, affecting all human rights defenders. These laws are too often used to silence those who oppose the policies of the State. For example, in July 2015 a teacher was arrested after publishing a series of posts condemning the annexation of the Crimean

²⁰¹CAT/C/RUS/5 (28 February 2011).

Peninsula by Russia.

Legislation also explicitly restricts the content of online and real-world expression. The Law on Anti-Gay Propaganda prohibits and penalises the dissemination of information regarding “non-traditional sexual relations”. Defenders of sexual orientation and gender identity rights Sergey Alekseenko from Murmansk and Evdokia Romanova from Samara were fined for posting “LGBT propaganda” online. In October 2016, Roskomnadzor warned the website of Children-404, an online support group for Russian LGBTQI teenagers, that it would be blocked. The website’s founder, defender Elena Klimova, was fined and her social media VKontakte page was banned under a court decision. Despite a successful appeal, she was persecuted twice afterwards for the same charges. Defenders whose expressions violates social and religious conventions have also faced prosecution, most famously the feminist protest rock group Pussy Riot beginning in 2011.

Defenders have expressed concern to the Special Rapporteur that it is increasingly difficult to enjoy the right to peaceful assembly. State authorities have refused to authorise protest rallies, arbitrarily detained and ill-treated peaceful protesters, and subjected them to administrative and criminal penalties. Following the adoption of the new anti-terrorism laws, several activists have been charged, and some of them convicted for expressing views allegedly sympathetic to terrorism. Participants in peaceful assemblies in the first year of the occupation of Crimea faced particularly severe repression; attacks of so called ‘Crimean self-defence’ and other ‘non-identified persons’ on opposing the occupation were followed by the abductions, arrest and detention and extrajudicial execution of some protesters.

Human rights defenders, lawyers and journalists working in the North Caucasus have been subjected to threats, harassment, abuse and enforced disappearance. Some also reportedly became victims of extrajudicial executions. In 2009 the head of civil society organisation “Memorial”, Natalia Estemirova, was murdered and her killing treated with impunity. Following her murder, the organisation and its members were the victims of consistent harassment until they finally left Chechnya in 2018. In January 2018, the police arrested Memorial’s new head, Oyub Titiev, on fabricated drug charges, a regular tactic that Chechen authorities have used to punish and discredit their critics. In a TV broadcast after Titiev’s arrest, Chechnya President Kadyrov raged at human rights defenders: “They have no Motherland, no ethnicity, no religion... They have interests. ... Well, I will tell you how we are going to break the spine of our enemies.”

Following Titiev’s arrest, Chechen police raided Memorial’s office in Chechnya, tried to intimidate the local staff, and harassed their landlady for housing a subversive organisation. Unknown arsonists also set on fire Memorial’s office and car. In March 2018, the head of Memorial’s Dagestani office, Sirazhudin Datsiyev, was attacked outside his house and taken to hospital in Makhachkala with serious injuries. Other defenders in the North Caucasus have received similar punitive treatment. In 2016, a Chechen court sentenced journalist Zhalaudi Geriev to three years in prison on fabricated drugs charges. In 2014, another court in Chechnya sentenced local activist and historian Ruslan Kutaev to four years in prison on fabricated drug charges after he criticized and disobeyed an order by President Kadyrov.

The State is involved with ongoing disputes over a number of disputed territories in neighbouring or nearby States, including Donetsk, Lugansk and Crimea (in Ukraine), South Ossetia and Abkhazia (in Georgia), and Transnistria (in Moldova). The State has extended its laws to at least some of these territories, notably Crimea. Defenders in each of these territories face severe restrictions on their activities by local officials often backed by the State.

Russia has been reviewed three times under the UPR process, most recently in May 2018. In their submission, the State voiced its commitment to supporting civil society and human rights. The State reiterated that core rights relating to defenders are enshrined in the law and constitution, and that Russian legislation imposes no disproportionate restrictions on the enjoyment of the right to freedom of peaceful assembly and expression. It is also noted that by law, organisations and members of the public are able to challenge the authorities' decisions in the courts and that work is continuing to improve the law on assemblies.

The State also recognised the value of freedom of expression, stating that one way in which support is provided to journalists is through the government prizes awarded to journalists for their investigative work, including with regard to local authorities. Attribution of this award by the State at the highest level serves as a safeguard and strong form of support for independent journalism. The State recognised that offences against journalists and human rights defenders have serious negative implications for the development of society as a whole and undermine efforts to strengthen the rule of law. Accordingly, the State committed to treating with high priority the prevention and investigation of such crimes. The State noted that during the reporting period, 25 offences were recorded under the rubric of "obstruction of the lawful professional activities of journalists", and 29 persons who had committed such offences were brought to justice. The State also outlined a number of recent or impending qualifications of the legislative frameworks outlined above, including proposed clarification of key terms left undefined.

The Special Rapporteur is encouraged by Russia's willingness to discuss human rights defenders in their UPR submission, and hopes that the amendments made to legislation, and the explicit references made regarding the State's commitment to protecting and promoting defenders, will have a positive impact on the environment for defenders.

The Special Rapporteur does, however, remain gravely concerned by other evidence presented during the Universal Periodic Review in 2018. The Human Rights Committee remained concerned about reports of harassment, death threats, intimidation, physical violence and killing of lawyers, journalists, human rights defenders and opposition politicians, in particular those working in the North Caucasus, in connection with their professional activities. Several treaty body committees were concerned about the continuous classification of some civil society organisation as foreign agents, which impacted their operational activities and, in some instances, led to their closure. They recommended that any legal provisions that unduly restricted the activities of civil society organisations be repealed or amended and that effective measures be taken to prevent and investigate all forms of harassment, intimidation or threats faced by human rights defenders.

The Universal Periodic Review process also resulted in expressions of concern about reports of discrimination, hate speech, violence against lesbian, gay, bisexual and transgender individuals and activists and violations of their rights to freedom of expression and assembly. The Human Rights Committee expressed concern about consistent reports of arbitrary restrictions on the exercise of freedom of peaceful assembly, including violent and unjustified dispersal of protesters, arbitrary detentions and the imposition of harsh fines and prison sentences for the expression of political views. The Human Rights Committee was concerned about reported violations of the Covenant in the Autonomous Republic of Crimea and the city of Sevastopol, which were under the control of the State, including allegations of serious human rights violations, many of which involved the “Crimean self-defence” forces, enforced disappearances, abductions, arbitrary detention, ill-treatment and attacks against journalists and other defenders and alleged violations of freedom of expression and information and harassment of the media. Civil society raised similar concerns to UN bodies in their submissions.

In their report on the outcome of the UPR, several States in the working group raised concerns about treatment of human rights defenders in Russia and made recommendations in this regard. Russia was considering nine recommendations regarding ensuring better treatment and protection of human rights defenders.

The Special Rapporteur has sent frequent and numerous communications about the situation of human rights defenders in Russia since the last Global Survey in 2006. In the last five years alone, more than 30 communications were sent to the State. The scope of the communications is broad and includes allegations of harassment, intimidation, threats, physical assault, unfair trials, prison sentences, enforced disappearance and murder against a wide range of human rights defenders and organisations, including environmental and indigenous defenders, women human rights defenders, and defenders in the North Caucasus.

4. Issues and Trends

The Special Rapporteur was encouraged that Russia engaged in lengthy discussion of human rights defenders and civil society in its recent Universal Periodic Review submission and dialogue in May 2018. He is encouraged that State has reiterated its commitment to protecting and promoting human rights defenders. However, he remains concerned that despite the State’s express commitment, there appears to be intentional and systematic persecution of human rights defenders in Russia.

The State is restricting civil society space through legislation, smear campaigns, intimidation, false charges, and alleged violent repression, enforced disappearance and murder. While all defenders are vulnerable, those in the North Caucasus face increased risk, as do others such as indigenous defenders and defenders of sexual orientation and gender identity rights who are doubly victimised for their work and their intersectional characteristics.

In order to improve the situation of human rights defenders within Russia, the Special Rapporteur urges that the State revise its legislation on “foreign agents”, “undesirable organisations”, “anti-gay propaganda” and the amendments to the “mass media and information” laws. He also strongly recommends that the State conduct a thorough investigations of the harassment, abduction and killing of human rights defenders, especially

in the North Caucasus region. The Special Rapporteur agrees with the State that defenders perform an important role in the realisation of human rights. Whether labelled as such, or simply as the organs, individuals and groups within and of society, the Special Rapporteur is committed to working with the State to ensure that they enjoy a safe and enabling environment.

Ukraine

1. National Context and Human Rights Defenders

Ukraine was included in the 2006 Global Survey. The Special Representative expressed concern that human rights defenders faced torture and ill-treatment at the hand of the police, as well as violations of the rights to freedom of assembly and association. Defenders of sexual orientation and gender identity rights, anti-corruption activists and human rights lawyers faced particular high risks. She noted that political persecution and censorship was common.

Since 2006, the State has seen significant developments. Large scale public protests began in November 2013 and forced a change of government in 2014. Shortly thereafter, armed conflict supported by Russia erupted in the (eastern) Donetsk and Luhansk (collectively the Donbas region) regions of the State and Russian armed forces occupied the region of Crimea, where they remain. These conflicts continue have resulted in the deaths of at least 10,000 people and the displacement of large numbers of individuals. In this context of instability and conflict, the situation for human rights defenders in Ukraine is uneven and precarious, particularly for those in the noted regions in conflict.

Defenders and journalists frequently face threats, assaults, harassment and intimidation and restrictions on their rights to freedom of assembly and association. Defenders of minority groups' rights across Ukraine face additional restrictions on their right to assembly and are at risk of attacks from extremist groups. Those who defend the rights of ethnic Ukrainians and Crimean Tatars, or who refuse Russian citizenship in Donbas, face elevated risk; journalists, lawyers and bloggers in the regions in conflict face consistent threats of abduction, physical violence, surveillance, judicial harassment, forced psychiatric examinations, denial of freedom of movement, and more. Families of defenders have also faced threats.

Ukraine is a member of the Organisation for Security and Cooperation in Europe and the Council of Europe.

2. Legal and Policy Framework

Ukraine is party to all of the core international human rights treaties except the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Constitution provides guarantees of key rights consistent with international standards, including freedoms of expression, access to information, assembly and association. Domestic legislation provides additional protections against discrimination, torture and ill-treatment.

In December 2015 a Law entitled “Guarantees for Freedom of Peaceful Assembly” was drafted but it has not yet been adopted. It has been criticised by defenders as excessively restricting the right to peaceful assembly. In July 2018, draft legislation was proposed that would introduce burdensome public online reporting requirements for all nonprofit organizations. The government has also adopted legislation which imposes criminal penalties on anti-corruption activists who fail to publicly report their personal assets.

As a result of the ongoing conflicts within the State, a number of states of emergency have been declared, limiting rights of defenders in particular parts of the State and for particular periods of time. Citing the ongoing conflicts as justification, the State has taken steps to restrict freedom of expression, media freedom, and freedom of association. Defenders in regions of conflict face extra-legal restrictions imposed by de facto rulers. International monitoring bodies, notably the UN Subcommittee on Prevention of Torture in 2016, have also been denied access by de facto rulers of regions of conflict.

The Ukrainian Parliament Commissioner for Human Rights (UPCHR) serves as the national human rights institution and has been accredited (‘A’ status) as fully complying with the Paris Principles. The UPCHR accepts petition from those whose rights have been violated by the public authorities of Ukraine and pursues activities in a number of areas, including children rights, discrimination, and the right to information.

3. Implementation of the Declaration

Notwithstanding the positive features of the legal frameworks in place, human rights defenders operate in an often unsafe and difficult environment that is deeply affected by the ongoing conflict. There is no overarching national legal or policy framework protecting the rights or activities of defenders. Human rights defenders in Ukraine are subject to regular intimidation, threats to their lives, unlawful detentions, torture, abductions and sometimes extrajudicial killings. These difficult conditions are particularly severe in the regions of conflict, forcing most human rights defenders to flee. Defenders fighting for the rights of marginalised people face repression from the State and threats from extremist groups.

Defenders attempting to carry out peaceful protests face violent and excessive repression from the State. Impunity continues for perpetrators of crimes committed during the 2014 protests; official data indicates that 104 people were killed and around 2,500 injured during the protests. The State continues to inadequately protect demonstrators from acts of violence from counter-demonstrators and extremists. For example, in March 2018 defenders participating in a women’s and sexual orientation and gender rights parade in Kiev were attacked by extremists armed with sticks and teargas. Following the demonstration, one of the organisers was charged with organizing and illegal assembly and faced threats (along with her lawyer) from extremists.

Freedom of expression of defenders is restricted in practice. Journalists and bloggers in Ukraine are targets of violence, intimidation, spurious legal procedures and restrictions on their freedom of movement. Those reporting on sensitive issues or attempting to enter areas of ongoing conflicts are at most risk. Since 2014, at least 78 journalists have been arrested and detained in the regions of conflict and there have been at least 60 attacks on media

offices. In 2015, blogger and chairman of human rights organisation Postup Mr Konstantin Reutski was beaten by security forces and had his camera confiscated.

Freedom of association is restricted in practice, particularly for civil society organisations opposed to vested interests. Anti-corruption organisations have been repeatedly targeted by the State. For example, March 2016, criminal proceedings began against the Anti-Corruption Action Centre (AntAC) with documents and property being seized.

Defenders who work on behalf of socially marginalized groups or controversial issues face additional challenges. Lawyers working with the Roma community to seek redress for attacks against members of the community have themselves faced threats and acts of violence. In 2016, Maksim Kornienko, a human rights lawyer and the director of the Coordination Center Human Rights Defender, was arrested, charged and sentenced to 15 days of administrative detention for legally filming court proceedings at a public hearing on a criminal case of two Roma community members.

Defenders of other marginalized groups and rights have also faced difficulty, as noted above with respect to the repression of protests by defenders of women's and sexual orientation and gender identity rights. While recent legal reforms have improved the legal situation of some of these defenders, they still face opposition by deeply entrenched social interests and too often suffer acts of violence. In 2012 the Anti-Gay Propaganda Law was repealed and in 2014 legislation (The Law on Amendments to the legislative acts that regulate, prevent, and combat discrimination) expanded protection from discrimination.

Human rights defenders in the regions of conflict face heightened risks. Many civil society organisations which did previously operate in those areas, including human rights organisations and humanitarian organisations, have been forced to shut. Defenders operating in the regions of conflict are often made subject to Russian laws restricting the activities of human rights defenders, particularly in Crimea.

Defenders of and from the Crimean Tatar community have faced searches of their homes, intimidation, and detention. As reported to the Human Rights Council by the Deputy High Commissioner for Human Rights in March 2018, a number of serious violations of the rights of defenders have occurred in Crimea over the last year. Ten Crimean Tatar men were arrested and criminally charged under terrorism or extremism-related offences - despite there being little evidence that they posed any actual threat. Eighty people, mostly Crimean Tatars were sentenced and fined, having protested against the alleged portrayal of Crimean Tatars as terrorists. A Crimean Tatar man was abducted by the Russian Federal Security Service and held incommunicado, tortured and threatened with sexual violence. These recent acts are consistent with a pattern of violations since 2014.

The State has been reviewed three times under the UPR process, most recently in 2017. The submissions in 2017 reflect the deteriorating and dangerous situation for defenders in Ukraine and the difficulty of the State in implementing recommendations in regions of conflict of which it does not have control. The Special Rapporteur has sent a number of communications to the State expressing concern about the situation of human rights

defenders, in recent years in relation to the use of excessive force against peaceful protesters and the threat and use of violence against LGBT and environmental defenders.

4. Issues and Trends

The rights articulated in the Declaration are largely recognised in the legal framework of the State. In its recent history, the State has witnessed the impact of the rights of peaceful assembly – through the wide-scale public protest resulting in a change of government in 2014. However, in recent years, defenders in the State have faced practical obstacles restricting their core rights, many of which arise directly from the political instability and armed conflict arising from the occupation of the Donbas and Crimea. Defenders in the regions of conflict face particularly severe repression, especially those opposed to the de facto rulers. Some defenders also face attacks from non-State actors, including extremist groups particularly opposed to minority, women's and sexual orientation and gender identity rights.

The Special Rapporteur is gravely concerned by the situation for human rights defenders in Ukraine. He calls on the State to publically reiterate its support for defenders and the legitimate role they play in society. He urges the authorities to refrain from intimidation and reprisals against human rights defenders. He also recommends putting in place protective mechanisms for defenders and other supportive mechanisms to encourage and promote their legitimate work. He urges the de facto rulers of the regions of conflict to immediately release defenders from arbitrary detention, to refrain from further violations of their rights, and to guarantee their access to the rights articulated in the Declaration.

Northern Europe

Denmark

1. National Context and Human Rights Defenders

Denmark was included in the 2006 report, however at the time the Special Representative was unable to provide a well-informed description of the human rights defenders community in Denmark due to a lack of sufficient information at her disposal. Denmark has a long political tradition of supporting and addressing human rights, including human rights defenders. It maintains a strong civil society and freedom of expression, assembly and association are generally respected. Recently however, the State has reduced funding to some civil society organisations, which negatively impacts upon the legitimate and valuable work of defenders.

Denmark is a member of the the Organisation for Security and Cooperation in Europe, the Council of Europe and the European Union.

2. Legal and Policy Framework

Denmark is party to all major international human rights treaties except for the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It is also yet to ratify the Convention on the Protection of All Persons from Enforced

Disappearance. As a member of the Council of Europe, the State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

The Danish legal system is usually described as dualistic, with international obligations requiring incorporation into the domestic legal order through legislation. The ECHR is the only general human rights treaty which Denmark has explicitly incorporated. The Human Rights Committee has expressed concern that international obligations, particularly those under the ICCPR, are not fully incorporated into and recognised by the domestic legal system.

Although there is no explicit national policy on human rights defenders, the policies of the State are broadly consistent with the promotion and protection of the rights articulated in the Declaration and the role of human rights defenders. Amongst its voluntary pledges to the Human Rights Council pursuant to its candidacy for election to the Council the State noted its pursuit of “a genuine and open dialogue with civil society” and pledged “to continue to promote and protect civil society space at the Council to ensure that views of human rights defenders are heard.”

The Danish Institute for Human Rights (DIHR) is the national human rights institution and has been fully accredited (‘A’ status) as complying with the Paris Principles. The provision of support to the defenders is a core function of the organisation. The DIHR also pursues a programme of human rights education that supports the growth and diversification of the human rights defenders community by encouraging people from all walks of life to fight for the rights of themselves and others.

3. Implementation of the Declaration

The rights of the Declaration are generally respected in Denmark. However, the Special Rapporteur is concerned that some recent decisions have a negative impact on the activities of human rights defenders.

Freedom of expression is legally respected in Denmark, although the State does still have laws against defamation. Blasphemy was only decriminalised in June 2017. The DIHR has expressed concern about the increased level of threats and violence against individuals and media exercising their right to freedom of expression (particularly when the views expressed are unpopular).

Laws regarding the right to freedom of peaceful assembly are liberal and generally respected in the State. Defenders regularly exercise the right to hold peaceful demonstrations without incident. The State has established a special commission to investigate the role of police during a Chinese state visit in 2012 when pro-Tibetan demonstrators claim to have been prevented from exercising their right to legally protest and display the Tibetan flag.

