

Chapter 11. Building Capacity to Be Effective Human Rights Advocates



When diaspora community members decide to take action to shape human rights conditions in their country of origin, they must also think about what they will need in order to be most effective. In a 2012 survey of diaspora community members from many different countries, The Advocates found that many felt that they would be more effective in their human rights work if they could access process-oriented training and capacity-building support. For example, many identified the need for resources on keeping their work secure and the basics of creating and operating a nonprofit organization. Others requested information about seeking assistance to address emergency situations affecting relatives and colleagues in their country of origin. This chapter is designed to address some of the questions that human rights activists in diaspora communities often ask about structural kinds of issues.

A. Obtaining Nonprofit Status

“Nonprofit organization” is a broad term that refers to organizations that are formed for the purpose of fulfilling a mission to improve the common good of society rather than to make profits for private gain. Nonprofit organizations are also referred to as charities, charitable organizations, civil associations, civil society organizations (CSOs), non-governmental organizations (NGOs), not-for-profit organizations, and private voluntary organizations (PVOs).

What is an NGO?

The United Nations defines an NGO as “a not-for-profit group, principally independent from government, which is organized on a local, national, or international level to address issues in support of the public good. Task-oriented and made up of people with a common interest, NGOs perform a variety of services and humanitarian functions, bring public concerns to governments, monitor policy and program implementation, and encourage participation of civil society stakeholders at the community level. Some are organized around specific issues, such as human rights.”¹⁰⁰⁹

The benefits of legal nonprofit status for organizations generally include tax-exempt status and the ability to apply for public and private grants. A nonprofit organization exists as a legal entity in its own right. Under the law in some countries, this formal structure limits the nonprofit organization’s liability for debt, providing protection to the individuals involved with the nonprofit. In the United States and some other countries, donations to nonprofits are tax-deductible. Nonprofit organizations are created and regulated by the laws of the country in which they are located; the process of applying for nonprofit status is, therefore, different in every country.

i. Considerations Before Starting a New Nonprofit

Before starting a nonprofit, however, it is important to understand that organizations with nonprofit status have substantial reporting and record-keeping obligations that may require significant time and financial resources. A nonprofit also needs a board of directors (or trustees), funding to operate, and volunteers and employees to carry out its activities. Human rights activists interested in setting up a nonprofit should carefully consider whether there are other options that will allow them to accomplish their goals with less paperwork.

Alternatives to Starting a Nonprofit

The Minnesota Council of Nonprofits has identified five alternatives to creating a new organization:¹⁰¹⁰

1. **Join an existing effort** as a volunteer, board member, or staff.
2. **Create a special program at an existing nonprofit.**
3. **Start a local chapter of a national or regional organization.**
4. **Maintain an unincorporated association.** Unincorporated associations can operate just like a nonprofit, but donations are not tax-deductible, and board members/founders may be liable in the event the association is sued.
5. **Find a fiscal sponsor for your organization.** A fiscal sponsor or agent is another nonprofit that fits with your mission, working style, and location and serves as an umbrella, usually for a fee.

ii. Applying for Nonprofit Status

Applying for nonprofit status is a complicated and time-consuming process that usually requires a lot of paperwork. A critical first step in establishing a new NGO is researching: (1) the legal framework that governs the registration process through which a nonprofit can become a legal person; (2) the circumstances under which the organization or donors may be entitled to tax benefits; and (3) the requirements for maintaining nonprofit legal status. Some relevant questions include:

- What types of organizations can be legally registered as NGOs, and how are NGOs classified (e.g., as foundations, associations, societies)?

¹⁰⁰⁹ United Nations Rule of Law, “Non-governmental organizations,” accessed Jan. 7, 2014, http://www.unrol.org/article.aspx?article_id=23.

¹⁰¹⁰ Minnesota Council of Nonprofits, “Alternatives to Starting a Non-Profit,” accessed Jan. 7, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/public-policy-advocacy/federal-law-and-nonprofit-lobbying>.

- What tax exemptions apply to NGOs? Some tax laws exempt from taxation income earned by NGOs, while others allow individuals who make charitable donations to certain organizations to deduct those contributions from their taxes, while other countries may exempt contributions of inheritances.
- What are the rules that apply to NGO registration? What forms are required for registration? Is the organization required to submit copies of its governing legal documents?
- Are there legal preconditions to registration? For example, is the organization required to obtain insurance, or to ensure that its board of directors is liable for the organization's acts?
- What requirements must the NGO fulfill to continue to function legally? Is the NGO required to have a governing body with clearly established responsibilities and the power to voluntarily terminate the NGO? Is the NGO required to submit reports to the supervising agency?
- Must the NGO reregister or does it have perpetual existence? Ideally, registration should ensure the perpetual existence of the NGO conditioned on compliance with certain legal requirements, since mandatory periodic registration can undermine the financial stability and efficiency of the organization.
- Can the government terminate the NGO, and under what conditions? The law may provide that involuntary termination of the NGO be decided a court or by the governmental agency in cases of flagrant violation of the laws.¹⁰¹¹

Regardless of the country, establishing a new nonprofit organization will (at a minimum) require registration with the government and annual financial and other reporting. In the United States, a nonprofit must satisfy both state and federal requirements in order to become a legal nonprofit organization. According to the National Council of Nonprofits, the basic steps to starting a nonprofit organization include:

Step 1. Incorporating at the state level (completing the state forms required to create a nonprofit corporation).

Step 2. Securing tax exempt status from the federal government (applying for tax-exempt status with the Internal Revenue Service).

Step 3. Filing for tax-exempt recognition at the state and local levels.¹⁰¹²

In the United States, because nonprofits are incorporated and governed by laws at the state level, it is important to be aware that there are different regulations, laws, guidelines, and even non-legal administrative practices in each state. U.S.-based activists should consider seeking help from an attorney or accountant in their state who has experience working with nonprofits. Some law schools provide free legal assistance to organizations seeking to incorporate as non-profits. Another good resource is the state association of nonprofits. Many state associations offer educational workshops, sample forms and templates, and other forms of assistance with starting a nonprofit organization.

While every state is slightly different, the process in the State of Minnesota can provide an example of some of the things that typically have to be done to start a nonprofit. Before incorporating at the state level, founders of a new nonprofit should:

- Draft a **mission statement** that briefly describes the purpose and goals of the organization;
- Reserve a **unique name** through the Secretary of State's office in the state where they are located. Organizations may not use a name that has been reserved or registered by another nonprofit; and
- Recruit individuals to serve as volunteers on the **board of directors.**¹⁰¹³

¹⁰¹¹ Stop Violence Against Women, "Registering as a NGO," accessed Jan. 16, 2014, http://www.stopvaw.org/Registering_as_a_ngo.

¹⁰¹² National Council of Nonprofits, "How to Start a Nonprofit," accessed Dec. 1, 2013, <http://www.councilofnonprofits.org/knowledge-center/how-start-nonprofit/step-2-key-questions-ask-getting-started>.

The founders also need to draft the organization's **Articles of Incorporation**. The Articles of Incorporation are the underlying legal document that formally names the organization, along with its location and purpose. The organization must write the Articles of Incorporation and file them with the Secretary of State's Office in the state where the organization is located before applying to the Internal Revenue Service for tax-exempt status.¹⁰¹⁴

In addition, founders of a nonprofit need to draft **Corporate Bylaws**. The bylaws are the rules of the organization. They generally include detailed information about membership, board of directors, fiscal management, etc. The board of directors should vote on and approve the bylaws at its **first meeting**, which marks the official start of the organization. The organization must submit its bylaws to the Internal Revenue Service when filing for tax-exempt status. The organization should also include information about its **business plan and budget** in this IRS filing.¹⁰¹⁵

Nonprofit organizations in the United States need to have a **Federal ID Number (EIN)**. The nonprofit should apply for an EIN after it is incorporated and before applying for tax-exempt status. There are several filing requirements to **obtain income tax exemption** from the IRS: the Application for Recognition of Exemption (IRS Form 1023); the User Fee for Exempt Organizations Determination Letter Request (IRS Form 8718); and the filing fee. If approved, the IRS determination letter is proof of the nonprofit's tax exempt status.¹⁰¹⁶

After the organization obtains federal tax-exempt status, it needs to apply for state **sales tax exemption** and a state **tax identification number**. Finally, the nonprofit must **register as a charity** with the state Attorney General's office. In Minnesota, a nonprofit must file a Charitable Organization Registration Statement with a copy of the Articles of Incorporation, IRS determination letter, most recent financial statement, and filing fee.¹⁰¹⁷

Once the nonprofit has completed all these steps and has been legally created, it must meet **annual filing requirements** that document fundraising and expenditures. The nonprofit is responsible each year for filing IRS Form 990 Return of Organizations Exempt from Income Tax with the federal government, as well as a report form and annual registration with the state.

Resources

National Council of Nonprofits—How to Start a Nonprofit

<http://www.councilofnonprofits.org/resources/how-start-nonprofit>

Find your State Associations of Nonprofits

<http://www.councilofnonprofits.org/find-your-state-association>

Minnesota Council of Nonprofits

<http://www.minnesotanonprofits.org>

Internal Revenue Service Website

www.irs.gov

IRS Publication 557, Tax-Exempt Status For Your Organization: a reference guide for filing requirements, employment issues, lobbying expenditures, etc.

¹⁰¹³ Minnesota Council of Nonprofits, "Steps to Forming a Nonprofit: Visionary Stage," accessed Dec. 3, 2013, <http://www.minnesotanonprofits.org/nonprofit-resources/start-a-nonprofit/steps/visionary>.

¹⁰¹⁴ Minnesota Council of Nonprofits, "Steps to Forming a Nonprofit: Planning Stage," accessed Jan. 16, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/steps/planning>.

¹⁰¹⁵ *Ibid.*

¹⁰¹⁶ Minnesota Council of Nonprofits, "Steps to Forming a Nonprofit: Federal Filing," accessed Jan. 7, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/start-a-nonprofit/steps/fedfiling>.

¹⁰¹⁷ Minnesota Council of Nonprofits, "Steps to Forming a Nonprofit: Minnesota Filing," accessed Jan. 16, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/start-a-nonprofit/steps/mnfiling>.