The Special Rapporteur is concerned that funding decisions regarding important national and international civil society organisations are becoming increasingly politicised. In March 2017, the gender equality and diversity centre Kvinno had its government funding significantly reduced after apparently being categorized as a leftist organisation. A human rights defender involved in the case advised Civicus that “Kvinno is losing financial support by politicians and they’re openly arguing that they disapprove of the organisation for being politically to the left

while they are themselves right-wing". Defenders have also alleged that the State's recent decision to withdraw its aid to at least 24 Palestinian organisations is the result of pressure from the Israel.

Denmark has been reviewed twice under the Universal Periodic Review process, most recently in 2016. No explicit reference was made to human rights defenders and the working group did not comment on or make recommendations regarding defenders. In light of growing Islamophobia and hate speech, one civil society organisation did recommend that the State should raise awareness about the limits of freedom of expression in accordance with international standards. No communications have been sent to Denmark since the last Global Survey in 2006.

4. Issues and Trends

The Special Rapporteur is encouraged by the apparently safe and enabling environment for human rights defenders in Denmark, who do are free of major barriers in carrying out their legitimate work. The Special Rapporteur appreciates that the State has broad discretion to make decisions about the spending of State funds but would encourage the State to do so with a view to the long-term development of civil society, with a view to ensuring a plurality of voices within civil society, and without undue pressure from short-term political interests.

The Special Rapporteur recommends that the State demonstrate its commitment to human rights defenders by implementing a national mechanism on the protection and promotion of their important and valuable work, which would include protecting foreign human rights defenders in Denmark.

Estonia

1. National Context and Human Rights Defenders

The State was included in the 2006 Global Survey, although the Special Representative regretted that she could not make a full assessment of the situation of human rights defenders in the State, given the lack of information and communication with defenders there. She confirmed that civil society organisations working in the State worked freely on a range issues, including xenophobia and human rights training of State officials. Human rights defenders continue to enjoy a generally safe and enabling environment where their rights to freedom of assembly, association and expression are guaranteed in law and respected in practice.

Estonia is a member of the Organisation for Security and Cooperation in Europe, the Council of Europe and the European Union.

2. Legal and Policy Context

Estonia is party to most of the core international human rights treaties, except the Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their

Families. The State is also party to Convention for the Protection of Human Rights and Fundamental Freedoms.

The State has not formally adopted a national legislative or policy framework concerning human rights defenders. Nonetheless, the rights to freedom of expression, association (including to form political parties and trade unions), and assembly are enshrined in the Constitution. The legislative framework of the State reiterates some of the rights articulated in the Declaration. For example, the freedom of assembly under Article 47 of the Estonian Constitution is reiterated by the provisions of Public Order Protection Act, both of which explicitly allow for meetings and peaceful assemblies without prior permission.

There is no national human rights institution in Estonia that has been recognised as fully or partially complying with the Paris Principles. A wide range of actors, including defenders within the State, have called for the creation or designation of such an institution

3. Implementation of the Declaration

Fundamental rights as outlined in the Declaration are generally well-respected in practice in Estonia, creating a positive environment for defenders.

Estonian human rights organisations have praised the good practice of the State in supporting and encouraging a vibrant civil society. The new coalition government announced plans to improve funding for and otherwise the resources available for civil society organisations. In July 2017, an amendment to the Income Tax Act came into force (section 13 subsection 3 clause 17), which exempts any daily allowance for volunteers with civil society organisation from taxation.

As noted above, freedom of assembly is enabled through a broadly permissive legal framework. There have been no major human rights demonstrations in recent years, except in July 2017, when the Baltic Pride festival was held in Tallinn. No incidents of violence or disruption took place during the march, and a record number of 1,800 people participated. The State holds an Opinion Festival each year in the town of Paide, which attracts many human rights defenders, who participate in the over 160 discussion groups touching on a wide range of political, social, and economic issues.

Freedom of expression is also broadly supported. The media is free and diverse, and journalists operate openly and do not report self-censorship. At times, defenders of the rights of marginalized groups, including the Russian minority, in society have felt under pressure because of their expressed view. In 2016, the Special Rapporteur sent a communication to the State expressing his concern that defender Ms Alisa Blintsova had been the target of a stigmatisation by the State through her inclusion in a 2015 report by the Estonian Internal Security Service after she made public comments about discrimination against Russian-speaking Estonians. The State responded that her comments put the State at risk of foreign influence which could disrupt national order. The Special Rapporteur thanks the State for its engagement and encourages the State to ensure that future expressions of views critical of the government (or the State more generally) are not characterized as threats to national security.

The State has been reviewed twice under the Universal Periodic Review process, most recently in 2016. No specific reference was made to human rights defenders by any contributing organisation. The State received one recommendation relevant to defenders, which was to accelerate the creation of a completely independent and sufficiently funded body with the capacity to defend human rights in Estonia, such as a national human rights institution. The Special Rapporteur has sent one communication to the State since the Global Survey of 2006. The communication concerned the alleged stigmatization of a linguistic minorities defender.

4. Issues and Trends

The Special Rapporteur is pleased that human rights defenders in Estonia are able to carry out their legitimate work in a safe and enabling environment, with support from the State. The Special Rapporteur would encourage the State to develop a national policy framework that explicitly recognises the Declaration and the role of human rights defenders and that it gives due regard to the creation or designation of a national human rights institution that might further support human rights defenders.

Finland

1. National Context and Human Rights Defenders

The environment for human rights defenders in Finland is safe and enabling and the State has repeatedly shown deep commitment to protecting and promoting the work of human rights defenders both nationally and internationally. Some concerns have been raised regarding the treatment of indigenous Sami environmental defenders, and in recent years the State's first-ever terrorist attack and a concurrent rise in far-right extremism have caused challenges to defenders working on some issues. Although Finland was included in the 2006 Global Survey, the Special Representative regretted that she did not have sufficient information to make any assessment of the situation for human rights defenders at the time.

Finland is a member of the Organisation for Security and Cooperation in Europe, the Council of Europe and the European Union.

2. Legal and Policy Context

Finland is party to the majority of the core international human rights instruments, except the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. It has signed but not ratified the Convention for the Protection of All Persons from Enforced Disappearance. As a member of the Council of Europe, the State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Fundamental rights to freedom of association, expression and assembly are protected in the Constitution.

In 2014, the State published the "Public Guidelines of the Foreign Ministry of Finland on the implementation of the European Union Guidelines on Human Rights Defenders" (Guidelines). The Guidelines consolidate the State's policies towards human rights defenders both nationally and internationally. It highlights a number of ways in which the State might support human rights defenders, including through Local Cooperation Funds administered by its

embassies abroad. The Human Rights Action Plan of the Foreign Service of Finland (2013–2015) contains a complementary set of (ten) actions related to human rights defenders.

The policies of the State have particularly supported women human rights defenders. During its Presidency of the European Union in 2006, Finland consistently emphasised human rights defenders and highlighted the specific situation of women human rights defenders. In its recent National Action Plans (2012-2016 and 2018-2021) the State has committed itself to the protection and support of women's rights defenders.

The Finnish National Human Rights Institution has been fully accredited ('A' status) as complying with the Paris Principles. It includes the Ombudsman of the Parliament, the Human Rights Centre, and the Human Rights Delegation. The latter structure brings the voices of defenders into the discussions of the institution and State human rights policy making.

3. Implementation of the Declaration

The legal and policy framework governing the work of human rights defenders is supportive and defenders generally enjoy a safe and enabling environment. Human rights defenders generally enjoy the rights of freedom of assembly, association and expression.

Organisers of public assemblies are only required to notify authorities at least six hours before a planned event, and less notification is required if the event is not expected to cause public disruption. Many large-scale and peaceful demonstrations have been held without incident, including 35,000 people attending the annual Pride march in 2017. Demonstrations against State policy have also passed without incident. State officials have joined ant-racism rallies, most notably the Prime Minister Juha Sipilä in 2016.

Policing of demonstrations is generally proportionate. In 2017, pro-immigration protest camps were dismantled only because they needed to be taken down for summer events. Protests in public places and at airports about the rights of people on the move, often opposing State migration control practices, have also been held without untoward responses by the police.

Freedom of association is generally enjoyed, though the State has prohibited groups espousing violence and hate speech. In 2018, the neo-Nazi Nordic Resistance Movement (NRM) was banned, in the first such case in Finland since the 1970s as a result of its support of violence and encouragement of hate speech. An appeal was launched by the NRM to repeal the ban in August 2018.

The situation of indigenous Sami environmental defenders has raised some concern in the period since the last Global Survey. As noted in the Special Rapporteur's recent report on the situation of environmental and land rights defenders, such defenders, who are often themselves members of rural communities or indigenous peoples, too frequently face infringements of their rights (often at the behest of non-State actors seeking to pursue 'economic development') and lack of involvement in policy making decisions.²⁰²

²⁰² A/71/281

In 2007, the Special Representative sent an urgent communication regarding the treatment of indigenous Sami reindeer herders and the impact of state logging in forests traditionally used by the Sami herders in the Lappi district. The Finnish government responded to the communication and committed to action to address the concern, including the involvement of the Parliamentary Ombudsman in the case. In 2015 the Special Rapporteur on the rights of indigenous peoples expressed deep concern at the lack of consultation and the reduced protections to the Sami indigenous people in the current draft law on the Finnish Forest and Parks Service (Metsähallitus) to regulate the management of State-owned lands. The Special Rapporteur recalls that the free, prior and informed consent of indigenous peoples is required before the adoption and implementation of legislative or administrative measures that may affect them.

Finland has been reviewed three times under the Universal Periodic Review process, most recently in 2017. In its most recent submissions, the State underscored its commitment to the protection and support of human rights defenders, including its opposition to racism and xenophobia that may affect defenders. their top-ranking position globally in terms of freedom of expression. The State also reiterated its strong support for freedom of speech and freedom of expression. No recommendations specifically regarding human rights defenders were made. The Special Rapporteur has not sent any recent communications to the State concerning the situation of human rights defenders.

4. Issues and Trends

The Special Rapporteur commends Finland on its long-standing commitment to creating a safe and enabling environment for human rights defenders, and to promoting and protecting them through the development of national policy and institutions. In their daily practice, human rights defenders in the State generally enjoy the rights articulated in the Declaration. The Special Rapporteur recognises that freedom of association is not without limits and recalls that the Declaration prohibits “any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.” Nonetheless, the Special Rapporteur is encouraged that decisions to disband organisation in question are subject to independent judicial review.

The State should also be commended for the leadership role it has taken in international discussions of women human rights defenders, and their progressive treatment in its national policies. Concern remains about the treatment of Sami and other land and environmental defenders, and the Special Rapporteur urges that any rights they may have as indigenous peoples are respected and that they are treated with the same respect for their rights as enjoyed by other human rights defenders in the State.

Latvia

1. National Context and Human Rights Defenders

Latvia was not included in the 2006 Global Survey. Latvia is a member of the Organisation for Security and Cooperation in Europe, the Council of Europe, and the European Union. Human rights defenders in the State generally enjoy a safe and enabling environment. The rights to

freedom of expression, assembly and association are generally respected, although since November 2017 there are reports of a narrowing civil society space.

2. Legal and Policy Framework

Latvia is party to the majority of core, international human rights treaties, with the exception of the Convention for the Protection of All People from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The State is party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Constitution guarantees a number of the rights articulated in the Declaration, including freedom of expression (art.100), assembly (art.103) and association (art.102), including to form political parties (art.102) and trade unions (art.108).

In November 2017, the State passed restrictive amendments to the Law on Associations and Foundations. The amendments allow the State to ask for detailed reports, prohibit public activities, freeze bank accounts and, in certain circumstances, close down civil society organisations. While these developments are concerning, the Special Rapporteur is pleased by more recent reports that the State has showed a willingness to discuss and possibly reconsider aspects of the proposed amendments.

Dialogue between the government and CSOs is maintained primarily through the Council for Implementation of the Memorandum of Cooperation (known as the Memorandum Council), which was established as an advisory body to facilitate continuous consultations between the public administration and civil society organisations. Defenders have reported that there have been productive recent discussions between the State and civil society organisations about reforming the Memorandum Council to make it more effective.

The Ombudsman is the national human rights institution and is fully accredited ('A' status) as complying with the Paris Principles.

3. Implementation of the Declaration

The rights articulated in the Declaration are generally respected in Latvia, and are supported by an enabling legal and policy framework and frequent dialogue between the State and civil society. While the State has not adopted a national law or policy concerning human rights defenders, in practice, most defenders enjoy the rights articulated in the Declaration.

Freedom of assembly is well-respected and the State has experienced several public gatherings in recent years which have been peaceful and without incident. In 2017, hundreds of protestors gathered outside the Presidential residence in Riga following the "Oligarch transcripts" scandal, in which a series of recordings of conversations between Latvian oligarchs revealing their influence over the media were leaked to the press. Hundreds also took to the streets in late 2017 to protest the State's plan to make Latvian the only official language in schools, which would negatively impact on the Russian minority.

In general freedom of expression is respected, although the "Oligarch transcripts" scandal has caused concern over the concentration of media ownership and editorial independence of

journalists. Journalists have faced threats and, occasionally, attacks as a result of publishing criticism of high-profile politicians and vested interests. For example, in 2012, journalist Leonids Jakobsons was attacked by at least two unidentified assailants after his website published politically sensitive articles.

Defenders working on socially controversial issues and on behalf of marginalized groups face additional challenges. Defenders of sexual orientation and gender identity rights have faced personal attacks and stigmatization on social media and by politicians. Those working on organising the Riga pride event in 2018 were called “sick people” by a high profile politician and there have been efforts to ban the pride event.

The State has been reviewed twice under the Universal Periodic Review process, most recently in 2016. No explicit reference was made to human rights defenders, although civil society submissions expressed concerns about restrictions on the freedom of the press and it was noted that the Human Rights Committee has expressed concern about the delays in the investigation of the attack on Leonids Jakobsons. The State accepted the recommendation to guarantee freedom of expression, of the press and opinion, including by effectively investigating cases of attacks against journalists. The State noted it was considering a recommendation to prohibit politically-motivated persecution of human rights defenders who advocate for the rights of minorities. There have been no recent communications between the Special Rapporteur and the State.

4. Issues and Trends

The Special Rapporteur is encouraged by the commitment shown by Latvia to fostering a safe and enabling environment for human rights defenders. He encourages the State to further strengthen its commitment to human rights defenders by implementing a national policy on human rights defenders and ensuring that its consultative mechanisms with civil society such as the Memorandum Council, are robust and effective.

Lithuania

1. National Context and Human Rights Defenders

The State was not included in the Global Survey 2006. Generally, human rights defenders operate in a safe and enabling environment where the rights to freedom of expression, assembly and association are respected. The State has supported the participation of human rights defenders in national and international fora and policy making. However, some defenders of sexual orientation and gender identity rights have reported attacks and intimidation from non-State actors, and restrictions on their freedom of expression.

Lithuania is a member of the Organisation for Security and Cooperation in Europe, the Council of Europe and the European Union.

2. Legal and policy framework

Lithuania is party to the majority of the core international human rights treaties, with the exception of the International Convention on the Protection of Rights of All Migrant Workers

and Members of Their Families. The State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Many of the rights articulated in the Declaration are guaranteed by the Constitution, including the rights to freedom of expression (art.25), assembly (art.36), association (art.35 and 50).

In recent years, criminal liability for insult to individuals and insult to public officials have been abolished. However, defamation remains a criminal offense and, in 2017, fines were introduced and previously possible defenses removed for insulting politicians under the Code of Administrative Offenses. The new Labour Code permits employers to temporarily suspend employees who exercise their right to strike and otherwise publically protest workplace issues. The Law on the Protection of Minors against the Detrimental Effect of Public Information restricts the distribution of information to children that may have a detrimental effect on them; defenders have expressed concern that information concerning and published by defenders of sexual orientation and gender identity rights has been disproportionately restricted as detrimental to children.

The Seimas Ombudsman Office is the national human rights institution and is accredited as fully complying ('A' status) with the Paris Principles. The Seimas Ombudsman Office has a wide range of activities, including human rights monitoring, reporting on human rights to international fora, and investigatory and formal inquiry procedures.

3. Implementation of the Declaration

While the State does not have a national legal or policy framework addressing the situation of human rights defenders, human rights defenders in Lithuania generally enjoy a safe and enabling environment. There are only limited restrictions on their freedoms of expression, assembly and association. Notwithstanding the generally permissive environment for the activities of human rights defenders, some defenders of socially controversial issues and marginalized populations face additional challenges.

The ability of defenders to enjoy freedom of expression has improved with the recent removal of many of the criminal sanctions for insulting individuals and public servants. Previously, charges had been brought against defenders for criticising policies of the State. For example, in February 2015, defender and student activist Viktorija Kolbešnikova was charged (and subsequently acquitted) under the previous laws for making posters used in an anti-nationalist protest proclaiming "Burn Rukla, Deport the Government, Immigrants welcome!" As noted above, defenders also have noted that restrictions on freedom of expression have occurred disproportionately against defenders of sexual orientation and gender identity rights.

The right to freedom of assembly is generally respected. Lithuania participates in Baltic Pride events, which are held on a rotating basis. The third Baltic Pride march, held in Vilnius in the summer of 2016, attracted around 3,000 participants and occurred without incident. Defenders have reported that previous Pride marches in 2010 and 2013 suffered from significant administrative delays in approval and violence. Defenders of labour rights who have participated in collective action, including strikes and other protests, have faced retribution in the workplace and negative comments by State officials, particularly when they are employees of the State. In 2016, teachers who went on strike to demand better pay were

criticised by the prime minister as being influenced by a foreign power (Russia). Furthermore, three environmental defenders who were protesting the felling of trees in Kaunas in 2017 were arrested and detained, and the Lithuanian Bar Association expressed concern at the disproportionately high number of police present at the protest and the (il)legality of the police actions.

Defenders face few restrictions on organizing and registering civil society organisations, although securing funding can be a problem. Some civil society organisations have close and productive relationships with the State, including human rights organisations working toward greater representation of women in politics and business, and combating violence against women. However, organisations defending sexual orientation and gender identity rights have reported intimidation and attacks on them and their premises. In August 2018, the national LGBT organisation LGL reported a series of arson attacks on its offices and at the apartment of its co-founder and Executive Director Vladimir Simonko.

The State has been reviewed twice under the Universal Periodic Review process, most recently in 2016. No explicit reference was made to defenders, but several submissions raised concerns about the limitations of freedom of expression on defenders of sexual orientation and gender identity rights. Two communications have been sent to the State since the last Global Survey. In 2009, the Special Rapporteur expressed concern that the Law on the Protection of Minors against the Detrimental Effect of Public Information would be detrimental to defenders of sexual orientation and gender identity rights. In 2015, the Special Rapporteur expressed concern over the denial of entry to Lithuania of foreign human rights defenders, Mr Aleksandrs Kuzmins, Mr Aleksandrs Rzavinst and Mr Joseph Koren, who were due to attend a roundtable discussion on minority rights. The Special Rapporteur reiterates that denying the defenders entry to the State seriously impinges their right to freedom of movement while carrying out their legitimate human rights work and that the open and frank discussion of the situation and rights of minorities is not detrimental to any nation's security.

4. Issues and Trends

The Special Rapporteur is encouraged by the generally safe and enabling environment for human rights defenders in Lithuania. The Special Rapporteur urges the State to ensure that all defenders, including in particular defenders of minority groups and sexual and gender identity rights issues, enjoy the rights articulated in the Declaration. The Special Rapporteur urges the State to continue to publically support the rights of defenders and to consider the adoption of an explicit national policy and mechanism, in consultation with its national human rights institution, concerning the promotion and protection of the right to defend human rights and human rights defenders.

Norway

1. National Context and Human Rights Defenders

The State was included in the 2006 Global Survey. No specific concerns were noted with regard to Norway's implementation of the Declaration, but the Special Representative did recommend that special programs were conducted within the government to increase

knowledge of the Declaration. Norway is home to a vibrant and diverse civil society, including local, national and international human rights organisations. Since 2006, the State has continued to enjoy a generally safe and enabling environment for human rights defenders. However, there are challenges facing environmental defenders in the State and the rise of extremist political groups, including the neo-Nazi Nordic Resistance Movement (NRM), pose challenges to both defenders resisting extremism and the State in its regulation of core freedoms.

Norway is a member of the Organisation for Security and Cooperation in Europe, the Council of Europe and the European Economic Area.

2. Legal and Policy Framework

Norway is party to the majority of the core international human rights instruments, except the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. It has signed but not ratified the Convention for the Protection of All Persons from Enforced Disappearance. As a member of the Council of Europe, Norway is party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Many of the rights articulated in the Declaration are also guaranteed by the Constitution, including freedom of association, expression and assembly, and the protection of human rights is a core principle of the Constitution.

The Special Rapporteur commends the impressive and long-term commitment Norway has shown to promoting and protecting human rights defenders, both nationally and internationally. The State has been explicit in its commitment to the protection and promotion of human rights defenders in its engagement with UN institutions, including its authorship of key resolutions expressing support for defenders and decrying the global shrinking of space for civil society.

In 2010, the Norwegian Ministry of Foreign Affairs adopted guidelines on human rights defenders with a view to strengthening the State's support of human rights defenders internationally. The Norwegian Human Rights Fund (NHRF) also supports organisations working for the protection of human rights defenders at risk. The NHRF supports professional human rights defenders' work through initiatives such as legal assistance, advocacy work, documentation, and rights education. The State also collaborates with civil society temporary international relocation initiatives to provide shelter to human rights defenders at risk.

The Norwegian National Human Rights Institution was established in 2015 and is accredited as fully compliant with the Paris Principles.

3. Implementation of the Declaration

As noted above, the legal and policy framework of the State is permissive and supportive of the work of human rights defenders. In practice, defenders generally enjoy the rights articulated in the Declaration.

Defenders generally enjoy freedom of association. Defenders report that the administrative process for registering associations is simple and quick. Although advance notice is required

for public demonstrations, permission is rarely denied. Many large-scale and peaceful demonstrations are held without incident, including the annual Pride march in 2017 which attracted 40,000 participants. Responses by the State to attempts by the NRM to organize public demonstrations have been mixed, both prohibiting some marches for security reasons (in Fredrikstad in 2017) and allowing others (in Kristiansand also in 2017).

Freedom of expression is guaranteed by law and was strengthened in 2015 with the removal of blasphemy from the Criminal Code. Recent case law has also strengthened the ability of journalists to refuse to reveal confidential sources (which is often a crucial protection for whistleblowers). Norway has been described by professional journalist organisations as one of the least restrictive environments for journalists.

Notwithstanding the generally positive environment, some defenders, including in particular land and environmental rights defenders and indigenous peoples defenders, face additional challenges and risks. In 2015, the United Nations Special Rapporteur on the rights of indigenous peoples expressed concern at the land rights situation of the Sami people given the increased drive to extract and develop minerals and set up renewable energy projects in the Sápmi region. The State has been encouraged to ensure that it holds adequate consultations with affected indigenous communities and that development occur only with free, prior and informed consent of indigenous communities. The Special Rapporteur on the rights of indigenous peoples has also encouraged the review of the Mineral Act by the State. In August 2017, Norwegian authorities boarded the Greenpeace ship Arctic Sunrise and arrested its crew while they were intending to carry out a peaceful protest highlighting the environmental damage that continued oil drilling will do to the environment in the Arctic and globally.

Norway has been reviewed twice under the Universal Periodic Review process, most recently in 2014. During the review, the State reiterated its commitment to continue its efforts to promote and protect human rights defenders. No specific recommendations were made regarding defenders.

Since the last Global Survey, communications were sent to Norway in 2014, 2015 and 2016. The communications concerned with the deportation of a human rights defender to Pakistan, where he faced imminent threat, as well as an alleged investigation into a human rights organisation and its leadership. The State responded to all and, in the case of the deportation, deferred the in order to re-examine and assess the situation.

4. Issues and Trends

The Special Rapporteur commends Norway on its longstanding commitment to creating a safe and enabling environment for human rights defenders. While the rise of extremist groups poses a challenge to both defenders and to States globally, the State has responded to such groups with balance, ensuring wherever possible that individuals of all beliefs and opinions can exercise their rights. The situation of indigenous, land and environmental defenders remains a challenge, as do the underlying issues of the appropriate development of indigenous land and natural environments. The Special Rapporteur joins the call to for the State to reconsider, in consultation with affected defenders, its legislative frameworks, including the Mineral Act, that govern the underlying development of such environments.

Sweden

1. National Context and Human Rights Defenders

Sweden was included in the 2006 Global Survey, however the Special Representative lacked sufficient information from both the government and civil society to be able to make a fair assessment on the situation of human rights defenders in the State. No communications had been sent since the beginning of her mandate.

Sweden enjoys a strong and vibrant civil society which is prominent in public discourse and the identity of inhabitants of the State. Many Swedish civil society organisations are prominent internationally in the protection of human rights defenders, including Civil Rights Defenders. Human rights defenders in Sweden generally enjoy a safe and enabling environment where the rights to freedom of assembly, association and expression are respected in law and practice. Recently a surge in Neo-Nazism and extremism is threatening civil space, particularly for defenders of sexual orientation and gender identity rights and the rights of people on the move. Indigenous Sami activists have also struggled to have their voices heard in their defense of land and environmental rights. Furthermore, while the State is recognised as promoting the rights of defenders world-wide, it has been criticised for failing to offer asylum to foreign human rights defenders who are at risk in their home States.

Sweden is a member of the Organisation for Security and Cooperation in Europe, the Council of Europe, and the European Union.

2. Legal and Policy Framework

Sweden is party to the majority of the core international human rights treaties, except the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and it is also yet to ratify the Convention for the Protection of All Persons from Enforced Disappearance. The State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which since 1995 has been explicitly incorporated into Swedish law.

The Swedish legal system is dualist, requiring transformation or incorporation of international obligations into the domestic legal system before they become fully effective. However, as noted in the 2006 Global Survey, many of the rights articulated in the Declaration are guaranteed by the Constitution, including the rights to freedom of expression and access to information, freedom of assembly and movement and freedom of association.

While the State has not developed a formal policy on human rights defenders, defenders are protected indirectly through the State's more general human rights policy. In 2018, the State designated eight priority areas in its foreign policy work for human rights, with at least two of them directly relevant to the work of human rights defenders: building democracy (which includes support for the work of non-governmental organisations) and strengthening freedom of expression.

The Swedish Equality Ombudsman is the national human rights institution and has been accredited ('B' status) as partially complying with the Paris Principles. The work of the Ombudsman does not focus directly on human rights defenders or their protection.

3. Implementation of the Declaration

Human rights defenders generally enjoy a safe and enabling environment. In practice, defenders generally enjoy the rights articulated in the Declaration.

Defenders generally enjoy freedom of expression. Freedom of journalists, in particular, is protected by a legislative framework that includes a law on freedom of the press. As of 2018, professional journalist organisations rank the State as having one of the most free presses in the world. The State has also developed an action plan against threats to journalists and to increase capacity to the police and the judiciary to deal with such threats, particularly online.

However, there are reports journalists practice self-censorship due to threats, and fears of making statements perceived as offensive or sparking politically charged controversies, particularly when dealing with sensitive issues such as immigration. For example, in 2017 journalist Evelyn Schreiber and her colleagues received threats online following an article in which Schreiber questioned the statistics used by a controversial local police officer who wrote a Facebook post on violent crime caused by immigrants in Örebro.

In recent years, concerns have been raised that freedom of association and assembly is threatened by the rise of far-right extremist and Neo-Nazi groups. In various towns across the State, LGBTI, migrant and refugee, and Jewish groups and organisations have felt sufficiently threatened by far-right extremists as to take precautions for their safety, curtail their activities, and even shut down altogether. Pro-democracy associations and human rights organisations have come out in strong opposition to far-right extremists, and petitioned the State take measures to better protect at-risk members of society from the increasingly prominent and violent behaviour of extremist groups. In September 2017, some defenders expressed concern that a large-scale far-right extremist march was allowed to take place at the same time as the most important Jewish holiday of the year.

Despite the generally enabling environment, some groups of defenders face additional challenges, including land and environmental and indigenous rights defenders and defenders of people on the move. In relation to the former, the Committee on the Eradication of All Forms of Racial Discrimination has expressed its concern that Sweden has allowed major industrial and other to proceed in the Sami territories without Sami communities giving their free, prior and informed consent. Compounding the difficulty faced by Sami in securing rights over lands and resources are the difficulties imposed by the Swedish legal system in recognizing the land ownership of the Sami.

Defenders of the rights of people on the move have been particularly prominent within the State in recent years. For example, Dagens Nyheter, one of Sweden's biggest newspapers, gave a reasonable amount of coverage to Elin Ersson, a Swedish student activist who in 2018 temporarily halted the deportation of an Afghan asylum seeker from Sweden by refusing to sit down until the man was removed from the flight at Gothenburg airport. Defenders who are also themselves people on the move face deportation and other actions by the State

because of their immigration status. Defenders have expressed concern that the State is failing to provide protection to defenders from other countries seeking asylum.

In 2013, the Special Rapporteur sent two communications regarding the deportation of human rights defender and blogger Mr. Abdullah Barahouei, and the alleged deportation of journalist Mr. Saif Ur Rahman Shirzad. The Special Rapporteur expressed concern that both defenders would be at risk if deported to their countries of nationality. The State responded that the State had reassessed the case of Mr. Barahouei and had subsequently granted him with a permanent residence permit and that Mr. Shirzad had available a range of remedies. These communications underscored the importance of fair and effective asylum procedures for the protection of human rights defenders fleeing persecution.

The State has been reviewed twice under the Universal Periodic Review process, most recently in 2015. No explicit reference was made to human rights defenders in the most recent review.

4. Issues and Trends

The State has evidenced a long-standing and significant commitment to creating a safe and enabling environment for defenders, where freedom of expression, assembly and association is protected by law and in practice. The Special Rapporteur is encouraged by the State's position on human rights defenders. However, he is concerned that the rise in far-right extremism will have a negative effect on the legitimate work of other human rights defenders, particularly defenders of minority groups and people on the move. He is also concerned by attempts by the State to deport asylum seekers who are at-risk in their home countries as a direct result of their human rights work.

The Special Rapporteur is pleased that the State has strongly condemned the actions of far-right extremist groups, however, he urges the State to ensure that allowing such groups freedom of assembly and expression does not dangerously encroach upon the human rights of minority groups. The Special Rapporteur thanks the State for their responses to his communications and its commitment to ensuring the safety of human rights defenders. He urges the State to continue to ensure the safety of all defenders, including those who seek asylum in the State as a result of the imminent danger they face for their human rights work in their home countries.

South-Eastern Europe

Albania

1. National Context and Human Rights Defenders

The rights to freedom of association and assembly for human rights defenders in Albania are generally respected. As part of its accession process to the European Union, Albania has reformed its judicial system and held discussions in April 2018 regarding the development of a mechanism to promote and protect human rights defenders. Presently, human rights defenders in Albania face challenges including corruption and impunity, funding difficulties, and a tendency towards self-censorship. The challenges faced by defenders are heightened

for those defenders representing vulnerable and marginalised groups and issues including defenders of the rights of the Roma, Egyptians, and women, and defenders of sexual orientation and gender identity rights.

Albania was included in the 2006 Global Survey, although the Special Representative lacked sufficient information to make a comprehensive assessment of the situation of human rights defenders. Key remarks included the lack of a response from the government regarding threats and violence against journalists, and the lack of accessibility to police stations, pre-detention sites and prisons by human rights defenders.

The Republic of Albania is an upper-middle income State and a member of the Organization for Security and Co-operation in Europe, the Council of Europe, and the Organisation for Islamic Cooperation, among other regional organisations. Presently the State is an official candidate for entry to the European Union.

2. Legal and Policy Framework

Albania is party to all of the core international human rights instruments. Fundamental rights including the rights to freedom of expression (Articles 10 and 22), association (Articles 20 and 46), peaceful assembly (Articles 46 and 47) and movement (Article 38) are protected by the Constitution. The Constitution also guarantees the right to form political parties and trade unions. A number of laws were enacted in 2001 to regulate not-for-profit organisations in Albania. These laws create a relatively enabling environment for civil society and most organisations function without restriction, although their activities are frequently limited by funding difficulties.

The State is working with the Council of Europe on a 24-month project, Enhancing the Effectiveness of the Albanian System of Human Rights Protection and Anti-discrimination, whose aim is to contribute to better protection of human rights and prevention of discrimination in Albania. As part of the project, in April 2018 over 60 senior representatives of the key Albanian state institutions, civil society, media, academia and the international community met to discuss the development of a national mechanism to protect human rights defenders. The event led to the decision to prepare a follow up resolution in line with the Declaration, which shall be submitted for approval in the Albanian Assembly.

The People's Advocate (Avokat i Popullit) is the State's national human rights institution, and it has been fully accredited in accordance with the Paris Principles since 2011. The People's Advocate was established in 2000, with the purpose of preventing potential conflicts between public administration and individual citizens.

3. Implementation of the Declaration

Despite the positive legal and policy frameworks listed above, indicative of the State's commendable commitment to implementing the Declaration, the work of defenders is conducted in an environment with high levels of entrenched corruption, mistreatment and torture of those arrested by the State, and poor prison conditions. This broader difficult environment has both focused some of the work of defenders (on these human right violations) and has an indirect effect on the work of defenders (as they are also subject to

these human rights violations). Human rights defenders in the State are active on these issues, including historical memory projects aiming to establish memorials to prisons housing political prisoners during the Communist era.

Freedom of assembly is generally respected in the State, with demonstrations held relatively often and usually peacefully. In May 2017, over 10,000 people took part in large-scale anti-government demonstrations amid tensions between the State's ruling parties ahead of elections. The police did not intervene and the demonstrations took place peacefully. However, not all protests have gone ahead without police intervention, and several injuries were reported during anti-government protests in December 2017 when a group of around 3,000 protestors clashed with riot police after trying to force their way into parliament. In May 2017, the State's seventh Pride march took place, with around sixty people marching peacefully together in Tirana; participation in the march has grown from nine people in 2012. A local trans activist was reported in the media as stating, "We should have the same rights as all other citizens in the Republic of Albania and we don't accept that our rights should be rejected! Therefore, we won't hide anymore, we won't silence ourselves anymore until these rights are guaranteed to us."

The State involves civil society in consultation processes, and has created the National Council on Civil Society and the Agency for the Support of Civil Society to improve State relations with civil society. Civil society organisations are in theory able to operate freely, although recently they have struggled due to dwindling access to public and foreign funding. Eighty trade unions existed in Albania in 2017, although less than 20 percent of the labour force is unionised.

Freedom of expression is guaranteed by the Constitution and is generally respected for individuals. However, journalists work in an ever more hostile environment. Prime Minister Edi Rama has called journalists 203 "trash," "poison," and "public enemies," and many journalists practice self-censorship for fear of falling victim to defamation charges. Defamation charges are often used as punishment for journalists questioning (mis)conduct of those in authority. For example, in May 2017, legal proceedings were begun by a judge against reporter.al and Shqiptarja.com online news outlets on allegations of defamation for articles asserting the judge in question had filed inaccurate declarations of income and qualifications.

Defenders of sexual orientation and gender identity rights face challenges from traditional social structures and traditional beliefs. Defenders' right to privacy is often violated as a means of dissuading them from their activism or from pursuing complaints, with instances of local police officers expressing homophobic remarks, disclosing sensitive information to the media, and commonly victim-blaming practice. However, the State has also offered support to defenders working on these issues. In 2017, Streha, a shelter for LGBTI youth in Tirana, thanked the Directorate of Defence and Social Inclusion of the Municipality of Tirana for its support in anti-discrimination campaigns against LGBTI youth in schools.

The State has been reviewed twice under the universal period review process, most recently in 2014. Limited mentions were made regarding the situation of human rights defenders and

journalists, with the exception of civil society and other stakeholders highlighting the case of four demonstrators who were shot dead and a number of policemen and protesters who were injured during 2011 protests. As of 2014, nobody had been held responsible for these acts of violence. Two recommendations were made regarding journalists: firstly that the State should continue to ensure that impartial and effective investigations of attacks against journalists take place and that those responsible are brought to justice and secondly that the State should take measures to promote a safe and enabling environment for journalists to perform their work independently and without undue interference. Both recommendations enjoyed the support of the State.

The Special Rapporteur has not received any communications concerning Albania since the last Global Survey in 2006.

4. Issues and Trends

The Special Rapporteur is encouraged by the State's commitment to human rights and as demonstrated through its cooperation with regional bodies, and its enabling approach to human rights activism. He recommends that the State prioritise the further development and introduction of a national mechanism to promote and protect human rights defenders. The Special Rapporteur reminds the State that the stigmatisation of defenders, including journalists legitimately holding those in power to account, is incompatible with the Declaration. The Special Rapporteur encourages the State to continue to promote the legitimate work of defenders, including those working on sexual orientation and gender identity rights and with and on the rights of other marginalised and vulnerable communities.

Bosnia and Herzegovina

1. National Context and Human Rights Defenders

The State was included in the 2006 Global Survey however the Special Representative regretted that the State had not provided a response to her request for information. The Special Representative found that the most prominent concerns for defenders at the time were accountability for war crimes, including disappearances, and she expressed concern at reports of attacks on human rights defenders.

Though post-conflict issues remain a focus of civil society, the acceptance and inclusion of minority groups has become a prominent issue for civil society and human rights defenders. Reports of attacks on defenders continue. Defenders most at risk include journalists, defenders of sexual orientation and gender identity rights, and recently environmental defenders.

The State is pursuing membership in the European Union and a related "Reform Agenda". Bosnia and Herzegovina is a member of the Council of Europe and the Organisation for Security and Cooperation in Europe; it is an observer state in the Organisation for Islamic Cooperation.

2. Legal and Policy Framework

Bosnia and Herzegovina is party to all major international human rights treaties, as well as several regional treaties such as the European Convention on Human Rights. The Constitution places all rights set forth in the European Convention above all national law, with the exception of the Constitution itself. The exclusion of ethnic minorities, such as Jewish and Roma people, from the office of President has repeatedly been ruled to not be in accordance with the European Convention but remains unchanged.

There is no national plan on the situation of human rights defenders though in 2017 a Charter on Cooperation was adopted by the Council of Ministers of Bosnia and Herzegovina. The Charter is a step towards a national, institutionalised consultation with civil society, including defenders. Collaboration with civil society and defenders at local levels remains ad hoc.

The Ombudsman was fully accredited as the State's national human rights institution in accordance with the Paris Principles in 2016. In September 2017, the Council of Ministers adopted the draft Law on Amendments to the Law on Human Rights Ombudsman, prepared by the Ministry of Human Rights and Refugees, in order to retain the full accreditation of the Institution. The Special Rapporteur is encouraged by the State's commitment to maintain the full accreditation of the Ombudsman, however he is concerned by reports that the amendments do not go far enough in recognizing the important role of the Ombudsman. For example, the legal framework for the Ombudsman continues to be vague about the financing of the institution and the role of cooperation with civil society. Its role as a national protective mechanism is similarly absent from its legal framework. The Ombudsman has expressed concern at rising attacks on human rights defenders, and has at times responded to these attacks in collaboration with civil society. However, the institution's 2016-2021 Operational Strategy does not explicitly reference action on the rights of defenders, except in monitoring of the Freedom of Access to Information Act.