<http://www.irs.gov/uac/Publication-557,-Tax-Exempt-Status-for-Your-Organization-1>

The International Center For Not-For Profit Law: database of specific countries' legal requirements and regulations relating to NGOs

<http://www.icnl.org/research/library/ol/online/search/en>

European Center for Not for Profit Law

www.ecnl.org

Charity Commission for England and Wales

<http://www.charitycommission.gov.uk/>

Canada Revenue Agency: Charities and Giving

<http://www.cra-arc.gc.ca/chrts-gvng/menu-eng.html>

National Centers for Charitable Statistics: searchable list of frequently asked questions regarding nonprofit formation

<http://nccsdataweb.urban.org/PubApps/nonprofitfaq.php>

B. Developing Organizational Procedures and Policies

i. Conflicts of Interest

Internal procedures can usefully anticipate how the organization will deal with conflicts of interest. Conflicts of interest describe situations in which an individual who has responsibilities toward the organization (a director, board member, or staff) also has a personal financial interest in an activity of the organization. Conflicts of interest can create problems because a person's decisions may favor his or her individual interests and not the interests of the organization. Even if interests coincide, conflicts of interest can destroy public and donor confidence in the organization.¹⁰¹⁸

The organization can take certain steps early in its existence to avoid and minimize potential conflicts of interest. First, the organization should develop a conflicts of interest policy that is consistent with local law. A conflicts policy should require directors and board members to disclose potential conflicts of interest (e.g., business ventures in which the individual or his or her family participates that are currently doing or may do business with the NGO) in advance of service to the organization. Such a policy might also require directors and board members to refrain from participating in any decision in which they hold a financial interest.¹⁰¹⁹

ii. Financial Management¹⁰²⁰

A new organization also requires **accounting and auditing** procedures and policies. Not only might such procedures be required by law, but good financial practices help enhance an organization's legitimacy and ensure the transparency of the organization. Transparency is a critical part of increasing the public's understanding of the role of NGOs and their work which, in turn, is vital to the development of a local donor base.

Accounting, simply stated, involves tracking increases and decreases in money, and an accounting system is a set of rules that the organization's staff follows to track these changes. The goal of an accounting system is to ensure that each financial transaction is properly documented.

¹⁰¹⁸ Stop Violence Against Women, "Conflicts of Interest," accessed Jan. 7, 2014, http://www.stopvaw.org/conflicts_of_interest.html.

¹⁰¹⁹ Ibid.

¹⁰²⁰ Stop Violence Against Women, "Financial Management," accessed Jan. 7, 2014, http://www.stopvaw.org/financial_management.html.

Auditing is a process of testing the accuracy and completeness of an organization's financial statements. An audit is not done to ensure that an organization's transactions are *always* recorded correctly.

Laws in a particular jurisdiction may require every organization, or only certain organizations, to conduct audits. For example, an audit may be required if the organization receives more than a certain amount in financial contributions. An audit may be useful to the board in evaluating its oversight of the organization's financial transactions, or to the executive director in evaluating the NGO's financial situation. An audit may provide transparency and may reassure the public that a previous problem has been resolved. Audited financial statements may also provide additional credibility with donors.¹⁰²¹

A **budget** is a financial planning tool. A budget can help the organization sustain itself financially, prevent expenditure excess, and plan for future projects or expansion.

Although there are many types of budgets, a good budget should generally help the management of the organization reach financial objectives, give it a detailed picture of how money moves in and out of the organization, allow it to compare expenses and income, help it to forecast income and expenses, and provide it with a way to monitor the organization's progress toward its goals and to make changes as needed. In designing a budget, it may be useful—for both planning as well as tax purposes—to distinguish between long- and short-term operating expenses. With this approach, the overall budget may include one operating budget for equipment purchases and another operating budget for wages and supplies.

Additional Resources

The Nonprofit Management Center provides a useful overview of financial management, as well as a more in-depth discussion of all aspects of non-profit financial management.

<http://www.mapnp.org/>

Worldwide Initiatives for Grantmaker Support provides helpful resources for advocates on a variety of topics. Its Codes & Standards section offers particularly useful sample best practices and draft codes of ethics and financial accountability.

<http://www.wingsweb.org/>

The Alliance for Nonprofit Management provides an overview of budget preparation.

<http://www.allianceonline.org/>

Converting the Enemy: Budgeting During Planning, by Juliana Grenzeback, offers a humorous and succinct description of ways to make budgeting a part of the organization's planning process.

http://www.uic.edu/cuppa/gci/programs/profed/online/fin/Week%203/converting_the_enemy.pdf

IKnow.org includes useful tools for managing financial uncertainty.

<http://www.iknow.org>

iii. Fundraising

Nonprofits must comply with all federal, state, and local laws concerning fundraising practices, but organizations also have an ethical obligation to develop clear policies related to every aspect of their fundraising activities, including solicitation, acceptance, recording, reporting, and use of funds. Nonprofits must use funds consistent with donor intent and comply with specific conditions placed upon donations. Nonprofits should (and, in some situations, must) send a written acknowledgement of a donation to the contributor.

¹⁰²¹ Ibid.

The Minnesota Council of Nonprofits has listed the following principles and policies among the best practices for nonprofit fundraising:

- Fundraising communications should include clear, accurate, and honest information about the organization, its activities, and the intended use of funds;
- Nonprofits must not share, trade, or sell contact information for any donor without prior permission from the donor;
- Nonprofits should regularly communicate with contributors regarding their activities and should make such information available through public and private media (including web sites, emails, newsletters, press releases to major and community media outlets, and free or paid advertising);
- A nonprofit's board of directors has overall responsibility for raising sufficient funds to meet budgeted objectives;
- Nonprofits should adopt clear policies regarding the acceptance of personal gifts from any constituent to staff members, board members, and volunteers;
- Nonprofits have an obligation to decline funds or in-kind donations that would bring about adverse consequences for the organization or its constituents or that were given for purposes outside the scope of its mission;
- Nonprofits should apply a high percentage of each dollar raised to programs and services in accordance with practices of comparable organizations, applicable laws, and representations made to contributors and the public;
- Nonprofits should not offer compensation for fundraising personnel and contractors based on a percentage of funds raised or other commission-based formulas; and
- Nonprofits should closely monitor any individual or organization that solicits funds on its behalf to ensure adherence to donor intent as well as accountable fundraising practices.¹⁰²²

Resources

The Foundation Center's Foundation Directory Online provides access to foundations, grants and donors.
<http://fconline.foundationcenter.org/>

The Minnesota Council of Nonprofits' Funding Resources helps organizations prepare for fundraising and learn about funding sources in Minnesota.
<http://www.minnesotanonprofits.org/nonprofit-resources/fundraising>

The Minnesota Council on Foundations helps grant seekers look for grant opportunities and offers resources for writing grant proposals.
<http://www.mcf.org/>

Nonprofit Tech for Good is a social media resource for nonprofit professionals.
<http://www.nptechforgood.com/about-2/>

Asanti Africa Foundation offers some examples of creative fundraising ideas.
<http://youthinaction.asanteafrica.org/download-your-own-getting-started-kit/?gclid=CNzzxuzfqLoCFIN7cAod42sATg>

¹⁰²² Minnesota Council of Nonprofits, "Principles and Practices for Nonprofit Excellence: Fundraising," accessed Jan. 7, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/principles-and-practices/fundraising>.

Crowdfunding

Crowdfunding is the practice of raising funds for a project or event by soliciting small financial contributions from a large number of individuals. Crowdfunding typically uses internet-based platforms, some of which are limited to fundraising for particular types of causes. Successful crowdfunding campaigns aggressively use social media to attract supporters.

Crowdfunding websites:

Kickstarter.com: for artists, musicians, nonprofits, entrepreneurs and more

Indiegogo.com: for international projects

Globalgiving.com: for international projects

Rally.org: for nonprofits, artists, musicians, entrepreneurs and more

Razoo.org: for nonprofits in the United States

Note: The universe of crowdfunding websites is evolving; advocates should conduct a thorough examination of the available platforms before committing to a particular provider.

iv. Evaluation

Every nonprofit organization has an obligation to assess the impact of its activities, to use that information to improve, and to share the information with donors and the public. Nonprofits should define a clear set of goals and objectives that they can use to regularly measure their performance.

Best Practices

The Minnesota Council of Nonprofits identifies the following best practices for nonprofit evaluation.

Responsiveness

- Nonprofits should commit to effective and efficient delivery of services and should always strive to improve processes, programs, and results.
- Nonprofits should have a regular system for investigating ways to improve their services, programs, and internal processes in order to best serve their constituents.
- Nonprofit programs should take into account and respond to the experience, needs, and satisfaction of the constituents they serve.
- Nonprofits should conduct program evaluations in ways that are culturally sensitive and appropriate for the community served.

Measurement

- An organization's measurement systems should be practical and useful to improve ongoing processes, activities, and results.
- An organization's measurement systems should be used to evaluate organizational effectiveness and inform its operational plan.
- Performance measures should be realistic and appropriate to the size and scope of the organization and its constituents.
- Measurement should include information on satisfaction, activities, results, and community input.
- Performance measures should be specific and based on evidence gathered before, during, and after program development and implementation.
- Measurements may include both qualitative and quantitative data.

- Measurements should include data on efficiency and effectiveness.
- Nonprofit organizations should contract with other organizations or consultants to serve as external evaluators when appropriate and feasible.

End Uses

- Evaluation information collected from individuals must be kept confidential unless they give consent for its release.
- Nonprofit evaluation should be ongoing and should include input from a wide variety of constituents, service recipients, and volunteers.
- Nonprofits should be open to hearing from and having comprehensive discussions with members of the public who may question the organization's effectiveness.
- Nonprofits should use evaluation results to improve programs and activities and incorporate the results into future planning.
- Nonprofits should communicate evaluation results to a broad range of constituents.¹⁰²³

v. Complying with the Law

In addition to complying with rules related to nonprofit registration and reporting, nonprofits around the world must comply with the laws of the country in which they are carrying out their work. As stated in Human Rights Monitoring Principle 6 (Chapter 3, Part A), advocates conducting human rights work as part of their nonprofit activities should observe the local civil and criminal laws wherever they are working. Diaspora groups that want to improve human rights in their country of origin need to be aware of laws in that country that may apply to their work, as well as the work of any partners on the ground. Some countries restrict or prohibit outside groups from doing human rights work inside the country. Other countries prohibit local groups from receiving support from foreign organizations or engaging in certain types of activities.

Ethiopia and Russia Impose Legal Restrictions on International Human Rights Collaboration

The Ethiopian Government's 2009 Charities and Societies Proclamation prohibited "foreign" NGOs from working on certain human rights issues in Ethiopia. The definition of "foreign" includes Ethiopian NGOs that receive more than 10% of their funding from outside of Ethiopia. Financial contributions from Ethiopians living outside of Ethiopia are considered "foreign" funding sources. Violators of the law can face administrative sanctions and criminal punishment.¹⁰²⁴

A law in the Russian Federation requires NGOs that receive foreign funding and engage in "political activities" to register as "foreign agents." Another law bans funding from the United States that supports "political" NGO activity. This law also bans NGOs that engage in work that is "directed against Russia's interests."¹⁰²⁵ The Russian Government also expanded its definition of treason to potentially criminalize participation in international human rights advocacy.¹⁰²⁶

¹⁰²³ Minnesota Council of Nonprofits, "Principles and Practices for Nonprofit Excellence: Evaluation," accessed Jan. 7, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/principles-and-practices/evaluation>.

¹⁰²⁴ Center for International Human Rights, Northwestern University School of Law, *Sounding the Horn: Ethiopia's Civil Society Law Threatens Human Rights Defenders*, (Nov. 2009) (Prohibited human rights issues included women's rights, children's rights, disability rights, citizenship rights, conflict resolution, and democratic governance). Also available online at <https://www.law.northwestern.edu/legalclinic/humanrights/documents/EthiopiaCSOPaper-Nov2009.pdf>.

¹⁰²⁵ Human Rights Watch, *Laws of Attrition: Crackdown on Russia's Civil Society After Putin's Return to the Presidency*, (Apr. 2013), 1. Also available online at http://www.hrw.org/sites/default/files/reports/russia0413_ForUpload_0.pdf.

¹⁰²⁶ Syracuse College of Law Impunity Watch, "Legislation Expanding Treason Definition in Russia Could Criminalize Foreign-funded Organizations," accessed Jan. 7, 2014, <http://www.impunitywatch.com/legislation-expanding-treason-definition-in-russia-could-criminalize-foreign-funded-organizations/>.

Diaspora nonprofits should also be aware of potential legal constraints in the country of diaspora. In addition to normal civil and criminal laws, advocates need to be aware that there may be specific laws pertaining to support for certain categories of issues and organizations in other countries. For example, in the United States it is illegal for any person or organization to provide “material support” for a terrorist act or organization.¹⁰²⁷ The breadth of the material support law can pose particular challenges for nonprofits supporting work in other countries, as many otherwise permissible and potentially commonplace activities are considered “material support” and are punishable.¹⁰²⁸ Further, the U.S. Secretary of State has discretion to designate “foreign terrorist organizations” (FTOs) under § 219 of the Immigration and Nationality Act.¹⁰²⁹ Anyone who provides material support with the *knowledge* that the organization is a designated FTO or “has engaged or engages in terrorist activity . . . or . . . terrorism” may be found guilty of providing material support.¹⁰³⁰ Even if a nonprofit is seeking to provide support for only the lawful, nonviolent, and political purposes of an FTO through “monetary contributions, other tangible aid, legal training, and political advocacy,” it can still violate the material support law.¹⁰³¹

C. NGO Consultative Status at International and Regional Human Rights Mechanisms

The United Nations and some of the regional human rights systems¹⁰³² have processes for NGOs to formally engage with their human rights mechanisms. Many NGOs, including diaspora community NGOs, have been very effective in using their consultative and/or observer status to raise issues of concern at the United Nations and other human rights mechanisms.

i. UN ECOSOC Consultative Status

Article 71 of the UN Charter authorizes the Economic and Social Council (ECOSOC) to make arrangements for NGOs to play a consultative role at the United Nations.¹⁰³³ This consultative relationship is governed today by ECOSOC resolution 1996/31, which outlines the eligibility requirements, procedures, rights, and obligations of NGOs in consultative status. ECOSOC is the main entry point into the UN system for NGOs. ECOSOC is also the principal body that coordinates the economic, social, and related work (including human rights) of the United Nations’ specialized agencies, functional commissions, and regional commissions.

¹⁰²⁷ 18 U.S.C. § 2339A (Providing material support includes where the person or organization *knows or intends* “that they are to be used in preparation for, or in carrying out” any terrorist act. Providing material support to terrorists. Concealing or disguising “the nature, location, source, or ownership of material support or resources” is also punishable under § 2339A(a).).

¹⁰²⁸ *Ibid.* § 2339A(b)(1) (2009). The definition of “material support or resources” includes “any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials.” A prior version of § 2339A was held unconstitutional by *Humanitarian Law Project v. Mukasey*, 509 F.3d 1122, which held that the terms “training” and “service” were impermissibly vague. This decision led to *Holder v. Humanitarian Law Project*, 561 U.S. __ (2010), 130 S.Ct. 2705, which is the most current authoritative ruling on the issue of material support).

¹⁰²⁹ 8 U.S.C. § 1189(a)(1) (2004); U.S. Department of State, “Foreign Terrorist Organizations,” (Sept. 28, 2012), <http://www.state.gov/j/ct/rls/other/des/123085.htm>. The FTO designation is subject to judicial review.

¹⁰³⁰ 18 U.S.C. § 2339B (providing material support to a foreign terrorist organization); *ibid.* § 2339C (similarly prohibits “unlawfully and willfully provid[ing] or collect[ing] funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out” unlawful acts).

¹⁰³¹ *Humanitarian Law Project*, 130 S.Ct. at 2712–43. (The specific violations in this case included training members of an FTO on “how to use humanitarian law to peacefully resolve disputes,” participating in political advocacy for such organizations, and teaching members “how to petition various representative bodies such as the United Nations for relief.”)

¹⁰³² Inter-American Commission on Human Rights, Rules of Procedure of the Inter-American Commission on Human Rights, 2013. Available online at <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>. The Rules of Procedure do not provide a process by which NGOs can apply for observer status. The IACHR has discussed this question in a few sessions—1st, 2nd, and 17th sessions—but currently there isn’t an Inter-American norm that regulates NGO participation in ICHR sessions. ICHR “Report about the work developed during 7th session period,” October 7–25, OEA/Ser.L/V/II.8 Doc. 35 (Spanish). Washington D. C, February, 1964. Available online at <http://www.wcl.american.edu/pub/humright/digest/inter-american/espanol/sesiones/7ses.html>.

¹⁰³³ UN Charter, (24 Oct. 1945), UN Doc. 1 UNTS XVI, Chapter X, Art. 71. Available online at <http://www.un.org/en/documents/charter/chapter10.shtml>.

ECOSOC has established three categories of NGO consultative status: general consultative status, special consultative status, and roster status. Large international NGOs that work on the majority of the ECOSOC agenda items around the world typically have general consultative status. Many human rights NGOs have special consultative status, which is granted to NGOs that have special competence in and work primarily in a few of the fields of activity covered by ECOSOC. NGOs that have a more narrow or technical focus and do not fit in either of the other categories can hold roster status.¹⁰³⁴

Today, approximately 4,000 NGOs have ECOSOC consultative status. Consultative status provides several important benefits to NGOs that are interested in accessing UN human rights mechanisms. An NGO with consultative status can:

- Attend UN conferences, sessions, meetings, and events;
- Make written and oral statements at these events;
- Organize side events at the United Nations;
- Obtain grounds passes to enter UN premises; and
- Network with other NGO representatives and lobby official government delegations.¹⁰³⁵

To be eligible for consultative status, an NGO must have been officially registered with the appropriate government authorities as an NGO or nonprofit for at least two years. It must also have “an established headquarters, a democratically adopted constitution, authority to speak for its members, a representative structure, appropriate mechanisms of accountability, and democratic and transparent decision-making processes. The basic resources of the organization must be derived in the main part from contributions of the national affiliates or other components or from individual members.”¹⁰³⁶ The NGO must also be able to show that its activities are relevant to the work of ECOSOC.

NGOs should apply by June 1 for consideration in the following year. The United Nations uses an online application process that includes the following steps:

Profile registration: The NGO registers itself in the UN civil society database. Once the NGO completes the registration process, a UN DESA officer reviews the profile and responds in few days with an email that the registration has been accepted.

Online application: The online application, which must be submitted in English or French, includes a questionnaire and summary. In addition, the NGO will have to submit supporting documents including copies of the constitution or charter, statutes or by-laws, the certificate of registration with the appropriate government authorities, the most recent financial statement and annual report, and examples of publications, articles, statements, or other written work.

NGO Branch screening: The UN NGO Branch begins reviewing applications after the first of June. The NGO Branch may contact an applicant for additional information or clarifications. After an officer has reviewed the application, it is submitted to the Committee on Non-Governmental Organizations. When the application is placed on the agenda of the NGO Committee, a letter is sent to the NGO informing it and

UN NGO Branch Website

NGOs can apply for consultative status on the UN NGO Branch website.¹⁰³⁷ Information on how to apply for consultative status is available in Arabic, English, French, and Spanish: <http://csonet.org/?menu=83>

¹⁰³⁴ UN NGO Branch, “Introduction to ECOSOC Consultative Status,” accessed Jan. 7, 2014, <http://csonet.org/?menu=30>.

¹⁰³⁵ United Nations, “Working With ECOSOC: An NGO’s Guide to Consultative Status,” (New York: UN, Sept. 2011), 7. Available online at <http://csonet.org/content/documents/Brochure.pdf>.

¹⁰³⁶ UN NGO Branch, “Introduction to ECOSOC Consultative Status,” *supra* note 1034.

¹⁰³⁷ UN NGO Branch, “How To Apply for Consultative Status,” accessed Jan. 7, 2014, <http://csonet.org/?menu=83>.

inviting up to two representatives of the NGO to be present for the consideration of the application should the organization so choose.

Review by the NGO Committee: The NGO Committee meets twice a year to decide which NGOs applying for consultative status it will recommend to the ECOSOC Council. The committee may direct additional questions to the NGO under consideration. The committee may also decide to defer an application review to the next session to give the NGO time to provide information and clarifications. At these meetings, the committee also considers quadrennial reports submitted by NGOs in General and Special consultative status.

NGO Committee recommendations: The NGO Committee publishes its recommendations in a report and submits them to the next ECOSOC meeting for final approval. The committee sends official notification of its recommendation to all NGOs with applications under review.¹⁰³⁸

After an NGO receives ECOSOC consultative status, it is obligated to report to the United Nations about its activities every four years. NGOs submit these quadrennial reports online through the NGO Branch website at <http://csonet.org/?menu=85>.

ii. Observer Status in the African Regional Human Rights System

Similar to the UN system, the African regional human rights system provides opportunities for NGOs to engage through observer status with the African Commission on Human and Peoples' Rights, as well as with the African Committee of Experts on the Rights and Welfare of the Child (ACERWC).

NGO observer status with the African Commission carries multiple benefits, including:

- Observers may be invited specially to be present at closed sessions dealing with issues of particular interest to them;
- Observers may be authorized by the Chairperson of the African Commission to make a statement on an issue of concern, subject to the observer providing, with sufficient lead-time, the text of the statement to the Chairperson through the Secretary to the Commission;
- The Chairperson of the Commission may give the floor to observers to respond to questions directed at them by participants; and
- Observers may request that the African Commission include issues of a particular interest in the provisional agenda, in accordance with the Rules of Procedure.¹⁰³⁹

Resolution 33 of the African Commission sets forth the requisite qualifications and process for applying for observer status.¹⁰⁴⁰ The NGO must be working in the field of human rights and must be able to document their commitment and capability to work towards the goals of the African Charter on Human and Peoples' Rights.

Benefits of Observer Status

For information about the benefits of observer status with the African Commission on Human and Peoples' Rights, visit <http://www.pijip-impact.org/wp-content/uploads/2012/04/OBTAINING-AND-THE-BENEFITS-OF-OBSERVER-STATUS.pdf>.

¹⁰³⁸ Ibid.

¹⁰³⁹ African Commission on Human and Peoples' Rights, "33: Resolution on the Criteria for Granting and Enjoying Observer Status to Non-Governmental Organizations Working in the field of Human and Peoples' Rights," accessed Jan. 7, 2014, <http://www.achpr.org/sessions/25th/resolutions/33/>.

¹⁰⁴⁰ Ibid.