3. Implementation of the Declaration

There are insufficient measures in place to prevent and prosecute attacks on defenders, who are subject to violence due to both the nature of their work and in some cases, their minority status. There is a history of state officials publicly attacking the work of defenders, though this appears to have abated in recent years. Nonetheless, officials often fail to comprehensively and systematically condemn attacks, particularly upon defenders of marginalized groups. Recent adoption of hate crime regulations by the Federation are a positive step, but reports suggest that the Police and Prosecutor's Office too often fail to properly investigate these crimes, and there remain few mechanisms and resources in place to prevent them.

Journalists face pressure from the threat of defamation suits brought by politicians and restrictions on editorial independence from political agendas arising from media ownership. Journalists have also suffered increasing attacks for expressing criticism of the current government or reporting on war crimes and minority rights. In recent years, journalists have faced a growing number of threats and physical attacks. For example, in August 2018, investigative journalist Vladimir Kovacevic was brutally beaten by hooded assailants. Independent observers noted that physical attacks such as this are part of a pattern of verbal attacks, intimidation, humiliation and State-supported division of acceptable and

unacceptable media outlets. In some cases journalists reporting on protests have also been victims of excessive police force.

Freedom of assembly is restricted as authorities do not give protests permission to take place, and allow them to be violently dispersed. The existing laws on assembly are neither fully in line with international standards, nor fully implemented. In Kruščica, land rights defenders have spent months protesting proposals to build hydropower plants in the State. Women defenders are a crucial element of the protest, surveilling the local area for 24 hours a day. The women have led protests since fronting a picket to shield men during a confrontation with police in 2017. On 24 August 2017, police officers used excessive force and violence to disperse a peaceful protest of around fifty people against the hydropower plants. The majority of protesters were rural women from Kruščica. The police stripped women of their clothes, confiscated personal belongings, and violently dragged protestors into busses. Twenty-nine women were injured and twenty-three arrested.

Protests by workers, including women workers, are also prominent, and often they are either banned by the State or in some instances met with excessive force and violence from the police. Workers from the companies Fortuna and Borac have demonstrated regarding the unpaid and miscalculated wages. In the case of Fortuna, protests in April 2017 were banned and later police tried to forcibly remove protestors from the factory building. In the case of Borac, whose workers held protests in front of the Federal Government, senior State officials dismissed the work rights defenders as being “paid protesters.”

LGBTIQ* marches have been denied government approval on multiple occasions because of administrative delays. An LGBT-friendly club in Sarajevo has also been attacked twice, with no perpetrators brought to justice. In the first attack, defenders of sexual orientation and gender identity rights were specifically targeted during an LGBTI film festival. This interference with the rights of participants in Queer Festival Merlinka in Sarajevo was the subject of the most recent communications sent to the State by the Special Rapporteur; the State’s response expressed concern and condemnation about this interference.

The State has been reviewed twice under the UPR process, most recently in 2014. The State commented all human rights defenders were protected through national legal frameworks but that it was necessary to improve the efficiency and effectiveness of the implementation of these frameworks. The State is considering three recommendations concerning the protection of defenders, combatting intimidation and pressure practices against journalists and human rights defenders, and publicly condemning any attack or intimidation of journalists and human rights defenders.

4. Issues and Trends

The Special Rapporteur is encouraged by some progress towards treatment of human rights defenders since the Global Survey in 2006 and continuing in recent years. However, he remains concerned by the treatment of journalists, defenders of minority groups, defenders of sexual orientation and gender identity rights, work right defenders, and land and environmental defenders. He is also troubled by increasing restrictions on the right to freedom of assembly and the violent repression of peaceful protests. The Special Rapporteur

encourages the State to continue to strengthen its national human rights institution and to consider adopting a national plan on human rights defenders.

Croatia

1. National Context and Human Rights Defenders

At the time of the 2006 Global Survey Croatia was still in a period of recovery from a length period of conflict that had led to widespread displacement and deepening ethnic divisions. The Special Rapporteur lacked adequate information on the national community of human rights defenders, but the most prominent concerns at the time were related to transitional justice. Though there was no evidence of legislation restricting the rights of defenders, previous communications received by the Special Rapporteur indicated that they were subject to threats and violence, especially those working on sexual orientation and gender identity issues.

Since 2006, the development of a relatively complete human rights framework has yet to translate into full implementation. Improvements have been made in preventing violence towards defenders, but many still face harassment from members of the public and government figures. This is especially true for those working on refugee rights, journalists, and members of ethnic and sexual minorities.

Croatia is a member of the Organisation for Security and Cooperation in Europe, the Council of Europe, and, since 2013, the European Union.

2. Legal and Policy Framework

Croatia is party to most core international human rights treaties, with the exception of the Convention on the Rights of Migrant Workers and their Families and the Convention for the Protection of All Persons from Enforced Disappearance. It has also ratified many European treaties, most importantly the European Convention on Human Rights. International instruments are placed above national law by the constitution.

In the past the state has articulated “National Strategies” on human rights issues such as discrimination and media freedom, in consultation with civil society. No National Strategy for human rights defenders has been developed at any point.

The Ombudsperson for Human Rights is the national human rights institution and fully accredited as complying with the Paris Principles. The Ombudsperson for Human Rights works alongside three other ombudspersons, specialising in gender equality, children’s rights, and the rights of people with disabilities. Alongside monitoring the domestic human rights situation and advising government on policy, a core function of the Ombudsperson for Human Rights is supporting the work of human rights defenders.

3. Implementation of the Declaration

The rights guaranteed in the Declaration are unevenly implemented, and human rights defenders face hurdles from the State as well as attacks from non-State actors, including a

growing number of conservative civil society organisations which are particularly problematic for defenders of women's rights as well as sexual orientation and gender identity rights.

In recent years, the right to freedom of assembly has been hampered by administrative hurdles. The process for obtaining permits to protest in public space has been described as slow and impractical, with accusations of bias to prevent certain actions from taking place. For example, the organisers of the annual Zagreb Pride March faced administrative delays and the incoherent interpretation of the governing legislation. Organisers of other public protests have faced similar difficulties in obtaining required permissions. The State is obliged to ensure rather than restrict the right to freedom of assembly.

Freedom of expression of human rights defenders is guaranteed by law but restricted in practice. There have been instances of private individuals bringing civil defamation cases against civil society organisations and human rights defenders, aiming to sue them for large amounts of money or halt their operations. The State also lacks any framework for the protection of whistleblowers.

Freedom of expression for journalists is also restricted. Defamation remains criminalised, and 2016 saw the removal of state subsidies for smaller non-profit media outlets. The police have been commended by defenders for an increase in arrests of perpetrators of violence towards journalists, although there remains no preventative mechanism in place to provide better protection against assaults occurring.

Public discourse about the defense of human rights and human rights defenders is often threatening to defenders and contributes to an, at times, unsafe environment. In 2017, a member of the ruling party publicly called for the execution of activists of the Youth Initiative for Human Rights after they requested a government apology to the victims of past war crimes. More indirectly, there are reports of incoordination and delays in the allocation of funds to civil society, affecting the sustainability of operations.

Some defenders face additional challenges due to deeply entrenched social and religious attitudes towards the rights and groups which they defend, including defenders of sexual orientation and gender identity rights.

In 2013, a Constitutional referendum banned same-sex marriage. The defenders of sexual orientation and gender identity rights are often accused of pursuing a "gender ideology." A growing number of conservative civil society organisations also pursue an explicitly "anti-feminist" agenda, exacerbating the challenges facing women human rights defenders. Hate speech and hate crimes are widespread against LGBT communities, and generally remain unsanctioned.

Although the Special Rapporteur has not received any communications concerning the situation for human rights defenders in a decade, his last communication to the State in 2008 regarded the murder of two prominent investigative journalists, Ivo Pukanic and Nico Franjic, who were killed in a car bomb. They had been receiving threats since 2002.

4. Issues and Trends

Significant improvements have been made to the national human rights framework in Croatia since the Global Survey 2006, but there are signs that the momentum for reform is diminishing. Defenders face public intimidation, especially those belonging to minority groups, and social and State pressure. The increasing anti-feminist and homophobic rhetoric poses a particular threat to women human rights defenders and defenders of sexual orientation and gender identity rights. Defenders continue to face administrative and bureaucratic obstacles to exercising some of their rights. The Special Rapporteur would encourage the State to publicly support human rights defenders and disavow rhetoric that threatens them. The State and its national human rights institutions should consider the implementation of a national protective mechanism to protect human rights defenders at risk, including at risk journalists.

Cyprus

1. National Context and Human Rights Defenders

Cyprus was not included in the 2006 Global Survey. The rights to freedom of assembly, association and expression are generally respected in Cyprus, although there are isolated cases of attacks on human rights defenders.

The entire island of Cyprus is internationally recognised as a singular State, however, the Northern part of the island is controlled by Turkey, which recognises it as the Turkish Republic of Northern Cyprus. Cyprus is a member of the Organisation for Security and Cooperation in Europe, the Council of Europe, and the European Union.

2. Legal and Policy Framework

Cyprus is party to the majority of the core international rights treaties, but it has yet to ratify the Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. As a member of the Council of Europe, the State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Many of the rights articulated in the Declaration and in the State's international human rights treaties, including the right to freedom of assembly, association and expression, are protected by the Constitution.

The Commissioner for Administration (Ombudsman) is the national human rights institution and is accredited as partially complying ('B' status) with the Paris Principles.

3. Implementation of the Declaration

The rights in the Declaration are generally well-respected, with a some important, yet isolated, cases of ill-treatment of human rights defenders since the last Global Survey. The State does not have a national law or policy concerning human rights defenders.

Freedom of expression is generally respected, although defenders can face reprisals for making statements on socially and politically sensitive topics. Although punitive defamation laws have been repealed, penalties remain for disseminating false information or defaming

foreign States. For example, defenders have faced civil law suit and criminal proceedings for reporting on links between the State and Russia.

Peaceful assemblies can be held without a permit and usually take place without violence or excessive use of force by the police. A memorandum of cooperation was signed between the police and twelve civil society organisations in March 2017 to improve relations and prevent misunderstandings during protests. In 2010, a group of human rights defenders were arrested and charged with rioting and committing acts of violence after clashes occurred between participants in the Rainbow Festival, the largest multi-cultural festival in the State, and far-right anti-immigration demonstrators. Defenders associated with the Rainbow Festival claim the police did not take sufficient measures to protect festival-goers against the foreseeable violence. All of the human rights defenders were acquitted of all charges in 2012.

Defenders generally enjoy freedom of association, particularly since amendments in 2017 to the Law on Associations, Foundations and Clubs that modernised and streamlined the requirements for registering civil society organisations. The process for establishing and operating civil society organisations is straightforward in Cyprus and only requires notifying the authorities. Civil society organisations are able to conduct non-profit activities even without being a legal entity, and foreign associations can also operate without any restriction to their activity if they are legally established in their home country. There is no obligation for defenders in Cyprus to disclose the funds received from abroad or to seek prior authorisation for receiving them.

Defenders of people on the move and sexual orientation and gender identity rights, and defenders opposing xenophobia face increased threats and violence from non-State extremists. The Committee on the Elimination of Racial Discrimination has expressed concern at the rise of racially motivated verbal abuse and physical attacks by right-wing extremists and neo-Nazi groups against persons of foreign origin, including persons of African descent, as well as against human rights defenders and Turkish Cypriots. All allegations of racially motivated verbal abuse and criminal attacks must be promptly investigated.

The State has been reviewed twice under the Universal Review Process, most recently in 2014. The Special Rapporteur has sent two communications, in 2011 and 2014, concerning the situation of human rights defenders in Cyprus since the last Global Survey. In 2010, charges were brought against human rights defender Mr. Doros Polykarpou, for rioting and participating in an illegal assembly following the noted incidents at the Rainbow Festival. The Special Rapporteur thanked the government for its reply, which confirmed the circumstances under which Mr Polykarpou and others were arrested. In 2014, the Special Rapporteur raised concerns about alleged acts of intimidation and reprisals against the same human rights defender, Mr. Doros Polykarpou, following his cooperation with the United Nations Committee Against Torture. The Special Rapporteur again thanked the government for its response.

4. Issues and Trends

The Special Rapporteur is encouraged by the generally positive situation of human rights defenders in Cyprus, where the safe and enabling environment is reflected both in law and in practice. He applauds the State for its recent amendments to the Law on Associations,

Institutions and Clubs which further reduce the restrictions faced by defenders. The Special Rapporteur notes that some defenders have faced growing challenges from extremist groups and reminds the State of its obligation to act to proactively prevent violations of the rights of defenders and to ensure the protection of all defenders, including defenders of people on the move, sexual orientation and gender identity rights, and opponents of xenophobia.

Greece

1. National Context and Human Rights Defenders

Greece was not included in the 2006 Global Survey. Since 2006, the State has experienced a severe economic recession and austerity measures and has been the point of entry for large numbers of refugees arriving from the Mediterranean. These broader phenomena have had a significant impact on the social and political environment in which defenders operate. Defenders have faced tightening restrictions on the right to peacefully assemble and strike, and to form associations. Defenders working with people on the move and minorities, either as individuals or within civil society organisations, have been particularly vulnerable to harassment and threats from the State and non-State actors. Since 2015, defenders of people on the move have faced restrictions to their freedom of movement, stigmatization in public discourse, judicial harassment, threats, and surveillance.

The Special Rapporteur thanks the State for its response to his request for information for this report. Greece is a member of the Council of Europe, the European Union and the Organisation for Security and Cooperation in Europe (OSCE).

2. Legal and Policy Framework

Greece is party to the majority of the core international human rights instruments, except the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. As a member of the Council of Europe, the State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Although many of the State's international human rights obligations are protected through its constitution, some of the rights are more restricted in the constitution than in international treaties. For example, the OSCE has noted that the Constitution only provides for "Greeks" to have the right to peaceful assembly and has recommended that this right be protected in law for all, including non-citizens (and notably people on the move).

The State has noted that while it does not have a specific law regarding human rights defenders, but many of the rights articulated in the Declaration are guaranteed by the Constitution, including the freedom of expression, assembly and association are protected

The National Commission for Human Rights is the national human rights institution and is fully accredited ('A' status) as complying with the Paris Principles. The Commission lists supporting the work of human rights defenders as one of its priorities.

3. Implementation of the Declaration

While the rights articulated in the Declaration are generally respected in law and practice, there is a worrying trend towards restricting the rights of defenders of people on the move. Other groups of defenders, notably journalists, also face restrictions in the exercise of their rights and growing risks from non-State actors.

Generally, the right to peaceful assembly is respected. However, recent large-scale protests have been met with excessive violence from police and non-State actors. The Human Rights Committee has expressed concern that during demonstrations peaceful demonstrators and journalists have been reportedly threatened, intimidated and harassed by members of extremist groups. Defenders have expressed concern about new legislation, suggested as part of the State's financial reform and austerity measures, was passed in January 2018 limiting the ability of workers to exercise their right to strike.

Although freedom of expression is constitutionally guaranteed, journalists have faced civil lawsuit and prosecution when reporting on controversial or sensitive issues. Journalists have been charged with libel and defamation, most commonly when their reporting is critical of State officials or policies. In March 2018, two German journalists were arrested in Greece for reporting on refugee issues. Three Greek journalists, Thanassis Mavridis, Panayiotis Lampsias, and political reporter Katerina Galanou were arrested and detained overnight in September 2018 in Athens police station as a result of the defamation complaint brought against them by defense minister Panos Kammenos, again related to reporting on migrant issues.

The consistent arrests and charges brought against journalists creates a chilling affect on journalists, leading Dimitris Koumpias, president of the Panhellenic Federation of Journalists' Unions, to suggest that the pattern aims to "terrorise [journalists], impose censorship and hinder a free and democratic dialogue on contemporary political issues".²⁰⁴

Journalists covering refugee and migrant issues are also vulnerable to threats from non-State actors. In August 2018, Stratis Balaskas, a journalist based in Mytilene who reports on refugee issues for Greece's state-owned news agency, was threatened and harassed in person and online by far-right activists. The State announced it will bring charges against fifteen individuals as a result of Balaskas' complaints.

Most associations can register and operate freely in Greece, however, those dealing with minority ethnic and people on the move increasing obstacles from the State. The European Court of Human Rights ruled that it was illegal for Greece to prohibit the registration of organisations who want to use minority terminology in the name of the organisation. The Special Rapporteur is concerned by reports that undue restrictions are also being placed on human rights and humanitarian organisations attempting to support people on the move and defend their rights.

²⁰⁴ Lambrini Papadopoulou "Greek libel reforms only first step toward greater press freedom" (International Press Institute, 30 March 2017) available online at <https://ipi.media/in-depth-greek-defamation-reforms-only-first-step-toward-greater-press-freedom/>

The Special Rapporteur is gravely concerned that four members of the Emergency Response Centre International (ERCI) are facing up to twenty years in prison on charges of human trafficking, espionage, money laundering, and being members of a criminal organisation. Panos Moraitis, Nassos Karakitsos and two volunteers, Sean Binder and Sarah Mardini, herself a Syrian refugee who gained international recognition for saving the lives of 18 fellow refugees in 2015, are part of a group of thirty people who the State authorities say are involved in a “criminal network” posing as humanitarian activists in order to bring “illegal immigrants” to Greece for financial gain. As noted in his recent report, the Special Rapporteur is deeply concerned that such attacks on defenders on people on the move only render people on the move more vulnerable and further erode their ability to gain protection.²⁰⁵

Greece has been reviewed twice under the Universal Periodic Review process, most recently in 2016. As a result of the review, the State was considering two recommendations regarding freedom of association, specifically to undertake accurate measures to register associations of distinct communities, including those claiming minority group status and to execute the European Court of Human Rights judgments passed in 2008 about the applications of three minority associations, outlawed on grounds that they had the word “Turkish” in their names.

The Special Rapporteur sent several communications to Greece since the last Global Survey, most recently in 2012. A communication in January 2008 related to threats against six human rights defenders who testified against a right-wing extremist. An urgent appeal was sent the same year regarding the physical assault against journalist Mr Makis Nodaros, which may have represented a direct attempt to prevent independent reporting in Greece, thus stifling freedom of expression in the country.

In December 2011, the Special Rapporteur referenced allegations of threats and abusive messages directed against Mr. Thanassis Tartis, lawyer for the Greek Helsinki Monitor (GHM), Mr. Panayote Dimitras, spokesperson of GHM and member of the World Organisation Against Torture (OMCT) General Assembly, as well as against Mr. Pavlos Voskopoulos, a representative of the Macedonian minority community in Greece. In June 2012, she raised concerns over physical and verbal attacks and threats against another human rights defender and human rights lawyer, and the failure to bring those responsible to justice. In December 2012 she sent a communication highlighting her concern that the State refused to revoke decisions denying registration to groups defending minority rights.

4. Issues and Trends

While some of the rights in the Declaration are respected for a range of human rights defenders, the Special Rapporteur is gravely concerned by the trend in judicial and other harassment against journalists and defenders of people on the move. Actions including arrest, detention and serious charges of defamation, false accusations of smuggling and human trafficking, espionage, money laundering, and being a member of a criminal organisation have all been levied against human rights defenders. Such unfounded allegations create a chilling atmosphere for defenders carrying out their legitimate and peaceful work.

²⁰⁵ A/HRC/37/51

The Special Rapporteur urges the State to drop the charges against Panos Moraitis, Nassos Karakitsos and two volunteers, Sean Binder and Sarah Mardini, and to refrain from bringing criminal charges against any other defenders and journalists engaged in defending the rights of people on the move. The Special Rapporteur recognises the difficult position of the State in terms of complying with requests from States which are currently financially supporting Greece, however he urges that the State (and, by extension, those that provide financial support to the State) respect the fight for the right of workers to strike and take other forms of industrial action.

Macedonia (Former Yugoslav Republic of)

1. National Context and Human Rights Defenders

The State enjoyed a relatively peaceful passage to independence. More recently, it has endured intermittent conflict with ethnic Albanian insurgents, most recently in 2015, and instability following national elections in 2017. The unstable political context in which human rights defenders work poses particular challenges for defenders in terms of their engagement with the State and heightens the risks faced by defenders of those working on sensitive issues or on behalf of those perceived as opposed to the State, including opponents of corruption and defenders of minority ethnic communities.

The Special Representative regretted that she did not receive a response from the State for the 2006 Global Survey. However, she was able to conclude that much of activities of civil society (including defenders) was focused in the capital and heavily dependent on foreign funding. A follow-up visit by the Special Representative in 2007 confirmed that there was increased capacity and professionalism of defenders, but she noted a number of steps needed to fully support the implementation of the Declaration. The present country entry expands upon and updates those recommendations.

Human rights defenders face physical attacks, threats, verbal assaults and stigmatization within the State. Defamation campaigns are orchestrated by State officials and undermine the legitimate work of defenders, particularly when defenders are labelled as 'state enemies'. Some defenders face heightened risk due to the nature of their work, including defenders working on the aforementioned issues of corruption and ethnic minority rights and defenders of sexual orientation and gender identity rights and minority religious rights. Defenders working away from the capital, particularly in rural areas, also face heightened risks and have faced additional obstacles to their enjoyment of freedom of association and assembly have in recent years.

The State is a member of the Council of Europe, and the Organisation for Security and Cooperation in Europe (OSCE). The State is discussing future membership with the European Union.

2. Legal and Policy Framework

The Former Yugoslav Republic of Macedonia is party to the majority of the core international human rights treaties, except the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Convention for the Protection of All Persons

from Enforced Disappearance. As a member of the Council of Europe, the State is also party to the European Convention on Human Rights.

While the State does not have a national law or policy on human rights defenders, many of the rights articulated in the Declaration are guaranteed in the Constitution, including freedom of expression (Article 16) and association, including the right to form political parties and trade unions (Articles 20, 37, 48). The right to freedom of assembly is particularly liberal, as Article 21 states that “citizens have the right to assemble peacefully and to express public protest without prior announcement or a special license. The exercise of this right may be restricted only during a state of emergency or war”.

In November 2012, the State decriminalized defamation. In June 2013, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression visited the State and noted that the State’s legal framework protected freedom of expression. He noted the view of the State, which he shared, that the protection of freedom of opinion and expression were important for the consolidation of democracy.

The State has introduced over the last two decades a number of new laws regulating the establishment and financing of civil society organisations, including the Law on Accounting for Non-Profit Organizations of 2003, the Law on Donations and Sponsorships in Public Services of 2006, and the Law on Associations and Foundations of 2010. Defenders have complained that the provisions of these laws are not always consistent and their administrative has not been streamlined. In 2018, the Network for Financial Sustainability of Civil Society Organisations, which has 79 members, proposed a series amendments to these legal frameworks in order to establish a more sustainable and coherent regulatory environment for civil society organisations.

The State Ombudsman was accredited as partially in accordance with the Paris Principles in 2016. Though the institution has a strong mandate for the protection of human rights, it is limited in its ability to promote human rights and the role of human rights defenders. GANHRI has recommended an increase in its available funding, greater plurality in its appointment process, and better public demonstration of the institution’s independence. The regional offices of the Ombudsman help ensure its reach beyond the capital.

3. Implementation of the Declaration

Although benefiting from a good legal framework and some features of an enabling environment, in recent years, the rights in the Declaration have not been respected in practice. Since 2017, the State’s rhetoric and practice concerning human rights defenders has notably improved but it is difficult to draw firm conclusions about the impact of these changes.

Freedom of assembly has played a prominent role in recent political developments within the State. In April and May 2016, thousands of demonstrators took to the streets in the ‘Colourful Revolution’ in response to the government’s decision to grant immunity to politicians involved in a wiretapping scandal. More recently, protesters stormed parliament in protest of election of an ethnic Albanian opposition lawmaker as the body’s speaker. In response to these high profile demonstrations, there has been much public discussion about the limits of

peaceful assembly and the role and performance of the police (and prosecutors) in response to such demonstrations.

Freedom of association has been vulnerable to hostile government policies and practice. In December 2016, twenty associations were required to provide information to the Public Revenue Office, the Financial Police and the Ministry of Internal Affairs at the request of the Public Prosecutor's Office, the Financial Intelligence Agency and the State Commission for Prevention of Corruption. The organisations were not provided with an explanation for the request which appeared to be politically motivated. As a result of the information provided, the State sought to tax and fined at least one of the civil society organisations and its (impoverished) beneficiaries. In March 2018, the State revised its approach and closed the investigation on the basis of a lack of evidence of wrongdoing.

Freedom of expression of journalists is difficult. The widespread wiretapping (and other illegal surveillance) which led to protests in 2016 targeted those expressing opposition to the policies of the State. In such a climate of surveillance, journalists felt particularly at risk. Although defamation was decriminalized in 2012, journalists have faced retribution for their reporting and imprisonment as recently as 2017. According to the Association of Journalists of Macedonia, 21 reporters were attacked between the start of 2016 and May 2017. A generally negative public rhetoric towards journalists by some politicians and officials of the State creates a climate of self-censorship, limiting plurality. As noted by the Special Rapporteur on freedom of opinion and expression during his country visit in 2013, there have been repeated instances of disproportionate restrictions against media organisations and journalists following critical reporting. The chilling effect of such practice undermines the impact of legislative progress.

Public rhetoric, including by politicians and officials of the State, undermines the ability of defenders to enjoy the rights set out in the Declaration. Defenders have been frequently portrayed as enemies of the state

Defenders of sexual orientation and gender identity rights face particular threats. The Skopje LGBT Center has been attacked several times, including with the roof being set on fire during the night. Outside of the capital, various workers have been effectively prevented from collectively organizing and striking. Unionised journalists have faced pressure to leave the union.

The State has been reviewed twice under the Universal Periodic Review process, most recently in 2014. Civil society organisations noted that two LGBT defenders were physically attacked by a masked man in the main square of Skopje during celebrations of International Tolerance Day in 2012, and further that there was no public condemnation of the violence by officials on this occasion or on other occasions when threats were made against LGBT individuals. Furthermore, it was observed that human rights activists and organisations were subject to pressure and attacks by then ruling politicians, and pro-government media.

The Special Rapporteur sent a communication to the State in 2016 expressing concern about allegations of law enforcement officials using excessive force and otherwise disrupting the peaceful protests of people on the move against the State's collective expulsion of migrants

in possible violation of the principle of non-refoulement. A previous communication similarly concerned the use of excessive force by the police against peaceful protesters. The Special Rapporteur has not received any reply to his communications.

4. Issues and Trends

In the past year, the situation of human rights defenders has seemed to improve. Previously, the rights to freedom of association, assembly and expression were applied unevenly, and freedom of expression was particularly undermined due to the wiretapping scandal and the consistent persecution of journalists. The Special Rapporteur is encouraged by recent changes in the approach of the State and hopeful that these changes are more than temporary. He emphasizes the importance of constructive and positive public rhetoric by the State about human rights defenders.

The Special Rapporteur reminds the State of the important role played by human rights defenders and the importance of the rights in the Declaration to all members of society. He encourages the State to allow defenders to work independently and without unnecessary interference. Journalists remain at risk and the State must ensure that the solid legal framework is properly and thoroughly applied to allow for an independent and uncensored media. The Special Rapporteur encourages the State and its national human rights institution to develop and implement a national policy to promote and protect human rights defenders and their legitimate work.

Montenegro

1. National Context and Human Rights Defenders

Montenegro was included in 2006 Global Survey as part of the State Union of Serbia and Montenegro. Montenegro became independent shortly thereafter in a referendum in favor of independence. In 2006, the Special Representative noted that the community of human rights defenders was marked by the legacy of the Balkan conflicts and lacking a legal and institutional framework for their rights and participation in the State.

Montenegro is a member of the Organisation for Security and Cooperation in Europe (OSCE) and the Council of Europe. The State is in accession negotiations with the European Union.

2. Legal and Policy Framework

Montenegro is signatory to every core international human rights treaty, though is yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. As a member of the Council of Europe, Montenegro is also party to a number of regional treaties, including the European Convention on Human Rights. Ratified treaties are recognised within the domestic legal system by the Constitution. With regards to the rights articulated in the Declaration, the Constitution specifically affirms freedom of expression, assembly and press.

Domestic legal frameworks generally support the international and constitutional protections of the right to defend human rights. The Broadcasting Law aims at ensuring a transparent and pluralist national media, and the Law of Free Access to Information provides for the right

to information. There are concerns that this framework has been recently deteriorating, with the abolishment of the Anti-Discrimination Council and amendment of the Law on Free Access to Information to allow for broad refusals to disclose information.

While there is no national law on human rights defenders, a number of strategies for civil society development, implemented by the National Office for Cooperation with Non-Governmental Organisations, have improved government cooperation with defenders. The consultation processes continue to develop to ensure that they are inclusive.

The Protector of Human Rights and Freedoms was accredited as partially in accordance with the Paris Principles in 2016 (Status B). The Protector has a broad mandate, involving investigating human rights violations, raising awareness of human rights, and acting as a preventative mechanism for torture and discrimination. Unfortunately, the resources of the Protector remain insufficient to completely fulfil its mandate.

3. Implementation of the Declaration

As noted, the State enjoys a relatively well developed national legal, institutional and policy framework with respect to the rights in the Declaration, albeit one with few direct protections for human rights defenders. However, defenders, civil society organisations, and journalists critical of the government regularly face pressure and threats from the government, press and non-State actors. Of particular concern are the rights to freedom of expression, association and assembly of defenders. Groups of defenders facing particular challenges include journalists

Journalists face pressure to self-censor to secure government advertising funding and avoid the threat of costly civil defamation suits. In some cases leading politicians have openly attacked the work of journalists, contributing to a culture of violence against journalists. Many cases of attacks on journalists remain unresolved. Defenders monitoring an investigation into attacks on journalists have been denied access to essential documents. In May 2018, investigative journalist Olivera Lakic was shot and wounded outside her home. The attack prompted a protest by journalists, rights activists and opposition parties in Podgorica. It is the second time Lakic has been attacked since 2012.

Like journalists, defenders seeking to expose corruption have been targeted by officials within the State and non-State actors. Vanja Calovic, an anti-corruption activist and director of the Network for Affirmation of the NGO Sector, has been a consistent target of smear campaigns. One of the most troubling campaigns against her was initiated in 2014 by the state-owned daily Pobjeda, the regional TV station Pink, and the Belgrade-based tabloid Informer. The campaign sought to portray her as engaging in bestiality and was supported by remarks by the then Prime Minister. In 2015 members of the Network for Affirmation of the NGO Sector were each compensated €500 by the Podgorica High Court for being the targets of illegal police surveillance. More recently Calovic has faced attempted dismissal from the Council of the Agency for the Prevention of Corruption, a decision overturned in August 2018 by the Administrative Court of Belgrade. A victim of trafficking seeking to expose the involvement of State officials in trafficking has also faced prosecution as a result of her allegations.

Other grassroots groups, particularly involving women human rights defenders, have faced discrimination allegations of being politically affiliated in an attempt to delegitimize them. The defenders involved in the “Protest of the Mothers”, seeking to challenge the State’s withdrawal of financial support for families, have been told by senior officials in the State to “go home and take care of their families “

Defenders working on sexual orientation and gender identity rights face social stigma and opposition from traditional elements in society. Traditional social attitudes also likely play a role in decisions by State officials to refuse them access to their rights and deny them adequate protection. In 2016 permissions for an LGBTI Pride March in Nikšić were denied by local authorities on three separate occasions. In 2013, the then newly opened LGBT Social Centre reported twenty-five attacks to its premises. While the local police provided some security for the Centre, in at least one incident the duty officer left the site early.

The Special Rapporteur has sent two communications concerning the situation of human rights defenders in Montenegro since the 2006 Global Survey. The first technically concerned the situation in pre-independence Montenegro of journalists and concerned a number of attacks against journalists and the arrest of an author exposing war crimes on the charge of revealing military secrets. A communication concerning Montenegro in 2008 addressed the threats received by a member of Council for Civic Control of the Police.

4. Issues and Trends

Although the situation for human rights has improved in recent years in Montenegro and the rights articulated in the Declaration are expressed in a well-developed and robust legal framework, a series of recent high profile cases reveals that the daily practice of the defense of human rights continues to be fraught with risk. The Special Rapporteur urges the State to do more to promote and protect human rights defenders and to create a safe and enabling environment for them in practice as well as law. The Special Rapporteur encourages the State to abandon rhetoric that is dismissive of defenders and the right to defend human rights and instead to ensure that its policies support the public awareness and acceptance of the Declaration and the important role of human rights defenders, including journalists and grassroots activists and protesters. Violence against journalists should also be quickly and forcefully condemned and investigated by authorities; steps should be taken to eliminate the chilling legal pressure put upon journalists by the threat of civil litigation by vested interests.

Serbia

1. National Context and Human Rights Defenders

The Republic of Serbia became an independent State in 2006 following succession of Montenegro from the Union of Serbia and Montenegro. Serbia was included in the 2006 Global Survey as part of the later entity and did not submit a response to the survey questionnaire. In 2006, the Special Representative noted that the community of human rights defenders was marked by the legacy of the Balkan conflicts and lacking a legal and institutional framework for their rights and participation in the State.

Since the last Global Survey in 2006, the Special Rapporteur visited the State in 2008. She found a vibrant civil society working on a diverse range of issues, but also generally underfunded, with only a minority of registered organisations actually active. Underlying problems for civil society were exacerbated in Kosovo by the dominance of disputes over the region's status, leading to self-censorship on other issues.

Although the situation for defenders has improved in recent years, challenges remain, particularly in a context marked by the politicized discourses of national security and the use of smear campaigns and threats against journalists. Human rights defenders continue to suffer threats, attacks, and a public discourse portraying them as unpatriotic. Journalists, women human rights defenders, defenders of sexual orientation and gender identity rights and defenders of people on the move are particularly vulnerable.

Serbia is a member of the Council of Europe and the Organisation for Security and Cooperation in Europe. The State is in the process of accession talks with the European Union.

2. Legal and Policy Framework

Serbia is party to almost all major international human rights treaties, but has yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The State is also party to several regional human rights treaties, including the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Serbian Constitution establishes that all such instruments are automatically enforceable in the domestic legal system, as well as generally affirming the rights articulated in the Declaration on Human Rights Defenders.

The Protector of Citizens is the national human rights institution and has been accredited ('A' status) as fully complying with the Paris Principles. The office has been recognised by defenders as coordinating consultation with civil society and supporting the protection of human rights defenders. However, the office remains limited in its mandate and power, despite government commitments to strengthen the institution in this regard.

The State does not have an explicit policy on human rights defenders. The Office for Collaborating with Civil Society drafted a National Strategy and Action Plan for an Enabling Environment for Civil Society Development in 2014 but it was ultimately unsuccessful in gaining government approval.

3. Implementation of the Declaration

Although the State has taken some positive steps, the Special Rapporteur is concerned by reports that the situation of human rights defenders in Serbia is deteriorating, and that attacks on activists have been rising steadily since 2014, with failure of state authorities to respond to these attacks.

Freedom of expression by defenders, especially journalists, is limited by rhetoric from senior officials of the State that critiques of the policies of the State are foreign propaganda. Demonstrations opposing government policies often do not get widely reported in State controlled and supporting media. Media freedom remain limited, with independent media

pushed to self-censor to secure advertising revenue from the government, or risk economic collapse.

In 2017 the long-standing investigative paper Vranjske Novine shut down in the face of rising harassment from the public and State officials. Journalists reporting on minority rights and transitional justice are especially subject to pressure; journalists reporting on anti-government demonstrations and those with a history of criticising State policy have faced particular risks, as exemplified by the widely viewed footage of two journalists being assaulted in front of the National Assembly during the Presidential inauguration on 31 May 2017.

The ability of human rights defenders to publically protest is variable and somewhat unpredictable. For example, in 2017, widespread protests took place across the country in response to the election result, bringing together a wide variety of actors. The protests were organised through Facebook and purposefully had no specific leaders; right-wing groups who tried to take over the demonstrations were booed away by protestors. A central concern of the protests was the treatment of critics of the State. The protests lasted several days, without violence or arrests. However, also in 2017, several members of the Youth Initiative for Human Rights (YIHR) were beaten during a public debate held by the ruling Serbian Progressive Party (SPP) as they protested the invitation to speak at the debate of a convicted war criminal.

Human rights defenders belonging to specific groups face further harassment and discrimination, most notably women, defenders of sexual orientation and gender identity, and ethnic minorities such as Roma. For example, in 2014, following a silent vigil held by women's rights organisation Women in Black (WiB), the spokesperson of the Anti-Terrorist Unit of the Ministry of the Interior publicly called for football hooligans to "deal" with the demonstrators. Defenders associated with WiB were attacked in July 2015 when they held an event commemorating the Srebrenica massacre.

Since the increase in numbers of migrants and refugees in the State following the crisis in Syria, defenders of people on the move have faced restrictions on their activities. The Belgrade Centre for Human Rights reported that they have been restricted in their access to unaccompanied minors, a particularly troubling development since the death of an unaccompanied six year-old migrant girl on the Serbia-Croatia border in November 2017. Notwithstanding the recent appointment of Prime Minister Ana Brnabić as the first woman and first openly gay person to occupy the position of Prime Minister in the State, defenders working on sexual orientation and gender identity rights and women human rights defenders face smear campaigns and derogatory remarks, including misogynistic and discriminatory smear campaigns against women human rights defenders. As noted in the Global Survey 2006, defenders working on transitional justice and against corruption continue to also face increased challenges and risks.

The State has been reviewed under the Universal Periodic Review process three times, most recently in 2018. The State responded to the specific recommendations regarding human rights defenders that it had accepted under the previous review, in 2013. The State noted the involvement of defenders in drafting the Strategy for the Prevention of and Protection from

Discrimination for the period 2013–2018. Furthermore the State committed to the public condemnation and investigation of all assaults on LGBT persons and attacks on Roma – a commitment that some defenders feel isn't always acted upon, especially by frontline officials of the State. The Special Rapporteur is encouraged by the State's acknowledgement of the importance of cooperating with civil society and tackling hate speech and hateful acts. The recommendations accepted by the State coming out of the review process continue to need to be monitored and subject to further action by the State.