To apply for observer status, an NGO must submit a written application to the Secretariat of the Commission. The application and supporting documents must include:

- proof of legal existence
- list of members
- basic components
- source of funding
- declaration of financial resources
- most recent financial statement
- statement of activities.¹⁰⁴¹

Once an NGO has been granted observer status, it must work to “establish close relations of co-operation with the African Commission and to engage in regular consultations with it on all matters of common interest.”¹⁰⁴² In addition, an NGO with observer status must provide activity reports to the commission every two years.¹⁰⁴³

NGOs that work on children’s issues in Africa may also want to consider observer status with the ACERWC.

African Commission Secretariat

NGOs applying for observer status should submit a written application to the Secretariat of the African Commission:

31 Bijilo Annex Layout, Kombo North District
Western Region P.O. Box 673 Banjul
The Gambia
Tel: (220) 441 05 05, 441 05 06
Fax: (220) 441 05 04
E-mail: au-banjul@africa-union.org

How to Obtain Observer Status with the ACERWC

To obtain observer status, NGOs must:

- Support the work and spirit of the African Union and the committee;
- Be registered in a State Party to the Children’s Charter for at least three years before applying for observer status;
- Have authorization from the State Party to work on the protection and promotion of children’s rights;
- Have a recognized head office;
- Have a democratically adopted statute or charter;
- Have a representative structure and democratic and transparent decision-making processes;
- Have an administration consisting of a majority of African citizens or Africans from the diaspora, and have an elected children’s representative whenever possible, unless the organization is an international NGO; and
- Be prepared to provide information about the NGO’s sources of funding.

The committee encourages NGOs to apply as part of a coalition of organizations with similar interests.

The application for observer status should include:

- The NGO’s statute or charter;
- A current list of the NGO’s members;
- Details about the NGO’s sources of funding, including voluntary contributions from external sources;
- Copies of recent financial statements, including financial contributions granted directly or indirectly by the government of a country;

¹⁰⁴¹ Ibid. (“The statement of activities shall cover the past and present activities of the Organisation, its plan of action and any other information that may help to determine the identity of the organisation, its purpose and objectives, as well as its field of activities.”)

¹⁰⁴² Ibid.

¹⁰⁴³ IFEX, “Guide to the ACHPR,” accessed Oct. 2013, http://www.ifex.org/campaigns/african_commission/.

- A memorandum of past and current activities;
- Links (in or outside Africa) and any other information to help define the NGO's identity and areas of activity; and
- The names of two African Union member states or civil society organizations recognized by the AU that can attest to the authenticity of the NGO, if the NGO is a diaspora organization.

NGOs should submit applications at least three months before a session in order for the committee to consider the application during that session. NGOs must submit 12 copies of the application in English and 12 copies in French. For more information, consult "Criteria for Observer Status" at <http://acerwc.org/procedural-guidelines/>.

D. Safety and Security

Human rights defenders around the world face many risks to both personal and organizational safety. Regardless of whether the potential danger comes from governmental or non-state actors, human rights activists should take steps to protect themselves and their work product by developing plans to manage security, reduce threats of harm, and mitigate the effect of attacks. Ultimately, security planning can make advocates stronger and more effective in carrying out what can be dangerous human rights work.

i. Developing a Security Plan

Managing security involves assessing the unique security situation and then developing risk and vulnerability reduction strategies appropriate to the context. Front Line Defenders recommends a systematic approach that includes the following steps:

- analyzing context
- assessing risk
- analyzing threats
- producing security plans
- implementing and reviewing plans.¹⁰⁴⁴

When conducting risk assessment, human rights defenders frequently use a specific "Risk Formula" to assess the level of risk in relation to the threats they face, their vulnerabilities, and their capacities or resources to improve their security.¹⁰⁴⁵ Front Line Defenders depicts this formula as:

$$\text{Risk} = \frac{\text{Threats} \times \text{Vulnerabilities}}{\text{Capacities}}$$

One of the benefits of this tool is that it helps human rights defenders think about each of the elements of the formula individually and consider their vulnerabilities and capacities (both existing and required) in relation to each risk. In order to reduce a potential risk, human rights defenders can: (1) reduce threats; (2) reduce vulnerabilities;

¹⁰⁴⁴ Front Line Defenders, "Workbook on Security: Practical Steps for Human Rights Defenders at Risk," (2011), 2, http://www.frontlinedefenders.org/files/Workbook_ENG.pdf.

¹⁰⁴⁵ Ibid., at 10; Protection International, "New Protection Manual for Human Rights Defenders," (Brussels: Protection International, Apr. 2012), 29, http://protectioninternational.org/wp-content/uploads/2012/04/1-2_Manual_English_3rdEd.pdf.

or (3) increase capacities.¹⁰⁴⁶ Going through the process of risk self-assessment can also help human rights defenders begin developing a security action plan.

The following chart is an example from Front Line Defenders of the assessment of a human rights defender in Africa¹⁰⁴⁷:

Risks	Vulnerabilities	Capacities Existing	Capacities Required
Abduction	Live alone	Good security at home: fence, alarm, camera	Get a guard dog
		Neighbors will keep a lookout for suspicious characters and events	For now, leave a schedule of all my movements with a colleague. If the situation worsens, my cousin should come and stay with me and travel with me
		Other places to stay in times of danger	Communicate with colleague twice a day to confirm I'm safe
Arrest	False charges	Knowledge of the law	Learn lawyer's phone number in case mobile phone is taken
		Lawyer briefed and ready to act	
		Office and home have no compromising materials	
	Medical condition	Medication	Carry medication at all times

Security management is also about planning and setting up procedures that reduce the risk of harm and increase the sense of safety. For most human rights NGOs, security planning happens at both the individual and organizational level. Planning should be uniquely shaped based on the risks, vulnerabilities, and capabilities of the individuals and the organization, as well as the particular context in which they operate. Security plans should include daily policies (such as information management) for routine work, as well as specific situation protocols for emergency situations (such as an arrest or office break-in) and highly dangerous work (such as field work in a remote area).¹⁰⁴⁸

¹⁰⁴⁶ Frontline Defenders, "Workbook on Security: Practical Steps for Human Rights Defenders at Risk," *supra* note 1044, at 14.

¹⁰⁴⁷ *Ibid.*, at 17.

¹⁰⁴⁸ Protection International, "Preparing a Security Plan," in *New Protection Manual for Human Rights Defenders*, 76, accessed Jan. 16, 2014, http://www.protectioninternational.org/wp-content/uploads/2012/04/1-7_Manual_English_3rdEd.pdf.

Resources

For more detail on assessing risk, analyzing threats, and security planning, consult the following resources:

Workbook on Security: Practical Steps for Human Rights Defenders at Risk, Front Line Defenders (2011) http://www.frontlinedefenders.org/files/Workbook_ENG.pdf

New Protection Manual for Human Rights Defenders, Protection Online (2012) http://protectioninternational.org/wp-content/uploads/2012/04/1-2_Manual_English_3rdEd.pdf

List of Materials and Resources for Women Human Rights Defenders, Association for Women's Rights in Development (www.awid.org) www.defendingwomen-defendingrights.org/resources.php

Claiming Rights, Claiming Justice: A Guidebook on Women Human Rights Defenders, Asia Pacific Forum on Women, Law and Development (2007) http://www.defendingwomen-defendingrights.org/pdf2008/EN_Claiming_Rights.pdf

Staying Safe: Security Resources for Human Rights Defenders, New Tactics in Human Rights, (2010) <https://www.newtactics.org/conversation/staying-safe-security-resources-human-rights-defenders>

ii. Security at Work and Home

Security at the NGO office and in human rights defenders' homes is crucial to their ability to carry out their work. A primary security goal is to prevent unauthorized access through:

- Physical barriers (fences, doors, and gates that are in good working order; keys kept securely and code-labeled);
- Technical measures (external lighting, motion sensors, alarms, cameras, video entrance phones); and
- Admission procedures for all types of visitors.¹⁰⁴⁹

After the NGO sets up office security protocols, it should carry out regular inspection and review of office security at least once every six months.¹⁰⁵⁰

In both the office and at home, advocates should keep handy an up-to-date list of emergency telephone numbers for the police, fire, hospital or ambulance, colleagues, and other NGOs, for example. In addition, human rights defenders should make sure to have fire alarms, fire extinguishers, and a first aid kit in good condition. When planning for home security, human rights defenders may also want to consider the safety of the area where they park their car. They may decide on a policy of never taking sensitive work home. In addition, the human rights defender should discuss with family and staff plans for what to do in specific situations (such as an unexpected package or a repair worker who wasn't called seeking entrance) or in cases of immediate danger.¹⁰⁵¹

¹⁰⁴⁹ Protection International, "Improving Security at Work and at Home," in *New Protection Manual for Human Rights Defenders*, 83–95, *supra* note 1048; Frontline Defenders, "Workbook on Security: Practical Steps for Human Rights Defenders at Risk," *supra* note 1044, at 73.

¹⁰⁵⁰ Protection International, "Improving Security at Work and at Home," *supra* note 1049, at 93.

¹⁰⁵¹ Frontline Defenders, "Workbook on Security: Practical Steps for Human Rights Defenders at Risk," *supra* note 1044, at 74.

Urgent Action Funds Improve Security at Women's Center in Georgia

To raise awareness about inequality and women's decreasing political participation in Georgia, the International Foundation Women's Political Resource Centre (WPRC) opened a "Frontline Center" in 2011 as a place to hold workshops, exhibit art, show films, and host discussions about women's rights. When women involved in the center's activities came under attack by men in the community, WPRC applied for a Rapid Response Grant from the Urgent Action Fund to increase security at the center. WPRC used the funding to add a security system and to install iron bars on the doors and windows.¹⁰⁵²



iii. Technology and Digital Security

Ensuring the safety and security of records, resources, and information is another critical component of preserving safety and security. All communication and work done online, on a computer, or with any device that transmits analog or digital data is at risk of being stolen, copied, altered, or transferred. Human rights advocates should take steps to preserve digital security and privacy.

Security in-a-box

Tactical Tech and Front Line Defenders created Security in-a-box to meet the digital security and privacy needs of advocates and human rights defenders.



Security in-a-box is available in ten languages and includes three sections:

1. A How-to Booklet covering 11 important digital security areas, including "how to protect your computer from malware and hackers" and "how to protect the sensitive files on your computer."
2. Hands-on Guides, each focusing on a specific freeware or open source software tool. Each guide shows how to use that tool to secure a computer, protect information, or maintain the privacy of internet communications.
3. A Mobile Security section, showing how to install and use specific freeware or open source smartphone applications, helping to make smartphone use more secure.

Visit <https://securityinbox.org/>.

Front Line Defenders suggests that human rights defenders preserve computer and phone security by taking steps to:

- Protect computers from malware and hackers by installing antivirus software, anti-spyware, and a firewall;

¹⁰⁵² Urgent Action Fund for Women's Human Rights, "Protecting the Women's Rights in Georgia," accessed Jan. 15, 2014, <http://urgentactionfund.org/2012/06/protecting-the-womens-rights-in-georgia/>.

- Create and maintain secure passwords;
- Protect sensitive files on computers by backing up files, encrypting sensitive files to hide them, using innocuous file names, and using secure deletion tools;
- Keep Internet communications private;
- Be careful when using social networking tools; and
- Be aware of security risks of using mobile phones.¹⁰⁵³

Free Applications for Email Encryption

Remember: people spying on a computer can see any decrypted email that is downloaded or stored on the computer.

Mailvelope: www.mailvelope.com

Hushmail: www.hushmail.com

Enigmail: www.enigmail.net

Free Applications for Secure Text Messages and Chat

With the possible exception of Skype, instant messaging (chat) is generally very insecure unless used with a security application.

TextSecure: www.whispersystems.org

Threema: www.threema.com

Wickr: www.mywickr.com

Cryptocat: www.crypto.cat

Chat Secure: www.guardianproject.info/apps/chatsecure

Practitioner's tip: Webmail accounts (including Yahoo and Hotmail) are insecure and provide the sender's IP address in emails. Gmail and Riseup email accounts may be more secure. To ensure that a username, password, and other information are transmitted securely, human rights defenders should always use "https" instead of "http" when connecting to online services.¹⁰⁵⁴

iv. Urgent Response

Because human rights defenders are directly challenging human rights abuses by governments and private parties, their own rights can be endangered. In response to an imminent threat or a serious security breach, an individual or NGO may need to take emergency action. Ideally, the urgent response will involve implementation of action steps from a carefully developed security plan.

Human rights defenders may need to call an emergency hotline, relocate their home or office temporarily, or seek shelter in a safe house. They may need to take quick action to apply for regional or international emergency grants and relief programs. International organizations like Peace Brigades International can provide a protective presence at offices or homes, but human rights defenders also may wish to seek protection from influential

¹⁰⁵³ Frontline Defenders, "Workbook on Security: Practical Steps for Human Rights Defenders at Risk," *supra* note 1044, at 88–89.

¹⁰⁵⁴ *Ibid.*, 89.

persons and organizations in their home country or abroad. In a growing number of countries and regions, human rights organizations have come together to create joint initiatives focused on defender protection. These coalitions and networks can be an important source of assistance for relocation and emergency funds, as well as medical and legal assistance. Further, human rights defenders can tap into networks to conduct online and other types of national and international advocacy.

Regional and National Human Rights Defender Networks, Coalitions, and Ally Organizations

Africa		
Central Africa	Southern Africa	Northern Africa
<p>REDHAC: Réseau de Défenseurs des Droits Humains de l'Afrique Centrale Office: +(237) 33 42 64 04 Phone: +(237) 96 08 02 73 Email: contact@redhac.org</p>	<p>Southern Africa Human Rights Defenders Trust (SAHRDT) Contact: Leopoldo de Amaral of Open Society Initiative for Southern Africa Email: leopoldoa@osisa.org Phone: +27 10 590 2600 Address: 1st Floor, President Place, 1 Hood Avenue / 148 Jan Smuts Avenue Rosebank, Johannesburg, South Africa 20001</p>	<p>Euro-Mediterranean Foundation of Support to Human Rights Defenders Website: http://www.emhrf.org/ Phone: +45 32 64 17 26</p>
East Africa		
<p>East and Horn of Africa Human Rights Defenders Project (EHAHRDP) Website: http://www.defenddefenders.org/about-ehahrdp/ Address: Plot 1853 Lulume Rd, Nsambya, PO Box 70356, Kampala, Uganda Phone: +256-414-510263 EHAHRDP focuses its work on Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania, and Uganda</p>	<p>Tanzania Human Rights Defenders Coalition (THRD-Coalition) Contact: Onesmo P. Olengurumwa, National Coordinator Phone: +255 22 277 038/48, mobile +255 717 082228/783 172394 Email: opngurumwa@gmail.com; defenderscoalition@rocketmail.com; Skype.onesmo.olengurumwal</p>	<p>National Coalition of Human Rights Defenders-Kenya Website: http://www.hrdcoalition.org/2009/09/contact-us.html Address: 3rd Ngong Avenue, Opp. Kenya Bankers Sacco, P. O. Box 26309-00100, Nairobi, Kenya Phone: +254-735553693 Email: info@hrdcoalition.org</p>
<p>National Coalition for Human Rights Defenders-Uganda Contact: Mr. Edward Serucaca, Convenor Phone: + 256 702 488 612 Email: coalitions@defenddefenders.org</p>	<p>Human Rights Network-Uganda Website: http://www.hurinet.or.ug/programs.php Address: Human Rights Network-Uganda Plot 94, Old Kiira Road, Ntinda (Near Ministers Village) P.O BOX 21265 Kampala, Uganda Email: info@hurinet.or.ug</p>	<p>Uganda- Human Rights Defenders Solidarity Network Phone: +256 775 651 979 Email: hrds.network@gmail.com</p>

West Africa		
<p>Reseau Ouest Africain des Defenseurs des Droits Humains/West African Human Rights Defenders Network (ROADDH/WAHRDN) Website: http://westafricadefenders.org/en/ Address: 14BP152, rue Above Phone: (00228) 22 20 12 38 Lome-Togo Email: info@westafricadefenders.org</p>	<p>Senegalese Coalition of Human Rights Defenders Website: http://www.nonviolentpeaceforce.org/oseddh-senegalese-coalition-human-rights-defenders Contact: Omar Diop</p>	<p>West Africa Network for Peacekeeping (WANEP) Website: http://www.wanep.org/wanep/ Postal Address: P.O. Box CT 4434, Cantonment-Accra, Ghana Phone: +233 302 775975/77, 775981 Email: wanep@wanep.org</p>
<p>Togolese Coalition Defenders of Human Rights Contact through the West African Human Rights Defenders Network</p>		

Asia		
East Asia	Near East / North Africa	Southeast Asia
<p>Chinese Human Rights Defenders Website: http://chrndnet.com/about-chinese-human-rights-defenders/ Email: contact@chrndnet.com</p>	<p>Arab Program for Human Rights Activists (APHRA) Website: http://aphra.org.eg/main/en/main.php Phone: (202) 22753975, 02- 22753985</p>	<p>KontraS (The Commission for “the Disappeared” and Victims of Violence) (Indonesia) Website: http://www.kontras.org/eng/index.php Phone: 021-3926983, 3928564 Email: kontras_98@kontras.org</p>
South Asia	Pan-Asia	
<p>Protection Desk—Nepal Website: http://protectiondesk-nepal.org.np/index.php Address: Sahamati Marga, Gairidhara, Kathmandu, Nepal, Post box no: 8974; EPC 195 Email: info@protectiondesk-nepal.org.np Phone: 977-01-4426538</p>	<p>Asian Federation Against Involuntary Disappearances Website: http://www.afad-online.org/ Email: afad@surfshop.net.ph Phone: 63 2 490 7862</p>	
<p>Bangladesh Human Rights Coalition Email: info@bdhumanrights.org.uk</p>	<p>Asian Human Rights Commission Website: http://www.humanrights.asia/contact-us</p>	

The Americas		Europe
<p>ACUDEH (Acción Urgente para Defensores de Derechos Humanos, Mexico) Website: www.acuddeh.org Email: acuddeh@riseup.org or acuddeh@gmail.com</p>	<p>Pensamiento y Accion Social (PAS) (Colombia) Address: Carrera 18A No. 39A-47 Tesusaquillo, Bogota D.C., Colombia Email: administracion@pas.org.co Phone: +571 751 87 76 / 320 01 17</p>	<p>Euro-Mediterranean Foundation of Support for Human Rights Defenders (provides emergency grants) Website: www.emhrf.org/en/guidelinesstandard.php Email: grants@euromedrights.net</p>
<p>UDEFEQUA (The Human Rights Defenders Protection Unit, Guatemala) Address: 1st Street 7-45 Zone 1, Guatemala City Phone: 502-2254-5840, 502-2254-4496 Email: udefegua@udefegua.org</p>	<p>Afro-Colombian Human Rights Defenders Campaign Website: http://www.afrocolombianhr.org/projects.html</p>	<p>Euro-Mediterranean Foundation of Support for Human Rights Defenders (provides emergency grants) Website: www.emhrf.org/en/guidelinesstandard.php Email: grants@euromedrights.net</p>

International Organizations
<p>International Foundation for the Protection of Human Rights Defenders Website: www.frontlinedefenders.org Email: info@frontlinedefenders.org Phone: +353 (0)1 212 3750 Emergency hotline: +353 (0)1 210 0489</p>
<p>Lifeline: Embattled CSO Assistance Fund (provides emergency financial assistance to Civil Society Organizations/Advocates under attack) Website: www.freedomhouse.org/program/lifeline#.Utaw0_RDt1U Email: Emergency.assistance.inquiries@gmail.com</p>
<p>Observatory for the Protection of Human Rights Defenders http://www.omct.org/human-rights-defenders/observatory/</p>
<p>Women Human Rights Defenders International Coalition http://www.defendingwomen-defendingrights.org/about.php</p>
<p>Protection International (Latin America, Central Africa and South East Asia) Website: http://protectioninternational.org/about/ Address: Brussels Office (Head office), Rue de la Linière 11, 1060 Brussels, Belgium Phone: +32 2 609 44 05 Fax: +32 2 609 44 06</p>
<p>Human Rights House Network Website: http://humanrightshouse.org/HRHN/index.html</p>

v. United Nations and Regional Emergency Response Procedures

The United Nations and the regional human rights systems have procedures for responding promptly when human rights defenders and others face emergency situations. For a comprehensive list that includes all of these urgent response mechanisms, see Appendix I.

a. UN Treaty-body Mechanisms

All UN treaty bodies have rapid response mechanisms in response to reports that a human rights defender faces reprisals for participating in treaty body activities. Treaty bodies may also request an urgent response to an individual communication, and may request interim measures while the treaty body considers the communication.¹⁰⁵⁵

Some UN treaty bodies have other urgent action and early warning procedures to respond to emergency human rights situations. First, a treaty body may request that a State Party report more quickly than the upcoming scheduled reporting deadline. For example, the CEDAW Committee may request that a State Party submit a report at any time.¹⁰⁵⁶ The Human Rights Committee and the Committee on the Rights of the Child have similar provisions.¹⁰⁵⁷

The Committee on the Elimination of Racial Discrimination has adopted early warning measures and urgent procedures to try to prevent serious violations of the Convention on the Elimination of All Forms of Racial Discrimination.¹⁰⁵⁸ Early warning measures aim to prevent existing problems from escalating into deeper conflicts and can also include confidence-building measures to identify and support measures to strengthen and reinforce racial tolerance, particularly to prevent a resumption of conflict where it has previously occurred. Early warning measures may be appropriate if there is a pattern of escalating racial hatred and violence, or if persons or groups initiate racist propaganda or appeals to racial intolerance, particularly if those persons are elected officials or other government personnel. They may also be appropriate, for example, if a pattern of racial discrimination or encroachment on the lands of minority communities results in a significant flow of refugees or displaced persons to other areas. Urgent procedures can respond to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention. Criteria for initiating an urgent procedure could include, for example, the presence of a serious, massive, or persistent pattern of racial discrimination.