The Special Rapporteur has also sent multiple communications to the State regarding the situation of human rights defenders. These communications generally express concern about the attacks on defenders belonging to marginalised groups, especially defenders of sexual orientation and gender identity rights. Though the State has replied that such attacks are generally investigated promptly and the victims offered police protection, there is little evidence of preventative measures being taken. The Special Rapporteur has also contacted the State regarding the harassment and attacks against WiB, in July 2014.

4. Issues and Trends

Despite some positive steps taken since the last Global Survey, today human rights defenders and journalists are operating in an environment where the rights in the Declaration are being unevenly implemented. The rights to freedom of expression and assembly are precarious. Defenders suffer stigmatising smear campaigns directed by officials within the State, physical attacks from State and non-State actors, intimidation and threats.

The Special Rapporteur encourages the State to implement the recommendations on human rights defenders discussed during its recent Universal Periodic Review. Echoing these recommendations, the Special Rapporteur urges the State to increase its effort to protect human rights defenders and to put an end to the impunity of those who violate their rights, ensuring that attacks on journalists, in particular, are fully investigated. He also urges the State to publicly recognise the important role of human rights defenders and to cease its personal attacks against defenders and civil society organisations who are critical of the State.

Western Europe

France

1. National Context and Human Rights Defenders

France was included in the 2006 Global Survey, however, the Special Representative regretted that she did not receive sufficient information to be able to give a thorough assessment of the situation of human right defenders at the time. Generally, human rights defenders in France operate in a safe and enabling environment and are supported by the State, with the State playing host to the Human Rights Defenders World Summit in October 2018. However, in recent years journalists have become vulnerable, and demonstrators' rights to freedom of expression and freedom of assembly have been limited by recent counter terrorism legislation. Defenders of people on the move and defenders opposing xenophobia on the move also face an increasingly challenging environment.

Between November 2015 to October 2017, France was in a state of emergency which granted expanded powers of arrest, detention and surveillance to State security forces following two severe terrorist attacks in 2015. In January 2015, an attack on the offices of satirical newspaper Charlie Hebdo left 17 people dead, and, in the biggest act of terrorism seen in the State, over 130 people were killed and more than 400 injured in a series of coordinated attacks in Paris on the night of 13 November 2015. The state of emergency was replaced with permanent (and controversial) anti-terror legislation which restricts a number of core rights, including the rights to liberty, privacy, association, movement and religious freedom.

France is member of the Organisation for Security and Cooperation in Europe, the Francophonie, Council of Europe, and the European Union.

2. Legal and Policy Framework

France is party to all core international human rights treaties except the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights came into force in June 2015. The State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

In 2014, the offense of publically ‘inciting’ or ‘glorifying’ terrorism was moved from the French Press Law of 1881 to the Criminal Code. The French Constitutional Court has rejected criticisms made by civil society that the law’s phrasing is too vague and that it violates the right to freedom of expression.

The Counter Terrorism Law implemented on 1 November 2017 replaces the state of emergency that had been in place since November 2015. The Law has been widely criticised by defenders for restrictions it poses on defenders’ rights to freedom of expression, assembly and movement. The Special Rapporteur reiterates his concern about the broad wording of the provisions of the Law, in particular the definitions of terrorism and threats to national security. This heightens concerns that the powers given to the authorities may be used in an arbitrary manner. Also, the broad discretion given by the Law to non-judicial officers, specifically prefects and police officers, and the broadening of the power to issue preventative (control) orders may have discriminatory repercussions for defenders of and from Muslim communities in the State.

The national human rights institution, the National Consultative Commission on Human Rights, is accredited as fully in compliance (‘A’ status) with the Paris Principles.

3. Implementation of the Declaration

There is no national law or policy concerning human rights defenders in the State. The rights in the Declaration are generally well-respected and the work of human rights defenders is supported by the State. However, recent terrorist attacks and subsequent anti-terror legislation, along with the growing number of refugees in the State, have resulted in legal restrictions on the rights of some defenders and practical concerns about public backlash against some human rights defenders.

The legal framework for freedom of expression has been limited in recent years, largely in the context of anti-terror and racial discrimination legislation. In October 2015, the Court of Cassation confirmed the conviction of 14 individuals for incitement to racial discrimination following their participation in a boycott of Israeli products. In 2016 the police issued 306 sanctions and sentenced 232 people to prison under the pretext of ‘apology for terrorism.’

Media ownership in France has undermined editorial independence, and authorities have restricted the work of journalists in their coverage of sensitive events, such as the dismantling of the refugee settlement in Calais. A bill was proposed in July 2018 that aims to prevent the dissemination of ‘disinformation’ in France, raising concerns about who and what criteria defines the nature of disinformation.

Defenders’ right to freedom of assembly has also been restricted in recent years. During the state of emergency, the State was granted additional powers to prohibit organised public demonstrations “of a nature which may provoke or sustain disorder”. Dozens of peaceful protesters were prevented from attending public assemblies between the 28 and 30 November 2015 planned in the context of the Paris Climate Change Conference. Residence orders were imposed on dozens of climate activists by the Minister of the Interior in December 2015.

Defenders have made allegations that the police use excessive use of force in dispersing peaceful protests. In 2016, law enforcement officials allegedly resorted to excessive use of force against hundreds of protesters concerning public protests against reform of labour laws. It was alleged that law enforcement used kinetic impact projectiles and sting-ball grenades to disperse demonstrators, in contravention of domestic and international standards. It is concerning that there is a lack of an impartial mechanism to investigate these allegations, and that the expansion of the powers of the French authorities under counter-terrorism legislation may sanction excessive use of force by the police.

While there are no significant restrictions on forming civil society organisations (or trade unions), and they can generally operate freely, during the state of emergency, the State had extra power to dissolve any associations that “participate in the commission of acts that can seriously disturb public order or whose activities facilitate or incite commission of such acts”.

Although many defenders can operate freely in the State, several groups of defenders face a increased attention by the State, restrictions on their activities, and a sometimes hostile public discourse. These groups include defenders of the State’s Muslim community, defenders of people on the move, and land and environmental human rights defenders.

Defenders who are from France’s Muslim community or who seek to defend their rights face an increasingly restrictive legal environment and a growing Islamophobic public discourse. Nearly all of the actions taken by the Interior Ministry under anti-terror legislation have concerned Muslims and were applied in clearly identified geographical areas home to the French Muslim community. Searches and house arrest measures widely targeted Muslims.

Defenders of people on the move have also faced increasing restrictions on their activities by the State. Mr. Cédric Herrou has been repeatedly targeted for his work on defending migrant rights and helping migrants enter France. In August 2017, he was handed a four-month suspended sentence and a fine in direct retaliation for his human rights protection work of migrants; he has also faced restrictions on his travel abroad and within France. In 2018, the French Constitutional Council ruled that Herrou's actions to help migrants were legal, since the principle of fraternity in the French Constitution specifically "confers the freedom to help others, for humanitarian purposes, regardless of the legality of their presence on national territory." In recent years, all of the communications sent by the Special Rapporteur to the State concerning the situation of human rights defenders have concerned the situation of human rights defenders of the rights of people on the move.

Land and environmental defenders have been targeted and their ability to participate in public demonstrations. A number of environmental activists were placed under house arrest for the duration of the international conference on climate change (COP21) held in Paris. Following an appeal, the Conseil d'état upheld the legality of the decision under anti-terror laws, citing the supposed danger that the activists' activities could have entailed. While the State has been broadly supportive of the need to address environmental issues and has welcomed international environmental rights defenders to France, businesses headquartered in France are among the most likely to use judicial harassment and law suits against environmental defenders.

Although defenders of sexual orientation and gender identity in France often face opposition based on 'traditional' values and religious beliefs, the State has been broadly supportive of defenders. In 2010, France joined other States and civil society organisations in setting up an International 'human rights, sexual orientation and gender identity' support fund. This was set up to bring together agencies involved in combating homophobia and transphobia and support local initiatives in countries where civil society is restricted and the subject of gender and sexual orientation is sensitive. In 2016, the Minister of Foreign Affairs and International Development committed to the provision of financial support (within development funds) for defenders of sexual orientation and gender identity rights.

France has been reviewed three times under the Universal Periodic Review process, most recently in 2018. No specific references were made to human rights defenders in the submissions, although concerns were raised about restriction on journalists' freedom of expression. The State was examined two recommendations regarding taking measures to ensure the freedoms of expression, of opinion and of the media, and guaranteeing the right of journalists to protect their sources.

4. Issues and Trends

The Special Rapporteur is encouraged by the generally safe and enabling environment for human rights defenders and commends to the State for its longstanding support of human rights defenders. The Special Rapporteur appreciates the impact of recent acts of terror in France and appreciates the responsibility of the State to prevent a repetition of such attacks. However, he reiterates his concern that anti-terror legislation may be and is being used to limit core freedoms for human rights defenders, particularly their rights to freedoms of expression and assembly. He is particularly concerned by the potential effects on defenders

of the Muslim community, and is also concerned by treatment of defenders of people on the move and land and environmental rights defenders.

The State should be commended for its commitment to support defenders of sexual orientation and gender identity rights locally and internationally. The Special Rapporteur urges to State to carefully consider the impact of anti-terror legislation on human rights defenders. He encourages the State to further strengthen its commitment to creating a safe and enabling environment for human rights defenders by, in consultation with its national human rights institution and defenders, developing and implementing a national policy on human rights defenders.

Ireland

1. National Context and Human Rights Defenders

Ireland was included in the 2006 Global Survey. The Special Representative was pleased to have received a response to her request for information from the State. The State's commitment to protecting and promoting human rights and human rights defenders, including women human rights defenders, was noted. Specifically, the Special Representative highlighted that Ireland prioritised the protection of human rights defenders during their six-month presidency of the European Union and was instrumental in the formulation of the European Union Guidelines on Human Rights Defenders. Other key developments mentioned were the establishment of the Irish Human Rights Commission in 2001, and the Garda Síochána Ombudsman Commission in 2005, an independent complaint mechanism for police conduct. No communications or concerns were raised.

In November 2012, the former Special Rapporteur conducted a mission to Ireland, and considered the State to have a conducive and enabling environment for defenders, which was generally aligned to international standards. The State continues to have a healthy and vibrant civil society and is explicitly committed to promoting and protecting human rights defenders, and is recognised as an international leader in this regard. Within Ireland, some defenders are more vulnerable than others, above all due to their intersectional characteristics which can lead to them facing stigma and poor treatment from some State and non-State actors. These include defenders of sexual and reproductive rights, defenders who challenge the Church, and travellers.

The State is a member of the Organisation for Security and Cooperation in Europe, the European Union, and the Council of Europe.

2. Legal and Policy Framework

Ireland is party to the majority of core international human rights treaties, but has yet to ratify the Convention for the Protection for the Protection of All Persons from Enforced Disappearance, and to both sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Ireland is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

The Constitution of the State guarantees the freedom of expression, assembly and association. As a dualist legal system (as confirmed by Article 29.6 of the Constitution), international treaties are not automatically incorporated into domestic law, though they can be applied on a case-by-case basis. The European Convention on Human Rights Act 2003 incorporates the ECHR into Irish domestic law.

The legislative frameworks for freedom of expression, association and assembly are broadly permissive. However, defenders face some restrictions on each of these rights. For example, the foreign funding provisions of the Electoral Act limit the ability of defenders to do political advocacy work. The restrictions in question are generally provided by law, in order to ensure the respect of other rights, and necessary and proportionate.

There is currently no specific national law or policy regarding human rights defenders in Ireland. However, the State has expressed its support for the development of a model national law on the recognition and protection of defenders and defenders have called for it to adopt and implement such a law within the State. The State does have a number of mechanisms and policies through which it addresses issues relating to defenders, including the Inter-Departmental Committee on Human Rights, the National Plan on Business and Human Rights, the Department of Foreign Affairs and Trade's Non-Governmental Organisation Standing Committee, and the Department of Foreign Affairs and Trade's Non-Governmental Organisation Forum on Human Rights. Furthermore, in 2006 the State established a humanitarian visa scheme in partnership with the Ireland-based civil society organisation Front Line Defenders which allows at-risk foreign human rights defenders to enjoy temporary shelter in Ireland.

3. Implementation of the Declaration

Defenders in Ireland generally enjoy a safe and enabling environment

Freedom of assembly and expression are in practice enjoyed, as evidenced by the lively campaigns around the State's recent referendum to overturn the Constitution's Eighth Amendment (criminalization of abortion). The Special Rapporteur commends the State on providing an environment where campaigners on both sides could actively participate in debate and dialogue. Some women human rights defenders during the campaign remained anonymous in order to share their personal experiences due to both social stigma and stigma linked with the criminalization of those experiences. Various artistic fora seeking to bring artists into the public debate were cancelled due to rules about State funding supporting one or another side in the debate. The Special Rapporteur notes the difficulty of balancing the rights of defenders against the need for a fair and open political process and appreciates the willingness of the State to allow for a robust debate, including about the limits it placed on defenders during the referendum campaign.

Women and sexual orientation and gender identity rights defenders have faced practical obstacles to their work as a result of entrenched social attitudes and from religious institutions; defenders working with socially marginalized groups, including travelers, have also faced challenges in their work. Women human rights defenders supporting the survivors of the abuses at the Magdalene Laundries have complained that the State's response to their concerns has been inadequate. In March 2017, traveller ethnicity was officially recognised by

the Irish Government, following years of campaigning by defenders of traveller rights and, more recently, the Council of Europe Commissioner for Human Rights. Long-term and deep-rooted discrimination against travellers and the failure to recognise them as an ethnic group has led to their exclusion from consultation with the State.

The State has been reviewed twice under the Universal Periodic Review process, most recently in 2016. The discussions during the recent review included the recognition of travelers as noted above and the State's engagement and support of defenders outside of the State through its overseas development assistance. No recommendations were made regarding human rights defenders.

The Special Rapporteur has expressed concern about reports of intimidation, harassment and surveillance of defenders involved in the Corrib Gas dispute and has previously called on the State to investigate the reports in a prompt and impartial manner. Furthermore, the Special Rapporteur has also noted the need to protect whistle-blowers in all sectors of activity. The Special Rapporteur has not sent any communications to Ireland since the last Global Survey in 2006.

4. Issues and Trends

The Special Rapporteur commends the State for its longstanding commitment to promoting and protecting human rights defenders, particularly at the international level. The State has developed a safe and enabling environment for defenders and seeks to support similar developments in other States. However, the Special Rapporteur is concerned that some defenders face stigmatisation and exclusion, particularly when they support marginalized groups, such as travelers, or work on human rights that are opposed by traditional social and religious norms, such as women's rights and sexual orientation and gender identity rights.

The Special Rapporteur encourages the State to continue its positive contributions to the protection of human rights defenders around the world, including through its collaborations with local and international civil society organisations. The Special Rapporteur recommends that the State consider the adoption and implementation of a national law to protect and promote the work of defenders along the lines of the model law which it has supported or the development of a formal national policy or guidelines on human rights defenders.

Italy

1. National Context and Human Rights Defenders

Italy was not included in the 2006 Global Survey. Defenders generally enjoy a safe and enabling environment within the State. Italy has also expressed support for defenders, particularly those at risk, working abroad. Defenders have faced restrictions on their right to freedom of assembly, which has been effectively restricted through the excessive use of force to against protestors. Defenders in Italy who face additional challenges include environmental defenders and defenders of people on the move. Journalists and others working on politically and socially sensitive issues such as corruption and organised crime are also at risk, particularly from non-State actors.

The Special Rapporteur thanks the State for providing a response to the request for information for this Survey. In their response, the State reiterated its commitment to promoting and protecting the rights of human rights defenders worldwide.

The State is a member of the Organisation for Security and Cooperation in Europe, the Council of Europe and the European Union.

2. Legal and Policy Framework

Italy is party to all core international human rights treaties except the International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families. The Constitution of the State also protects fundamental rights, including freedom of assembly (Article 17), freedom of association (Article 18) and freedom of expression (Article 21). The legal framework of the State does not restrict defenders from establishing civil society organisations or trade unions though it does include libel and criminal defamation provisions that have been used to restrict the free expression of defenders.

In January 2017, the Foreign Affairs Committee of the Chamber of Deputies approved a resolution on human rights defenders, which asks the government to take concrete action to protect at-risk defenders across the world, and to consider further protective actions inside Italy, including granting temporary visas and launching a shelter cities initiative. The resolution follows recommendations from a coalition of twenty civil society organisations working within the State which work together to promote and protect human rights defenders.

The State does not have a national human rights institution despite a nearly twenty-year parliamentary debate on the subject and repeated recommendations from United Nations bodies.

3. Implementation of the Declaration

Freedom of expression is protected by law, though laws on libel and criminal defamation have been used to restrict the free expression of defenders. Journalists face intimidation and threats for reporting activities related to corruption and organised crime. Defenders have complained that the lack of media plurality also weakens the independence of the media. In 2018, almost 200 journalists receive police protection, including at least ten who receive round-the-clock protection because of threats from non-State actors, mainly the mafia and anarchist or extremist groups. Journalists based in Campania, Calabria and Sicily are most at risk from threats from the mafia. Journalist Paolo Borrrometi, who receives protection, has said “None of us wants to be a hero or a model. We just want to do our job and our duty, to tell stories.”²⁰⁶ The Special Rapporteur on the right to freedom of opinion and expression had emphasized to the State that all acts of intimidation and violence against journalists need to be fully investigated, and that legal measures combating hate speech (which often are part

²⁰⁶ Gaia Pianigiani “The Mafia Reporter With a Police Escort (and the 200 Journalists Like Him)” (New York Times, 20 May 2018) available online at <https://www.nytimes.com/2018/05/20/world/europe/italy-journalists-mafia.html>.

of the public discourse which encourages threats to defenders) should be complemented by a broad set of non-legal measures to bring about genuine changes in mindsets.

Although there are no formal restrictions on forming civil society organisations, the right to freedom of association of defenders of the rights of people on the move and minority rights are often in practice restricted. Demonstrations have been often met with excessive force from police. In 2013, 17 police officers were convicted of fraud for planting false evidence and others were convicted for excessive use of violence arising from an incident in 2001 in which 300 police attacked 100 peaceful activists. None of the police officers went to jail and all the sentences were reduced. In July 2015, in a landmark decision, the European Court of Human Rights condemned Italy for using “torture” against protesters. Defenders exercising their right to peaceful assembly also face a risk of violence from extremist (both far-right and far-left) groups during protests.

Defenders working with people on the move and minority groups and land and environmental human rights defenders face a more difficult environment and restrictions on their exercise of their rights. Charges have been levied against the leadership of the EveryOne Group as a direct result of their legitimate human rights activities on behalf of people on the move and Roma rights. Since being charged, the activists, Roberto Malini and Dario Picciau, have suffered threats and harassment from non-State actors. In 2017, the State attempted to introduce a new “code of conduct” for civil society organisations working on rescuing migrants in the Mediterranean. Five organisations refused to sign the code, citing concerns over provisions that would allow police officers to board their vessels, and which would limit their ability to transfer people on the move from their own vessels to other ships. Defenders associated with environmental rights group No-Tav have faced criminal charges of terrorism for their environmental activism. The two communications sent by the Special Rapporteur to the State in recent years raised concerns about the treatment of defenders of people on the move, including the extradition of a defender on the basis of his alleged human rights activities.

The State has been reviewed twice under the UPR process, most recently in 2014. No recommendations were made specifically regarding defenders, but the State considered two which dealt with ensuring protection of journalists.