The CERD Committee has adopted decisions, statements, and resolutions under its early warning measures and urgent procedures in relation to more than 20 State Parties since 1993. As part of this work the Committee has conducted two field visits and, with respect to six State Parties, has presented its concerns to the UN Secretary General, the Security Council, and other relevant bodies.

Practitioner's tip: The Advocates for Human Rights maintains a list of Resources for Human Rights Defenders. This resource sheet was designed specifically to provide information about safety and security, advocacy tools, and emergency assistance for at-risk human rights defenders. See Appendix Q.

¹⁰⁵⁵ Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights, Art. 5.

¹⁰⁵⁶ Committee on the Elimination of the Discrimination Against Women, 1979, Art. 18(1)(b).

¹⁰⁵⁷ International Covenant on Civil and Political Rights, 1966, Art. 40(1)(b); Convention on the Rights of the Child, Art. 44(4).

¹⁰⁵⁸ Committee on the Elimination of Racial Discrimination, A/48/18, Annex III E | F | S. Available online at http://www2.ohchr.org/english/bodies/cerd/docs/A_48_18_Annex_III_English.pdf.

CERD Committee Engages Urgent Action and Early Warning Procedure in Response to Request from Indigenous Peoples Living Along the Texas-Mexico Border

In March 2013, the Committee on the Elimination of Racial Discrimination issued a response to a request for consideration under its urgent action and early warning procedure. The request came from Dr. Margo Tamez, a citizen of the Lipan Apache Band of Texas, the Human Rights Clinic of the University of Texas at Austin, and the Lipan Apache Women Defense. They contended that the Texas-Mexico border wall has been constructed without consultation of the indigenous peoples over whose land the fence runs. They noted that the wall has a discriminatory effect on poor populations and indigenous peoples, dividing their communities and lands while sparing the interests of businesses and high-income land owners.¹⁰⁵⁹

The CERD Committee expressed concern over the effect the border wall has had on indigenous peoples and other communities as well the lack of consultation throughout the process of planning and constructing the wall.¹⁰⁶⁰ The Committee requested that the U.S. Government provide a detailed response to its concerns in its overdue periodic report to the committee.



For more information about the Lipan Apache Women Defense, visit <http://lipancommunitydefense.wordpress.com/>.

Forest Peoples Programme Calls for Urgent Action in Indonesia

The Forest Peoples Programme (FPP) is an international organization operating in the tropical forest belt throughout the world. One of its goals is to give indigenous peoples a voice by enabling communication with governmental, regional, and international bodies. For additional background, visit <http://www.forestpeoples.org/background/about-forest-peoples-programme>.

Beginning in 2011, FPP joined with several Indonesian NGOs to oppose the Indonesian Government's Merauke Integrated Food and Energy Estate Project (the MIFEE project). FPP appealed to the CERD Committee for urgent action: "The [indigenous] Malind [people] and others are presently experiencing and

¹⁰⁵⁹ Ariel Dulitzky and Margo Temezy, the Lipan Apache Women's Defense, *The Situation of the Texas-Mexico Border Wall: A Request for Consideration under Early Warning and Urgent Action Procedures of the United Nations Committee on the Elimination of Racial Discrimination (90th Session)*, (Feb. 2013). Also available online at <http://www.utexas.edu/law/clinics/humanrights/work/texas-mexico-border-wall-brief-may-2012.pdf>.

¹⁰⁶⁰ Letter from Alexei Avtonomov, Chair of the UN Committee on the Elimination of Racial Discrimination, to the UN High Commissioner for Human Rights (Mar. 1, 2013) (Geneva, Switzerland). Also available online at http://www2.ohchr.org/english/bodies/cerd/docs/early_warning/USA1March2013.pdf.

are threatened with additional and imminent irreparable harm due to the massive and non-consensual alienation and conversion of their ancestral lands and forests.”¹⁰⁶¹

The CERD Committee expressed concern over the allegations and noted that the committee had issued a letter under its early warning and urgent action procedures in 2007, and that the Indonesian Government had never responded to the letter. In response to FPP’s appeal, the committee again

requested a reply from the Indonesian Government. The government has not yet responded.

FPP continues to work with many Indonesian organizations to continue to make requests for consideration under the CERD Committee’s early warning and urgent action procedures. In 2012 and 2013, FPP asked the committee for further consideration, noting that the situation for the Malind and other indigenous peoples continues to deteriorate.¹⁰⁶²



Deforestation to make way for an oil palm plantation in Riau Province, Indonesia

International Indian Treaty Council (IITC)

The International Indian Treaty Council (IITC) is an organization of indigenous peoples from the Americas, the Caribbean, and the Pacific working for the sovereignty and self-determination of indigenous peoples. As one of its main activities, the group provides a voice for these indigenous peoples through advocacy at all levels, from local to international.¹⁰⁶³

¹⁰⁶¹ Forest Peoples Programme, “Request for Consideration of the Situation of Indigenous Peoples in Merauke, Papua Province, Indonesia, under the United Nations Committee on the Elimination of Racial Discrimination’s Urgent Action and Early Warning Procedures,” (July 2011). Also available online at <http://www.forestpeoples.org/topics/un-human-rights-system/news/2011/08/request-consideration-situation-indigenous-peoples-merauk>.

¹⁰⁶² Forest Peoples Programme, “Request for Further Consideration of the Situation of Indigenous Peoples of Merauke, Papua Province, Indonesia, under the Committee on the Elimination of Racial Discrimination Urgent Action and Early Warning Procedures,” (July 25, 2013). Also available online at <http://www.forestpeoples.org/sites/fpp/files/publication/2013/08/cerduamifeejuly2013english.pdf>.

¹⁰⁶³ International Indian Treaty Council, “About IITC/Acerca de CITI,” accessed Jan. 7, 2014, <http://www.iitc.org/about-iitc/>.

At the international level, IITC works with the United Nations' Economic and Social Council (ECOSOC) and the UN Committee on the Elimination of Racial Discrimination. Since 1977, IITC has held consultative status with ECOSOC and in 2011 was upgraded to General consultative status.¹⁰⁶⁴ To protect the rights of the wide-ranging groups of indigenous peoples, IITC frequently files requests for consideration under CERD's Early Warning and Urgent Action Procedures.¹⁰⁶⁵



Most recently, IITC filed a request for Urgent Action based on the claim that Canada's parliament passed legislation in direct violation of treaty rights held by indigenous peoples in Canada.¹⁰⁶⁶ The Mushkegowuk People of Attawapiskat First Nation in Canada and the IITC note that the laws drastically reduced financial support for the Mushkegowuk and were passed without consultation, in violation of a national law establishing a duty to consult with First Nations.

b. Other Urgent Responses to Emergency Situations

If a serious human rights violation is imminent or ongoing, other international and regional mechanisms may be able to intervene. Such violations might include credible death threats, the imminent destruction of a village, or arbitrary arrest and detention.

Arbitrary Detention

Arbitrary detention is a violation of international human rights standards. A person is detained arbitrarily if the person is detained:

- merely for exercising a fundamental right guaranteed under an international treaty, such as the right to freedom of opinion and expression, the right to freedom of association, or the right to leave and enter one's own country;
- without an arrest warrant and without being charged or tried by an independent judicial authority, or without access to a lawyer;

¹⁰⁶⁴ *Ibid.*

¹⁰⁶⁵ International Indian Treaty Council, "CERD Urgent Action and Early Warning Procedures," accessed Jan. 7, 2014, <http://www.iitc.org/program-areas/defending-human-rights/submissions-to-united-nations-human-rights-bodies/the-un-committee-on-the-elimination-of-racial-discrimination-cerd/cerd-urgent-action-and-early-warning-procedures/#>.

¹⁰⁶⁶ International Indian Treaty Council, "The Situation of the Mushkegowuk People of Attawapiskat First Nation in Canada: A Request for Consideration Under the Early Warning and Urgent Action Procedures of the United Nations Committee on the Elimination of Racial Discrimination (82nd Session)," (Feb. 10, 2013), <http://cdn7.iitc.org/wp-content/uploads/IITC-Mushkegowuk-UA2013-FINAL.pdf>.

- beyond the term of the sentence or punishment imposed on the person; or
- as a result of a growing practice of administrative detention, such as detention of people seeking asylum.¹⁰⁶⁷

(i) UN Special Procedures: Urgent Appeals

UN special procedure mandate-holders have the authority to act on allegations against all UN member countries, regardless of whether a country has ratified a particular treaty. Victims of imminent or emergency human rights violations, or people acting on their behalf, can send an “urgent appeal” to the special procedure requesting prompt intervention. An urgent appeal is appropriate when the alleged human rights violations are time-sensitive and involve potential loss of life, life-threatening situations, or imminent or ongoing damage of a very grave nature to victims.¹⁰⁶⁸

Each special procedure has a thematic or geographic area of focus. The most relevant mandate holders for human rights defenders facing emergency situations are the UN Special Rapporteur on the situation of human rights defenders and the UN Working Group on Arbitrary Detention. But a person may send an urgent appeal to more than one special procedure at the same time, so advocates should consult the menu in Appendix I to identify all relevant urgent appeal options. Some special procedures, including the Special Rapporteur on the situation of human rights defenders and the Working Group on Arbitrary Detention, have model questionnaires for urgent appeals.

The decision of whether or not to intervene with a government is left to the discretion of each special procedure and depends on criteria established by them, as well as the criteria set out in the United Nations’ Code of Conduct for special procedure mandate-holders. Mandate-holders are also required to take into account, in a comprehensive and timely manner, information provided by the government concerned on situations relevant to their mandate.¹⁰⁶⁹

The UN Special Rapporteur on the situation of human rights defenders can intervene in emergency situations. The special rapporteur can act on information from government authorities, UN agencies, NGOs, and individual human rights defenders. If the special rapporteur determines that the information is likely valid and that the source of the information is reliable, she will contact the government of the country where the alleged violation is occurring. If the situation warrants immediate measures because a violation is imminent or ongoing, such as when a human rights defender receives death threats, the special rapporteur will issue an “urgent action letter” to the government of the country where the human rights defender is located. “The primary objective of the letter is to ensure that State authorities are informed of the allegation as early as possible and that they have an opportunity to investigate it and to end or prevent any human rights violation.”¹⁰⁷⁰

The special rapporteur has issued guidelines for submitting requests for urgent action and allegation letters (see table below). To communicate with the Special Rapporteur, advocates should use this contact information:

- Send requests to: urgent-action@ohchr.org. (The subject line of the e-mail should refer to the mandate of the Special Rapporteur on human rights defenders.)

¹⁰⁶⁷ Office of the UN High Commissioner for Human Rights, “Fact Sheet No. 26, The Working Group of Arbitrary Detention,” accessed Jan. 7, 2014, <http://www2.ohchr.org/english/about/publications/docs/fs26.htm>.

¹⁰⁶⁸ Office of the UN High Commissioner for Human Rights, “Working with the United Nations Human Rights Programme: A Handbook for Civil Society,” (2008), 115, <http://www.ohchr.org/Documents/Publications/NgoHandbook/ngohandbook8.pdf>.

¹⁰⁶⁹ *Ibid.*

¹⁰⁷⁰ Office of the UN High Commissioner for Human Rights, “Human Rights Defenders: Protecting the Right to Defend Human Rights: Fact Sheet No. 29,” 24, <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>.

- Call +41 22 917 1234 (Geneva, Switzerland) and ask to speak with staff at the Office of the High Commissioner for Human Rights dealing with special procedures, and specifically ask for staff supporting the mandate of the Special Rapporteur on human rights defenders.
- Fax: +41 22 917 9006 (Geneva, Switzerland).¹⁰⁷¹

The special rapporteur’s staff will acknowledge the receipt of a submission if requested. They can be contacted at any time for further discussion.¹⁰⁷²

Advocates should consider the special rapporteur’s rules on confidentiality. The identity of a victim will always be included in any contact between the special rapporteur and governmental authorities. The special rapporteur cannot intervene without revealing the victim’s identity. If the victim is a minor (under 18 years of age) the special rapporteur will include the victim’s name in contact with the government but will not include the name in any subsequent public report. The source of the information provided or the victim may also request that the victim’s name not be included in public reports. The identity of the source of information on the alleged violation is always kept confidential, unless the source agrees that it may be revealed. When submitting information, individuals and groups may indicate whether there are any other details that they would like to remain confidential.¹⁰⁷³

Guidelines for Submitting Allegations of Violations Against Human Rights Defenders to the Special Rapporteur on the Situation of Human Rights Defenders¹⁰⁷⁴

A. Essential information	B. Useful information	C. Sample letter to the Special Rapporteur
<p>1. Name of alleged victim/s</p> <p>Take care to give first and family names and to spell names correctly. Victims can be individuals, groups, or organizations.</p>	<p>If the victim is an individual, please provide information on gender, age, nationality, and profession. If the victim is an individual or an organization, please provide contact details. Contact details are treated as confidential.</p>	<p>Ms. Aabb Ddee, a lawyer, lives in [name of city/town and country].</p>
<p>2. Status of the victim as a human rights defender</p> <p>In what human rights activity is the victim (person/s, organization) engaged?</p>	<p>Where relevant, please also indicate the city and country in which the victim (person/s, organization) conducts this human rights work.</p>	<p>Aabb Ddee takes up legal cases supporting the right to adequate housing on behalf of ethnic minorities. She is also a member of the National Commission for Human Rights.</p>

¹⁰⁷¹ Office of the UN High Commissioner for Human Rights, “Special Rapporteur on the Situation of Human Rights Defenders,” accessed Jan. 7, 2014, <http://www2.ohchr.org/english/issues/defenders/complaints.htm>.

¹⁰⁷² Office of the UN High Commissioner for Human Rights, “Submitting Complaints,” <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Complaints.aspx>.

¹⁰⁷³ Ibid.

¹⁰⁷⁴ © United Nations Office of the High Commissioner for Human Rights (OHCHR) / Special Rapporteur on the situation of human rights defenders. URL: <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Complaints.aspx>. Provided in accordance with the Terms and Conditions of Use of United Nations websites: <http://www.un.org/en/aboutun/terms/>. Reprinted with permission.

A. Essential information	B. Useful information	C. Sample letter to the Special Rapporteur
<p>3. Alleged violation/s committed against the victim</p> <p>What happened? Where? When? What is the current situation?</p>	<p>If an initial violation leads to other events, please describe them chronologically. E.g. if the initial concern is that a human rights defender has been arrested, details should be provided. But if he or she is later detained, other useful information would include: the place of detention; the person's access to a lawyer; conditions of detention; the charges; etc.</p>	<p>Aabb Ddee received an anonymous threat to her safety. On [day/month/year] Ms. Ddee received a letter at her office in [name of town]. The letter was addressed to her and contained only the words "Be careful." In addition, the following day Ms. Ddee was followed closely while driving from her office by two men in a white car.</p>
<p>4. Perpetrators</p> <p>Give available information on who allegedly committed the violation: e.g. two men (in uniform?); rank, unit, or other identification or title.</p>	<p>Witnesses</p> <p>Were there any witnesses to the alleged violation? Were there any other victims?</p>	<p>Aabb Ddee was unable to identify the two men following her or their vehicle. A friend accompanying Ms. Ddee in her car also saw the vehicle following them.</p>
<p>5. Action by authorities</p> <p>Has the matter been reported to the relevant authorities? What action has been taken?</p>	<p>Action taken by the victim or by human rights organizations</p> <p>Has the alleged violation been made public? Has this information been sent to others?</p>	<p>Aabb Ddee reported both incidents to the police [name/address of police office] the same days they occurred. The police have opened an investigation. She also reported the incidents to a local newspaper [name].</p>
<p>6. Link between the violation and human rights work</p> <p>Why do you think the alleged violation is a response to the human rights work of the victim?</p>	<p>Previous incidents</p> <p>If there have been previous incidents which are relevant, please give details.</p>	<p>A year ago [date], another lawyer representing the same ethnic group as Aabb Ddee received a threatening letter similar to Ms. Ddee's and was later [date] killed by unknown persons.</p>
<p>7. Who is submitting this information? (Confidential)</p> <p>Give name, contact details and professional role (if relevant).</p>	<p>Submissions may be made by organizations or individuals.</p>	<p>This letter is submitted by the National Commission for Human Rights, with which Aabb Ddee works.</p>

A. Essential information	B. Useful information	C. Sample letter to the Special Rapporteur
<p>Updates</p> <p>Please send any updated information you have as soon as possible. It is especially important to know if there has been any change in the situation of the victim. Updates might be given where: (1) additional information becomes known (e.g. the identity of the perpetrator of the violation); or (2) new events occur (e.g. the victim’s release from detention).</p>		<p>[two months later] We learned today [date] that the police investigation was closed yesterday. Two men have been arrested and detained on charges of sending a threatening letter to Aabb Ddee on [date] and of following her in their car when she left work the next day. The men are due to appear in court in two weeks. While pleased with the arrests, Ms. Ddee believes that the person who ordered these acts to be committed remains at liberty. She has asked that the police investigation be continued.</p>

Groups Make Urgent Action Request to the UN Special Rapporteur on the Situation of Human Rights Defenders to Secure the Release of Jalila Khamis Koko

On March 14, 2012, Sudanese National Intelligence and Security Services (NISS) arrested Mrs. Jalila Khamis Koko in Khartoum, Sudan. She was a teacher and member of the Nuba Mountains Women Organisation, and she had been providing support to internally displaced persons from South Kordofan and the Nuba Mountains, where there had been a protracted armed conflict between the Sudanese Armed Forces and the Sudan Liberation Movement-North. In a video statement prior to her arrest, she had called on the Government of Sudan and the international community to stop the war in South Kordofan and to address the humanitarian situation in the region. In detention, NISS officers threatened her with death and interrogated her about her activism.

Arry is an organization started by Sudanese activists in Sudan and in the diaspora in response to the conflicts in Sudan and genocides against indigenous people in the Nuba Mountains, Blue Nile, and Darfur. The founders wanted to “create a better life and restore our people’s dignity that [was] lost through the injustice and violence in our country.” Arry has offices in the United States, Greece, and Sudan.¹⁰⁷⁵

On December 18, 2012, Arry, in collaboration with the UK-based organization Redress, submitted an urgent action request on behalf of Jalila Khamis Koko to the Special Rapporteur on the situation of human rights defenders. They also shared the request with the



Human rights defender Jalila Khamis Koko

¹⁰⁷⁵ Arry, accessed Nov. 8, 2013, <http://arry.org>.

Special Rapporteur on Torture and Other Cruel, Degrading and Inhuman Treatment or Punishment, the Special Rapporteur on Violence against Women, and the Independent Expert on the Situation of Human Rights in Sudan. The request called on the special rapporteurs to ensure Jalila Khamis Koko's immediate and unconditional release, to call for an immediate, full, and independent investigation into her arrest, detention, torture, and ill-treatment, and to ensure that those responsible be held accountable. She was released after a court hearing on January 20, 2013.¹⁰⁷⁶

Read the urgent action request:

http://www.redress.org/downloads/FinalUrgentAction_JalilaKhamiKoko_18December2012.pdf.

The UN Working Group on Arbitrary Detention investigates cases of deprivation of liberty inconsistent with human rights standards and maintains open dialogue on the topic to assist governments in the prevention of human rights violations. Similar to the UN Special Rapporteur on the situation of human rights defenders, the working group responds to and investigates allegations of arbitrary detention submitted by individuals or NGOs. The working group collects information and evaluates the reported human rights violations. If the working group finds a complaint valid, it sends an urgent appeal to the government in question and works for a diplomatic resolution to the arbitrary detention.

The process of filing a complaint is fairly straightforward. Any country is subject to investigation by the working group. The working group has a model questionnaire, which the individual or group making the claim must fill out.¹⁰⁷⁷ Then the working group determines the urgency of the claim. Standard individual complaints involve someone being detained without justification, while urgent appeals involve a detained person at risk of severe harm or death.¹⁰⁷⁸ Standard individual cases should be mailed by post to the working group, while urgent appeals should be sent via email or fax, if possible:¹⁰⁷⁹

Working Group on Arbitrary Detention
c/o Office of the High Commissioner for Human Rights
United Nations Office at Geneva
8-14, avenue de la Paix
1211 Geneva 10, Switzerland
fax: +41 22 9179006
e-mail: wgad@ohchr.org

Relatives of Detained Human Rights Defender Jason Zachary Puracal Enlist Assistance of UN Working Group on Arbitrary Detention

On the morning of November 10, 2010, in San Juan del Sur, Nicaragua, armed police officers raided the home and office of Jason Zachary Puracal, holding him at gunpoint for six hours while conducting their

¹⁰⁷⁶ Redress, "Submission to Special Rapporteur on Human Rights Defenders in the case of Jalila Khamis Koko," accessed Jan. 16, 2014, <http://www.redress.org/case-docket/submission-to-special-rapporteur-on-human-rights-defenders-in-the-case-of-jalila-khami-koko>.

¹⁰⁷⁷ Office of the UN High Commissioner for Human Rights, "Model Questionnaire to be Completed by Persons Alleging Arbitrary Arrest or Detention," Jan. 7, 2014, http://www.ohchr.org/Documents/Issues/Detention/WGADQuestionnaire_en.pdf.

¹⁰⁷⁸ Office of the UN High Commissioner for Human Rights, "Individual Complaints, Urgent Appeals, Deliberations," accessed Jan. 7, 2014, <http://www.ohchr.org/EN/Issues/Detention/Pages/Complaints.aspx>.

¹⁰⁷⁹ Office of the UN High Commissioner for Human Rights, "Contact," accessed Jan. 7, 2014, <http://www.ohchr.org/EN/Issues/Detention/Pages/Contact.aspx>.

search. A U.S. citizen, Puracal was sent immediately to jail where, six months later, he was charged with international drug trafficking, money laundering, and organized crime.¹⁰⁸⁰ He was convicted in August 2011.