4. Issues and Trends

The Special Rapporteur commends the commitment shown by the State to the protection of human rights defenders. While he recognises the safe and enabling environment enjoyed by many defenders in the State, the Special Rapporteur is concerned that defenders and journalists dealing with migrant rights, corruption and investigating organised crime are at risk of reprisals from State and non-State actors. The Special Rapporteur applauds the protective measures that the State has taken to provide protection to at-risk journalists though shares the State’s and defender’s concern at the impunity enjoyed by the Mafia that places such defenders at risk. The Special Rapporteur recommends that the State further strengthen its protective mechanisms for human rights defenders at risk, in consultation with at-risk journalists and at-risk defenders.

While noting the recent convictions of police officers for the use of excessive force in policing, he notes the length of time that has passed since the incidents in question and the numerous reports of the use of excessive force in recent years. He recommends that the State review its legal frameworks (including for police accountability), police training, and policing strategies with a view to addressing this situation. The Special Rapporteur commends the State for its commitment to supporting the relocation of defenders at risk and its other constructive interventions in international discussions in support of human rights defenders.

Netherlands

1. National Context and Human Rights Defenders

The Kingdom of the Netherlands consists of the Netherlands and the Dutch Antilles, including Aruba, Curacao and St. Maarten. The State was not included in the 2006 Global Survey. The State is home to a vibrant and diverse human rights community, including many headquarters of major international human rights organisations and a large number of longstanding national human rights organisations working on a wide range of human rights issues. Human rights defenders in the State generally enjoy a safe and enabling environment in the Netherlands, and the State is committed to the protection of human rights defenders.

The Netherlands is a member of the Organisation for Security and Cooperation in Europe, the European Union and the Council of Europe.

2. Legal and Policy Framework

The Netherlands is party to the majority of core international human rights treaties, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Their Families. Fundamental freedoms are also protected by the Constitution. The Constitution of the Netherlands includes a bill of rights that guarantees many of the rights articulated in the Declaration. International treaties are recognised as sources of law within the domestic legal system. As a member of the Council of Europe, the State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Defenders have expressed concern that many of the human rights obligations of the State have not been extended to the Dutch Antilles.

There is no specific law on the protection of defenders however the State is committed to their protection through a number of specific policy measures. The diplomatic representatives of the State follow the European Union's guidelines on human rights defenders, which aim to improve the support and protection given to human rights defenders in non-EU countries. The Human Rights Fund of the State provides financial support for human rights defenders and civil society organisations that promote human rights worldwide.

The State supports the widely recognised "Shelter City" initiative of Justice and Peace Netherlands which provides temporary relocation for human rights defenders at risk. The Dutch government awards the annual Human Rights Tulip award to a human rights defender or organisation that promotes human rights worldwide in an innovative way. The State adopted a National Action Plan on Human Rights in 2014, setting out its overarching human rights policy. The National Action Plan did not mention human rights defenders but did

identify fostering dialogue with (and otherwise supporting the activities of) civil society as an important element of its policy.

The Netherlands Institute for Human Rights serves as the national human rights institution of the Netherlands and has been accredited as fully complying ('A' status) with the Paris Principles. Some of the territories of the Dutch Antilles have an ombudsperson.

3. Implementation of the Declaration

In general, there is a safe and enabling environment for defenders in the Netherlands and the rights of the Declaration are respected in practice.

Freedom of expression is valued, and restrictions only exist on hate speech, although even these restrictions are seen as controversial by some sections of society. Nativist and xenophobic political discourse has focused attention on the limits of free speech. Thousands of complaints were filed with the police when Freedom Party leader Geert Wilders was charged with inciting discrimination and hatred at a 2014 political rally when he encouraged supporters to chant demands against Moroccans. Notwithstanding the complaints, Wilders was found guilty in December 2017. Recently, the Special Rapporteur has sent a communication to the State about well-organised and systematic death threats and acts of intimidation made against human rights lawyer Nada Kiswanson working on the issue of Palestinian rights for Al-Haq. Although the State responded that it is investigating the situation, defenders have criticised the State for its delay in taking action.

Generally, the Netherlands works closely with civil society and provides financial support to civil society organisations, thus underscoring State support for freedom of association. The process for funding civil society is transparent and open. Many civil society organisations collaborate with each other, working through issue based or geographic umbrella organisations and coalitions.

While the freedom of peaceful assembly is widely enjoyed, the policing of some demonstrations has been restrictive. The procedures and instructions for giving notice of upcoming public gatherings vary across the country and failure to give prior notification has led to gatherings being halted. Defenders have raised concern about the unlawful detention of peaceful protesters. For example, eight environmental defenders were detained after protesting against Shell in May 2017. At other demonstrations, police have confiscated of banners or banned demonstrations at particular locations. The Netherlands' Ombudsman has expressed concern that the right to protest is under threat in the Netherlands due to a "risk averse" approach by the State.²⁰⁷

Restrictions on the right to freedom of assembly have been particularly visible in recent years during "Black Pete" (the widely-regarded racist tradition of blackface practised in November and December) protests. In 2011, Dutch-Antillean activist Quinsy Gario was beaten and arrested when he wore a "Zwarte Piet Is Racism" t-shirt and those who condemn the Black

²⁰⁷ Ombudsman of the Netherlands, "Demonstreren, een schurend grondrecht?" (March 2018) available online at <https://www.nationaleombudsman.nl>.

Pete tradition continue to face intimidation, harassment and death threats. Other defenders protesting Black Pete have similarly faced excessive force from the police and acts of violence from supporters of the tradition. Permission for protests against Black Pete have also been cancelled due to the State's inability to sufficiently protect protesters.

Defenders in the overseas territories of the State and defenders of people on the move have also faced particular challenges. Defenders in the Dutch Antilles do not enjoy all of the legal protections of defenders in the metropolitan territory. In 2018, peaceful protests took place in St. Eustatius over administrative changes. Defenders in the Dutch Antilles, including in Bonaire and Sint Eustatius, have raised concerns about the lack of democratic processes and the difficulty of gaining remedies for human rights violations by the "colonial" administration. In July 2012, the Special Rapporteur sent a communication regarding the imminent deportation of a human rights defender back to China, and was pleased that the State responded that a permanent residency permit had been granted.

The State has been reviewed three times under the UPR process, most recently in 2017. No specific reference was made to human rights defenders. In November 2016, the Special Rapporteur sent a communication to the State regarding the case of human rights lawyer No other communications have been sent in the period since the last Global Survey 2006.

4. Issues and Trends

Human rights defenders are generally able to operate in a safe and enabling environment in the Netherlands and enjoy the rights articulated in the Declaration. The Special Rapporteur commends the State for its support of human rights defenders at risk and its longstanding commitment to the situation of human rights defenders. However, the Special Rapporteur is concerned by increasing restrictions on the right to freedom of assembly and the situation of defenders opposing racism and xenophobia, defenders of people on the move, and defenders in the Dutch Antilles. The Special Rapporteur urges the State to consider extending its human rights protections to the Dutch Antilles and to the development, in consultation with human rights defenders, of appropriate remedies for human rights defenders at risk in the State's overseas territories.

Portugal

1. National Context and Human Rights Defenders

Portugal was included in the Global Survey 2006. Although the Special Representative indicated that she did not have enough information to accurately describe the human rights defenders community in Portugal, she was able to conclude that the State had an impressive and enabling legal framework to support the work of defenders, and measures to make human rights more accessible to the broader population were a welcome step. Human rights defenders continue to generally enjoy a safe and enabling environment in Portugal, with a strong legal framework and support from the State.

Portugal is a member of the Organisation for Security and Cooperation in Europe, the European Union and the Council of Europe. The Special Rapporteur expresses thanks to the

State for responding to his request for information about the situation of human rights defenders in Portugal.

2. Legal and Policy Framework

Portugal is party to almost all of the core international human rights treaties, except the International Convention on the Protection of the Rights of All Migrant Workers. There is no legal framework established in Portugal to explicitly specifically protect human rights defenders, however, many of the rights articulated in the Declaration are enshrined within the constitution, including the right to freedom of expression, association and assembly. Many of these rights are framed very broadly, in keeping with international standards, including the right to freedom of assembly which in Article 45 is phrased as the right “to peaceful and unarmed assembly, even in public places, without prior authorization, and recognizes every citizen’s right to demonstrate [direito de manifestação]”.

Under Article 52 of the Constitution guarantees the right to seek a remedy for violations of human rights. The Ombudsman, Provedor de Justiça, the Attorney-General’s Department and the Office for Documentation and Comparative Law all share responsibility within the State for promoting, protecting and publicising human rights. While the state lacks a comprehensive law or policy on human rights defenders, many of its legal and institutional provisions support the rights in the Declaration and protect defenders.

Portugal has recently adopted two laws that increase the penalties for crimes against journalists and media personnel. Approved in February 2018, the laws amend Article 132 of the Criminal Code and add journalists to the category of “protected persons” along with judges, lawyers and security forces. Crimes such as threats, constraints, defamation and insults committed against protected are treated as serious crimes in the same way as murder, physical violence and abduction.

The State has established consultative mechanisms to provide a voice to defenders in the development and implementation of policies. The Council for Migration, the Consultative Group for the Integration of Roma Communities, and the Commission for Equality and Against Racial Discrimination are examples of bodies which comprise trade unions, human rights organisation and other civil society activists, and which exist to foster dialogue, consultation and collaboration between different stakeholders. Defenders have complained at times that the State (and public) views civil society organisations and defenders instrumentally, as necessary implementing partners (due to austerity and cutbacks in funding) rather than as important and effective advocates for change of policies.

The Provedor de Justica is the national human rights institution and has been accredited as fully complying (‘A’ status) with the Paris Principles. The Ombudsman was designated as the national preventive mechanism (NPM) under Optional Protocol to the Convention Against Torture.

3. Implementation of the Declaration

The State provides a solid legal and policy framework to support the work of human rights defenders and create a safe and enabling environment for them. In practice, the rights

articulated in the Declaration are enjoyed by defenders in the State. Notwithstanding the challenges posed by increases in the number of people on the move arriving in the State in recent years, defenders of people on the move do not face significant additional challenges in their defense of rights and benefit from some support from the State.

The State already has a free and open media, and has recently taken positive steps noted above towards expanding legal protections enjoyed by journalists. The State has taken action to curtail hate speech. In January 2018, the State supported through an investigation and referral for prosecution defenders' complaint of transphobic media article. The State continues to have criminal defamation laws in place. In January 2017, the European Court for Human Rights ordered compensation for journalist José Manuel Fernandes who had been fined €60,000 (\$68,000) as a result of a conviction for defamation arising out of an article which was critical of the president of the Supreme Court at the time.

Freedom of association is protected, including the right to join and form trade unions. While civil society organisations can struggle for funding, the State has implemented measures which prioritise funding for them. For example, in April 2011, a Financial Adjustment Programme was put in place which curtailed public spending, but the State maintained its distribution of financial resources to civil society. More recently, funding programmes to support migrant and Roma rights associations have been implemented.

The process to register civil society organisations is relatively straightforward and unrestrictive, providing that the association is not intended to promote or carry out violence. Additionally, certain umbrella bodies, such as Non-Governmental Development Cooperation Organisations (NGOD), Non-governmental Environment Organisations (NGEO), Migrant, Women and Youth Associations, and Associations of Persons with Disabilities, can apply to be recognised the State as "social partners" and, as a result, receive State support, tax exemptions and other benefits.

As with other European States, Portugal has seen an increase in the number of people on the move arriving in the State in recent years and has a well-established historic Roma community. The State has developed programmes of support for defenders of people on the move and Roma rights. In response, in 2015, the High Commission for Migration launched the Fund to Support the Activities of National Roma Communities Integration Strategy (FAPE) with a growing number of projects and funding available. Also in 2017, the High Commission for Migration launched the 1st Edition of the Roma Associations Support Programme (PAAC) to encourage the participation of Roma Associations.

The State has been reviewed twice under the UPR process, most recently in 2014. No recommendations regarding human rights defenders or journalists were made. The Special Rapporteur has not sent any communications to the State since the Global Survey of 2006.

4. Issues and Trends

The Special Rapporteur is encouraged by the situation for human rights defenders in Portugal, where fundamental rights to freedom of expression, association and assembly are protected by law and in practice. The Special Rapporteur recommends that the State further strengthen its commitment to providing a safe and enabling environment for human rights defenders by

establishing and implementing a more formal policy on human rights defenders and ensuring that its collaborations with defenders recognise them as important advocates for human rights rather than only as partners in the provision of services to the public. The State's generous commitment to strengthening and supporting defenders of people on the move and Roma rights stands as a good practice, and in stark contrast to the deteriorating situation faced by such defenders in other States.

Spain

1. National Context and Human Rights Defenders

Spain was included in the 2006 Global Survey. The Special Representative regretted that she had not received information from the State, nor did she have enough information from other sources to provide an assessment of the situation of human rights defenders at the time.

Although the State has a legal and policy framework which guarantees many of the rights articulated in the Declaration, in recent years a growing number of restrictions have been imposed on defenders, both through law and State practice. Defenders have noted increasing difficulties in exercising their freedoms of assembly and expression. Defenders of the right to self-determination and Catalan rights, defenders dealing with politically sensitive issues, defenders of people on the move, and women human rights defenders are all vulnerable to greater harassment and restrictions on their activities. Defenders participating in public assemblies and journalists are also at risk of excessive use of force from police.

Spain includes the autonomous regions of Galicia, Catalonia and the Basque Country, the latter two of which have seen strong independence movements emerge. In August 2017, terrorist attacks in Barcelona left 16 dead and more than 100 wounded in Barcelona in August 2017; the State had previously suffered coordinated bombings in 2005 leaving almost 200 people dead and around 2,000 people injured. These circumstances have deeply affected public attitudes and State policies and the situation of human rights defenders, particularly those active on issues or rights related to these circumstances.

Spain is a member of the Organisation for Security and Cooperation in Europe, the Council of Europe and the European Union.

2. Legal and Policy Framework

Spain is party to a majority of the core international human rights treaties, with the exception of the International Convention of the Protection of the Rights of All Migrant Workers and Members of Their Families.

The State does not have a comprehensive law or policy concerning human rights defenders. Many of the rights outlined within the Declaration are enshrined within the Spanish Constitution. However, other laws can restrict the constitutional rights. For example, although the right to peaceful assembly is protected in broad terms under Article 21, the 2015 Basic Law for the Protection of Public Security significantly restricts when and where demonstrations can take place. The 2015 Basic Law broadly prohibits unannounced protests around "vital infrastructure", demonstrations in clothing that masks the face and hinders

identification, and the carrying of objects that could cause injury. The Basic Law also prohibits “unauthorized” photos of police forces. In 2015 the President of Platform for the Defence of Free Expression, Virginia Pérez Alonso, said of the Basic Law and related anti-terrorism legislation: “Many of these reforms have a common denominator: curtailing those methods of sharing information, placing barriers on the internet as a space of free expression and penalising, in some cases disproportionately, new forms of protest”.²⁰⁸

El Defensor del Pueblo is the national human rights institution and has been accredited as fully (‘A’ status) complying with the Paris Principles. The institution provides assistance in the investigation of alleged misconduct by the authorities, submits an annual report on human rights to Parliament, and can investigate and report on cases it deems significant.

3. Implementation of the Declaration

Freedom of expression of defenders has been limited through various anti-terrorism measures and restrictions placed, in practice, upon the activities of journalists. Defenders have faced charges for the “glorification of terrorism” and “the humiliation of its victims” under Article 578 of the Penal Code, which provides for up to three years imprisonment and extensive fines. A broad range of defenders, including artists, musicians and political commentators critical of the State (and, in particular, its King) or supportive of separatist movements, have faced prosecution under Article 578. Defenders have expressed concern that the provision is used to silence critics of the State. Artwork depicting jailed Catalan independence leaders was removed from the ARCO art fair in Madrid entitled *Political Prisoners in Contemporary Spain* in February 2017. The State justified the removal of the artwork on the basis that there are no political prisoners in Spain. Online comments on social media have also been prosecuted under Article 578.

Lawyers working in defense of those that have been accused under Article 578 have themselves been attacked in the media and described in public discourse as ‘ethically reprehensible’ and with ‘professional connections with alleged jihadists.’ Lawyers representing those accused of terrorist acts have also suffered similar abuse.

Freedom of assembly of defenders has been, in practice, restricted by a growing number of incidents of excessive use of force by the police. Police officers have also been known to obscure or remove their identification numbers during protests, and their excessive use of force is treated with impunity by the State.

Restrictions on protests intensified surrounding the referendum for Catalanian independence. Courts in both Madrid and Vitoria barred two public assemblies aimed to support the referendum. In Castelldefels in Catalonia, the municipality adopted a blanket ban on any form of public demonstration concerning (either in support of or against) the referendum. Presidents of Catalan independence organisations, Jordi Cuixart and Jordi Sanchez, were investigated and charged sedition and rebellion as a result of protests they organized in Barcelona on the 20 and 21 of September 2017. Defenders complained of the excessive force, particularly through the use of anti-riot equipment and rubber bullets against

²⁰⁸ *The State of Press Freedom in Spain: 2015* (International Press Institute, March 2015) available online at https://www.access-info.org/wp-content/uploads/IPISpainReport_ENG.pdf

largely peaceful protesters. Nils Muizeniķs, the Council of Europe Commissioner for Human Rights, raised concern in his Fourth Quarter Activity Report for about the disproportionate use of force by the authorities in Catalonia during October 2017. Muizeniķs noted that the protesters were largely peaceful and the police use of rubber bullets, even in response to isolated violence, was excessive, leaving one protester blind. In 2018, assemblies in support of independence for Catalonia continued to take place. Millions took to the streets on National Day in September 2018 in Barcelona in a largely peaceful demonstration.

An agreement concerning the protection of journalists during protests was signed in March 2011 between the Ministry of the Interior and the Spanish Federation of Journalist Associations. The agreement outlined that media personnel were to be identified through distinctive vests during protests. However, notwithstanding (or sometimes because of) such clear identification, journalists documenting protests have been subjected to detention, intimidation and assault by the police. Damage to cameras has been reported, allegedly deliberately preventing the recording of police actions. Defenders have complained that many photojournalists, contributors to publications and not-for-profit community broadcasters are finding it increasingly difficult to cover public demonstrations and gatherings owing to the excessive policing methods employed.

Freedom of association is enjoyed in practice by most defenders. There are no major restrictions on forming or running civil society organisations in Spain. However, defenders have expressed concern over what appears to be the politically motivated revocation by the State of the status of public utility association (*asociación de utilidad pública*). Human rights organisations have been disproportionately affected, while many ultra-conservative or Catholic associations have maintained the status despite similar concerns. Associations working on migrant rights, such as *Caminando Fronteras*, have suffered frequent harassment and the State has failed to offer protection to its workers. The organisation *SOS Racismo* had its offices attacked and covered with xenophobic graffiti in 2014.

Women human rights defenders have played a prominent role in human rights campaigns in Spain. For example, in 2018 women human rights defenders led a high-profile and widely popular campaign to reform the State's narrow rape law following lenient sentences given to five men who had gang-raped a young woman in 2016. The case, known as the case of "La Manada", caused outcry across the State. Approximately five million people participated in the State's first feminist strike on International Women's Day in March 2018.

Despite their high profile within the human rights movement and in public debate on human rights, women human rights defenders face specific risks as a result of their activities. Women defenders have been victims of sexist insults and harassment while in police custody following protests and demonstrations. The resources available for the protection of women defenders against gender-based violence are limited. Defenders have also faced police violence and stalking. The Special Rapporteur reiterates his concerns over reported allegations of intimidation, defamation and death threats against Ms Helena Maleno Garzon, relating to her status as a woman and her activities as a human rights defender of people on the move. The Special Rapporteur sent a communication to the State regarding the matter in 2017 and has not yet received a response. He also notes that measures of protection for her

and sanctions towards those who have conducted threats against her have not been implemented.