The trial violated Puracal’s right to due process and to trial by an impartial tribunal. The man presiding was not a judge appointed in accordance with Nicaraguan law. The defense was denied access to the prosecution’s evidence, and the court excluded as irrelevant much of the defense’s evidence.¹⁰⁸¹ Puracal was sentenced to 22 years in prison.

Puracal experienced inhuman conditions while in detention. He was held in a small concrete cell with seven other men with no access to fresh, drinkable water. The pit that served as their toilet also doubled as a sink and bathing area.

Puracal had “been denied food and water for up to two days at a time.”¹⁰⁸² He was also denied access to medical care despite having asthma, suffering severe burns from attempting to boil water to make it safe for drinking, and developing intestinal problems.¹⁰⁸³

Jason Puracal’s sister brought his case to an attorney, who submitted a petition on Puracal’s behalf to the UN Working Group on Arbitrary Detention in January 2012. The Working Group examined the case and published its decision in July 2012. It found that “the deprivation of liberty of Mr. Jason Puracal is arbitrary,” and consequently recommended that “the Republic of Nicaragua order the immediate release of Mr. Puracal.”¹⁰⁸⁴ On September 14, 2012, Jason Puracal was released from prison and allowed to return to the United States.¹⁰⁸⁵



Jason Zachary Puracal

(ii) Regional Human Rights Mechanisms

The African Commission

The African Commission’s Special Rapporteur on Human Rights Defenders has a mandate to “seek, receive, examine and act upon information on the situation of human rights defenders in Africa.”¹⁰⁸⁶ She occasionally issues press releases and communiqués when a human rights defender is killed or imprisoned. The current Special Rapporteur is Commissioner Mrs. Reine Alapini-Gansou of Benin:

04 B.P. 0608
Cotonou, Bénin
Tel.: (229) 2130 1986 / (229) 2138 4282 (h)

¹⁰⁸⁰ Tolin Law Firm, “The Wrongful Imprisonment of Jason Z. Puracal: Synopsis of of [sic] Facts and Law Pertaining to His Arrest, Detention, and Trial,” accessed Jan. 7, 2014, http://www.injustice-anywhere.org/Synopsis_and_Exhibits_09.09.11.pdf.

¹⁰⁸¹ *Ibid.*

¹⁰⁸² Jared Genser and Janis C. Puracal, “Petition to United Nations Working Group on Arbitrary Detention in the Matter of Jason Zachary Puracal,” <http://www.perseus-strategies.com/news/documents/PetitiontoUNWGAD-JasonPuracal-1-18-12.pdf>.

¹⁰⁸³ *Ibid.*

¹⁰⁸⁴ Human Rights Council Working Group on Arbitrary Detention, “Opinions adopted by the Working Group on Arbitrary Detention of its 63rd Session,” (Apr. 30–May 4, 2012), Document A/HRC/WGAD/2012/10, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/151/99/PDF/G1215199.pdf?OpenElement>.

¹⁰⁸⁵ Free Jason P.Com, accessed Jan. 7, 2014, <http://freejasonp.com/home/>.

¹⁰⁸⁶ African Commission on Human and Peoples’ Rights, “Special Rapporteur on Human Rights Defenders,” accessed Nov. 11, 2013, <http://www.achpr.org/mechanisms/human-rights-defenders/>.

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alapinireine@yahoo.fr

The African Commission's Special Rapporteur on Prisons and Detention Conditions primarily addresses general national issues. The rapporteurship is, however, also responsible for investigating arbitrary detention allegations. Its mandate is "to examine the situation of persons deprived of their liberty within the territories of States Parties to the African Charter on Human and Peoples' Rights."¹⁰⁸⁷ The current Special Rapporteur is Commissioner Mr. Med S.K. Kagwa of Uganda:

Tel.: (256) 41 348007/8, (256) 772422116
Fax: (256) 41 255261
mskaggwa@yahoo.com
mskaggwa@uhrc.ug

The Inter-American Commission

The IACHR can grant precautionary measures under Article 25 of the Inter-American Commission on Human Rights' Rules of Procedure to help protect human rights defenders and others who are at risk.¹⁰⁸⁸ The IACHR may request that a government adopt precautionary measures "on [the Commission's] own initiative or at the request of a party."¹⁰⁸⁹ The measures need not be related to an individual communication (called a "petition" in the Inter-American system). Precautionary measures are appropriate only for "serious and urgent situations presenting a risk of irreparable harm to persons or to the subject matter of a pending petition or case before the organs of the inter-American system."¹⁰⁹⁰ Approximately "one third of the precautionary measures granted by the Inter-American Commission every year are intended to protect the life and integrity of human rights defenders and justice operators in the region."¹⁰⁹¹

On March 1, 2012, for example, the IACHR granted precautionary measures in favor of a Mexican human rights defender named Estela Ángeles Mondragón. Her request for precautionary measures stated that she was "in a situation of risk, due to threats and acts of harassment and violence against her, which are allegedly a consequence of her involvement in several judicial processes followed in favor of the Indigenous Community Rarámuri de Baqueachí."¹⁰⁹² The IACHR requested that the Government of Mexico adopt measures, in consultation with Mondragón, to guarantee her life and physical integrity. The IACHR also requested that the Government of Mexico "inform the Commission about the actions taken to investigate the facts that led to the adoption of precautionary measures."¹⁰⁹³

A request for precautionary measures must include: "identifying information for the persons proposed as beneficiaries or information that allows them to be determined"; "a detailed and chronological description of the facts that motivate the request and any other available information"; and a "description of the measures of

¹⁰⁸⁷ African Commission on Human and Peoples' Rights, "Special Rapporteur on Prisons and Conditions of Detention, About," accessed Nov. 11, 2013, <http://www.achpr.org/mechanisms/prisons-and-conditions-of-detention/about/>.

¹⁰⁸⁸ Organization of American States, "Rapporteurship on Human Rights Defenders, Precautionary Measures," accessed Oct. 18, 2013, <http://www.oas.org/en/iachr/defenders/protection/precautionary.asp>.

¹⁰⁸⁹ Rules of Procedure of the Inter-American Commission on Human Rights Art. 25(1). Also available online at <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>.

¹⁰⁹⁰ Rules of Procedure of the Inter-American Commission on Human Rights, Art. 25(1), entered into force Aug. 1, 2013, available at <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>.

¹⁰⁹¹ Organization of American States, "Rapporteurship on Human Rights Defenders, Functions," accessed Jan. 15, 2014,

<http://www.oas.org/en/iachr/defenders/mandate/functions.asp>.

¹⁰⁹² Organization of American States, "Precautionary Measures, 2012, PM 208/10 – Estela Angeles Mondragon, Mexico," accessed Jan. 13, 2014, <http://www.oas.org/en/iachr/decisions/precautionary.asp>.

¹⁰⁹³ *Ibid.*

protection requested.”¹⁰⁹⁴ Before adopting precautionary measures, the IACHR usually requests information from the government concerned, unless “the immediacy of the threatened harm admits of no delay.”¹⁰⁹⁵ In deciding on a request, the commission considers: “whether the situation has been brought to the attention of the pertinent authorities or the reasons why it would not have been possible to do so”; “the individual identification of the potential beneficiaries of the precautionary measures or the determination of the group to which they belong or are associated with”; and “the consent of the potential beneficiaries when the request is presented by a third party unless the absence of consent is justified.”¹⁰⁹⁶

The Inter-American Court of Human Rights has the authority to adopt provisional measures “[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons . . . in matters it has under consideration.”¹⁰⁹⁷ If a case has not yet been submitted to the court, it may adopt provisional measures at the request of the Inter-American Commission.¹⁰⁹⁸

The Inter-American Commission on Human Rights has a Rapporteurship on the Rights of Persons Deprived of Liberty. This rapporteur conducts investigations into arbitrary detention in the region. Any person, group, or organization may file a petition alleging arbitrary detention by any Member State of the Organization of American States.¹⁰⁹⁹ The petition should include the personal details of the victim and the petitioner(s), a detailed description of the alleged violations, the names of the authorities responsible, documentation of previous attempts at recourse, and any additional supporting evidence such as witness statements. The Inter-American Commission offers pamphlets online in English, French, Portuguese, and Spanish that further explain the petition process and provide a detailed list of submission requirements.¹¹⁰⁰ A petition form is also available online at https://www.cidh.oas.org/cidh_apps/instructions.asp?gc_language=E.

Inter-American Commission on Human Rights
1889 F St. NW
Washington, DC, 20006
United States
Fax: 1 (202) 458-3992 or 6215
E-mail: cidhdenuncias@oas.org

Europe

The Council of Europe’s Commissioner for Human Rights is responsible for providing “strong and effective protection for human rights defenders by . . . intervening, in the manner the Commissioner deems appropriate, with the competent authorities, in order to assist them in looking for solutions, in accordance with their obligations, to the problems which human rights defenders may face, especially in serious situations where there is a need for urgent action.”¹¹⁰¹ The Commissioner’s jurisdiction in these circumstances is limited to human rights defenders who are located in one of the Council of Europe’s Member States.¹¹⁰² Reports about threats and violations of the rights of human rights defenders may be submitted to:

¹⁰⁹⁴ Rules of Procedure of the Inter-American Commission on Human Rights Art. 25(4).

¹⁰⁹⁵ *Ibid.* 25(5).

¹⁰⁹⁶ *Ibid.* Art. 25(6).

¹⁰⁹⁷ American Convention on Human Rights, Art. 63(2).

¹⁰⁹⁸ *Ibid.*

¹⁰⁹⁹ Organization of American States, “Petition and Case System,” accessed Nov. 7, 2013, https://www.oas.org/es/cidh/docs/folleto/CIDHFolleto_eng.pdf.

¹¹⁰⁰ Organization of American States, “Petition and Case System,” <https://www.oas.org/en/iachr/mandate/petitions.asp>.

¹¹⁰¹ Council of Europe, “Commissioner for Human Rights, Human Rights Defenders,” accessed Jan. 13, 2014,

<http://www.coe.int/en/web/commissioner/human-rights-defenders>.

¹¹⁰² *Ibid.*

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For citizens of the European Union who are raising human rights claims in domestic EU courts, the European Court of Justice uses an urgent preliminary ruling procedure for referrals concerning “the most sensitive issues relating to the area of freedom, security and justice (police and judicial cooperation in civil and criminal matters, as well as policies on border checks, visas, asylum and immigration).”¹¹⁰³ People who file direct claims with the European Court of Justice to challenge the actions of an EU body may apply for interim measures to “seek suspension of the operation of measures which an institution, body, office or agency has adopted and which form the subject-matter of an action, or any other interim order necessary to prevent serious and irreparable damage to a party.”¹¹⁰⁴

¹¹⁰³ Court of Justice of the European Union, “The Court of Justice: Composition, Jurisdiction and Procedures,” 10 (Dec. 2010), http://curia.europa.eu/jcms/upload/docs/application/pdf/2012-05/cjue_en.pdf.

¹¹⁰⁴ Ibid.

Photograph and Image Credits

Chapter 11

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page 317 Tactical Tech

page 323 Meditations on the Collapse, Flickr stream

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