Defenders of the right to self-determination and in Catalonia have faced increasing restrictions on their activities as a result of recent developments. A referendum for independence held in Catalonia on 1 October 2017, but not recognised by Spain, led to the declaration of a Catalan Republic and independence from Spain on 27 October. State authorities responded by using constitutional powers to dissolve the Catalan regional government and impose direct rule the same day. In November 2017, prosecutors began criminal proceedings against 14 representatives of the dissolved Catalan government for sedition and other offenses.

The State has been reviewed twice under the UPR process, most recently in 2015. The noted concerns about restrictions on freedom of assembly and the excessive use of force by the police were raised during the most recent review. The State committed to examining a recommendation that the State strengthen its commitment to ensuring fundamental rights of freedom of expression, peaceful assembly and association, and continue its cooperation with civil society, particularly with human rights defenders, by investing further efforts in creating a favourable environment for the members of the civil society organizations.

As well as his communication in 2017 regarding the case of Ms Helena Maleno Garzon, the Special Rapporteur sent a communication in 2012 regarding excessive use of force against peaceful protestors, who were minors, during the student protests that took place in Valencia in February 2012.

4. Issues and Trends

The State has, in recent years, faced a series of challenges from terrorist attacks and separatist movements. The Special Rapporteur appreciates that responding to these challenges while protecting the rights of defenders is a difficult task, albeit one to which all States should be committed. He is concerned by growing restrictions on freedom of expression and assembly in Spain in law and in practice, particular by the intensification of this trend following the Catalanian referendum for independence in 2017. The Special Rapporteur remains gravely concerned by continued reports of excessive use of force from police, and the impunity with which this is treated.

The Special Rapporteur reminds the State that defenders' rights to freedom of expression and peaceful assembly is a fundamental part of the right of participation in a democratic society and guaranteed by the Declaration. The Special Rapporteur encourages Spain to implement strict controls on the use of force by the police during demonstrations, and to ensure that victims of the use of force have a transparent and effective mechanism through which to hold their perpetrators to account. He also urges the State to fully respect the rights to freedom of expression and assembly, especially for those holding views contrary to the State.

Switzerland

1. National Context and Human Rights Defenders

The Swiss Confederation (Switzerland) was included in the 2006 Global Survey, and the Special Representative thanked the State for their response to her request for information. The Special Representative noted the positive environment for defenders in Switzerland and the commitment of the State to strengthen the rule of law for the implementation of the Declaration. One communication had been sent regarding the rejection of an application for asylum by a Libyan human rights defender.

Switzerland continues to provide a largely safe and enabling environment for human rights defenders marked by both high levels of recognition by the State, and regular and deep dialogue between the State and defenders. Some foreign human rights defenders in exile in the State have reported facing a risk of surveillance, harassment and even attempted abduction in Switzerland, and of not receiving adequate protection from the State.

The Special Rapporteur thanks Switzerland for its response to his request for information on the situation of human rights defenders. Switzerland is a member of the Organisation for Security and Cooperation in Europe and the Council of Europe.

2. Legal and Policy Framework

Switzerland is party to the majority of core international human rights treaties, except the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families. The State is also party to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Many of the rights articulated in the Declaration are protected in the Federal Constitution. The Federal Constitution both protects many of the rights articulated in the Declaration and sets up a process of direct democracy through which citizens can express their opinions in binding national referenda. At times, these two aspects of the constitution are in conflict, as when referenda propose policies in violation of human rights. In August 2018, in relation to a current referendum on “auto-determination” (which would ensure the supremacy of the Federal Constitution over international human rights law), the Human Rights Committee has proposed a control mechanism on referenda that would ensure that they do not conflict with international human rights law before being presented for popular vote.

State policy recognises the vital role that defenders play in promoting human rights and the rule of law. In 2013 the State introduced the “Swiss Guidelines for the Protection of Human Rights Defenders” which sets out guidelines through which the State can support, protect and defend human rights defenders. The Guidelines encourage Swiss representatives abroad to actively support human rights defenders in their host countries. The Guidelines identify good practices and methods of action that have been proven to improve protection for defenders.

Defenders have reported that the Guidelines have strengthened the State’s support of defenders and that the State has been receptive to an ongoing dialogue with defenders with a view to further elaborating the Guidelines. In 2016, the Committee on the Elimination of

Discrimination Against Women (CEDAW) noted that the Guidelines could be strengthened with respect to its discussion of women human rights defenders. The State has committed to raising greater awareness of the situation of women defenders in the implementation (and any revision) of the Guidelines.

The Commission fédérale pour les questions féminines and the Federal Commission Against Racism both pursue activities in relation to human rights, notably the equality of women and the prohibition of racism. These institutions have, in the past, been accredited as only partially ('C' status) complying with the Paris Principles. The State does not currently have a more national human rights institution with jurisdiction over human rights issues more generally. Defenders have encouraged the creation of a national human rights institution and concrete discussions occurred in 2017 proposing transforming the Swiss Centre of Expertise in Human Rights into a national human rights institution. Defenders have expressed concern that some of the proposals for this transformation will not result in a fully independent institution.

3. Implementation of the Declaration

The permissive legal and policy environment for defenders is mirrored by a generally safe and enabling environment for human rights defenders in practice.

Although defenders generally enjoy freedom of assembly, some defenders have faced undue restrictions on their exercise of this right and proposed new laws risk further restricting the exercise of this right in parts of the State. In 2014, the Islamic Central Council of Switzerland was prohibited from holding its annual meeting in Fribourg over concerns of potential rioting or extremism. This prohibition was subsequently overturned. In 2012, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, called attention to provisions in a proposed amendments to the law on assemblies in the Geneva Canton (modifying the Canton's Law on demonstrations on the public domain) which made it mandatory for organisers of protests to secure prior authorization and gave authorities the power to completely ban all protests in certain circumstances. The amendments were subsequently approved by popular referendum.

Restrictive rules on protests were in evidence during the recent visit of Chinese President Xi Jinping to the UN offices in Geneva, when a pro-Tibetan protest was disrupted by police, even though a pro-China protest was later allowed to proceed unimpeded.

Defenders enjoy freedom of associations, with no significant restrictions on establishing trade unions or civil society organisations and no requirement of the governmental registration of such organisations. The State collaborates with civil society organisations through the "Swiss Non-Governmental Organisation Platform for Human Rights", a structured network of 90 civil society organisations based in Switzerland, which includes various thematic working groups. In part because of hosting the United Nations in Geneva, the State is also home to a large number of international civil society organisations which operate without restriction.

Foreign (non-citizen) human rights defenders in Switzerland face particular challenges. Defenders at risk have faced lengthy asylum processes and refusal of protection by the State. Chilean human rights defender Flor Calfunao Paillalef, who has fought for the defense of the

Mapuche people in Chile, fled Chile in 1996 as the Mapuche were frequent targets of abuse such as arbitrary arrests, prolonged detentions, harassment and murder. She has been denied refugee status and ordered to leave the State in 2018. As a result of being home to the Human Rights Council, decisions about the protection of defenders at risk also have implications for the access by defender communities to the human rights institutions of the United Nations. Concerns have also been raised by defenders about the surveillance and monitoring of foreign human rights defenders in exile in Switzerland by foreign States and the lack of protection they face. In 2018, the State investigated two Turkish officials following the attempted abduction of a Turkish dissident who was living in Switzerland.

The State has been reviewed three times under the UPR process, most recently in 2017. No specific references or recommendations were made regarding human rights defenders. In 2012, the Special Rapporteur sent a communication to the State noting her concern about changes to the law on public demonstrations. No other communications have been sent in the period since the last Global Survey in 2006.

4. Issues and Trends

The Special Rapporteur is encouraged by the State's continued and proven commitment to ensuring a safe and enabling environment for human rights defenders in Switzerland and abroad, including as part of a commitment to a Swiss foreign policy supportive of human rights. He commends the State for its introduction of its Guidelines and encourages their ongoing review, especially with respect to their treatment of women human rights defenders.

The Special Rapporteur notes the often precarious situation of human rights defenders at risk in exile and encourages the State to review its asylum and protection policies in light of recent events. The State would also be encouraged to review good practices by other States on this subject which include special visa policies for defenders at risk and the support of defenders at risk through temporary international relocation initiatives (often in collaboration with civil society). Such measures would further strengthen the State as a global leader in the promotion and protection of human rights defenders.

United Kingdom (of Great Britain and Northern Ireland)

1. National Context and Human Rights Defenders

The United Kingdom of Great Britain and Northern Ireland comprises England, Scotland, Wales, Northern Ireland; the United Kingdom is also responsible for the foreign relations of various Crown Dependencies and Overseas Territories. The State was included in the 2006 Global Survey, however the State failed to respond to the Special Representative's request for information, meaning there was a lack of information to describe the defender community. The Global Survey noted that three communications had been sent since the beginning of the Special Representative's mandate, all of which concerned the situation of defenders in Northern Ireland.

The United Kingdom is home to a diverse and vibrant civil society, providing the global headquarters of a number of major international and regional human rights organisations. Defenders in the United Kingdom generally enjoy a safe and enabling environment in which

the rights articulated in the Declaration are generally respected. Freedom of expression is prevalent and defenders can generally criticise the policies and practices of the State without retribution. The rise of extremism and a public discourse, often encouraged by the State, that is hostile to human rights pose challenges, particularly from defenders opposing xenophobia and Islamophobia, and defending the rights of socially marginalised groups.

Surveillance laws have raised concerns amongst defenders, particularly in the context of broad anti-terror legislation and the recent scandal of large-scale police infiltration into political activist groups. Discussion of human rights and human rights defenders in popular media is often focused on defenders from other States and can perpetuate the idea that human rights (and the challenges faced by defenders) are solely a foreign issue. Other particularly vulnerable defenders in the UK include environmental defenders, Muslim defenders and abortion activists in Northern Ireland. There are great differences in the situation of human rights and defenders in the in the United Kingdom and in the Crown Dependencies and Overseas Territories; the State does not offer the same protection, resources or provisions for human rights and defenders in these locations outside the United Kingdom as it does to those within the United Kingdom.

The United Kingdom is a member of the Council of Europe, the Commonwealth of Nations, and the Organisation for Security and Cooperation in Europe. The State has been a member of the European Union since 1973 but has given legal notice to withdraw from membership no later than 29 March 2019 (a process known colloquially as “Brexit”).

2. Legal and Policy Framework

The United Kingdom is party to the majority of core international human rights treaties, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention for the Protection of All Persons from Enforced Disappearance. The United Kingdom is party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and it has signed but not ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence.

The United Kingdom does not have a written constitution, though many of its international human rights obligations have been incorporated into the domestic legal system through statutory provisions, specific legislation, and the application of common-law interpretative provisions. The Human Rights Act 1998 (HRA 1998) made the ECHR directly enforceable within the domestic legal system, though there has been repeated and serious discussion by high profile politicians and State officials about qualifying or withdrawing from the State’s obligations under the ECHR. The HRA 1998 provides protections for freedom of thought, freedom of expression, and freedom of assembly and association, among other provisions. The Equality Act 2010 requires equal treatment in access to employment as well as private and public services, regardless of a range of protected characteristics.

The State does not have a formal policy on human rights defenders, although the situation of human rights defenders has been addressed in a number of its human rights policies. Its initial National Action Plan (2013) on business and human rights was the first to include specific commitments to the protection of human rights defenders. The Foreign Office publishes an

annual Human Rights and Democracy report, though some defenders have criticised recent editions as “pulling its punches”.

The State maintains good relations with human rights organisations based in the United Kingdom active on the promotion and protection of human rights defenders. A number of relocation initiatives for human rights defenders at risk exist within the State, though the State’s visa and asylum policies pose significant challenges to their effective operation.

Separate national human rights institutions exist for Great Britain (England, Wales and Scotland), Scotland and Northern Ireland; all three institutions have been fully accredited (‘A’ status) as complying with the Paris Principles. The Scottish Human Rights Commission focuses on advancement of vulnerable groups rights and investigation into violations of the Declaration, but it does not include national human rights defenders in Scotland as part of its current (2016-2020) strategic, focusing only on international defenders. Neither the Northern Ireland Human Rights Commission nor the Equality and Human Rights Commission for Great Britain identify human rights defenders as an explicit focus of their work.

3. Implementation of the Declaration

Consistent with the noted permissive legal environment, human rights defenders are, in practice, generally able to enjoy the rights articulated in the Declaration. However, certain groups of defenders face increased risks and challenges, including defenders in Northern Ireland, land and environmental rights defenders, and defenders working outside of the metropolitan territory of the State (in the Crown Dependencies and Overseas Territories). Defenders from or working on issues concerning racial and religious minorities, including issues affecting the Muslim community in the State, face challenges from expansive anti-terrorism legislation, increased surveillance by the State, and xenophobia.

Freedom of expression is generally enjoyed by defenders in the United Kingdom. There is lively and diverse discussion on a range of human rights issues in mainstream and independent press online and in print, and with journalists free to criticise the State. While some protections exist for whistleblowers, particularly those revealing criminal acts, many defenders who reveal human rights violations committed by their employers can face threats of civil action and prosecution (for State officials, under national security legislation) and professional ostracism. In 2018, the Director of CAGE advocacy group, Muhammed Rabbani, was convicted under Schedule 7 of the Terrorism Act 2000 for refusing to give airport security the password to his laptop and phone which contained information about the work conducted by his organisation (including allegations of human rights violations against the State).

Proposed surveillance laws would authorize surveillance, including mass surveillance, and data retention without adequate independent oversight and transparency; should be in compliance with international human rights law and standards and due consideration should be given to its effect on the legitimate activities of defenders, including journalists. Defenders have expressed concern about recent discussions of the introduction of an ‘anti-advocacy clause’ into funding agreements with the that would prevent charities and others receiving public money from lobbying Government and Parliament.

Freedom of assembly is protected by law and large and peaceful protests are regularly permitted, including demonstrations against State policy. The police practice of “kittling” protesters (the use of the large cordons of police officers to contain protesters, and bystanders, within a limited area) has proved controversial, though its use has been upheld by regional human rights bodies. Defenders have expressed concern that the practice of monitoring and logging protesters’ identities and conduct stigmatises them and chills the exercise of peaceful assembly and related free expression rights.

There have been high profile incidents of the use of excessive force by the police at demonstrations, though policing is usually appropriate. Defenders have voiced concerns about a trend towards the excessively aggressive policing of protests by land and environmental rights defenders and excessive sentences issued to defenders who are found to be in violation of the law. In September 2018, three environmental defenders engaged in a peaceful protest against fracking were sentenced to more than a year of imprisonment after they blocked a convoy of trucks carrying drilling equipment. Their sentences of imprisonment allegedly marked the first time environmental defenders had received jail sentences in the United Kingdom for staging protests since 1932.

Freedom of association is enjoyed by defenders with the process of formally establishing human rights organisations being fast, relatively simple and without political interference. While human rights organisations operate freely, increasing cuts to State support has left many organisations struggling to survive. A growing number of regulatory regimes impact on the ability of defenders to raise and use financial resources, including expansive money laundering rules and increasingly restrictive charity tax laws.

Surveillance of human rights organisations and defenders is also being increased under anti-terror laws, despite heavy criticism from civil society. It recently emerged that since the 1960s, police have infiltrated and spied on over a thousand political activists and their associations, including engaging in sexual relationships with women human rights defenders in order to accomplish their goals.

The Special Rapporteur on the rights to freedom of peaceful assembly and of association expressed concern at a planned counter-extremism bill which would authorise the issuance of civil orders to ban “non-violent extremist groups”, allowing for groups to be banned on stereotypical assumption based on general characteristics such as religion and the predominant race of the membership of the group.

State policies often deliberately aim to create a “hostile environment” for individuals and groups violating anti-terror and immigration laws with both direct consequences for defenders working on or seen as belonging to communities associated with these issues and indirect consequences for all defenders. These policies include the ‘Prevent’ policy which aims to counter ‘non-violent’ extremism and a range of recent policies aimed at deterring irregular migration.

These policies can result in crude racial, ideological, cultural and religious profiling, with differential effects on Muslim and racial minority defenders and can have the perverse effect of reinforcing the behaviour sought to be prevented as noted by the Committee on the

Elimination of Racial Discrimination. Terrorism charges have been brought against fifteen human rights defenders who used peaceful protest to ground a flight which was scheduled to deport failed asylum seekers. Environmental defenders have been also targeted under these policies due to perceived “extremism”. In 2018, counter-terrorism police officers were involved in the case of a fourteen-year-old boy who expressed apparently “extreme” concern about fracking.

The work of human rights defenders working outside of the United Kingdom in the Crown Dependencies and Overseas Territories is seldom publically acknowledged or recognised in State policy, often indirectly allowing the perpetuation of the human rights violations on which the defenders are working. For example, defenders from the British Indian Ocean Territory of Chagos have petitioned, protested and successfully sued the State for forcibly deporting them from their homes in the 1960s as a result of the creation of a large American military base. Members of the so-called “Windrush generation” of migrants from the State’s colonial territories in the Caribbean face threats of deportation and excessive requirements for documentation from the State in order to enjoy their recognised rights of residency in the State; many members of the Windrush generation continue to be forced to defend their rights from enforced exile.

In Northern Ireland, defenders working on reproductive rights, particularly women human rights defenders, face stigmatisation, threats and intimidation due to their campaign for the repeal of the complete ban on abortions in Northern Ireland. Defenders who aid pregnant women seek abortions either through taking abortion pills or travelling to England face legal repercussions.

The State has been reviewed three times under the Universal Periodic Review process, most recently in 2017. The State’s noted anti-terror and migration policies were discussed during these reviews, though the State defended them as consistent with its international obligations. The Special Rapporteur has sent communications to the State since the Global Survey of 2006 concerning the situation of defenders of people on the move, environmental and land rights defenders and some of the legislative developments noted above. In many cases, the concerns raised questions of the State’s accountability for human rights violations committed abroad, including subsequent to deportation or by subsidiaries of British corporations.

4. Issues and Trends

The Special Rapporteur recognises the United Kingdom’s long-term and significant commitment to human rights and the rights of human rights defenders, including in international fora and within other States. He also commends the State for its robust laws and policies protecting freedom of expression, assembly and association which are respected for most in practice. However, the Special Rapporteur is concerned that policing practices, anti-terror laws and a cluster of ‘hostile environment’ policies have a chilling effect on the work of human rights defenders and have been used to restrict the activities of human rights defenders.

The Special Rapporteur is particularly concerned about the situation of land and environmental human rights defenders, defenders of people on the move, minority religious

groups (including Muslim) defender, and defenders of reproductive rights in Northern Ireland. Notwithstanding the generally safe and enabling environment for defenders within the State, the Special Rapporteur encourages the State to address, discuss with defenders, and seek to mitigate the challenges faced by these groups of defenders.

A commitment to the rights articulated in the Declaration and the important work of human rights defenders should be a commitment to these rights and work in all locations and on all issues, in all parts of the metropolitan and overseas territory of the State as well as overseas in other States. The Special Rapporteur encourages the State to continue integrating the protection of human rights defenders into its human rights policies and would suggest that the State should consider, in consultation with human rights defenders and its national human rights institutions, the introduction of a national policy on human rights defenders.